

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  
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S8-CSRQ-8 [v.3]

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Short Title: No Cap on Number of Charter Schools.

(Public)

Sponsors:

Referred to:

January 31, 2011

BILL TO BE ENTITLED

1  
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.



- 1 (4) Create new professional opportunities for ~~teachers,~~teachers and  
2 administrators, including the opportunities to be responsible for the learning  
3 program at the school ~~site;~~site.  
4 (5) Provide parents and students with expanded choices in the types of  
5 educational opportunities that are available within the public school  
6 ~~system;~~system.  
7 (6) Hold the schools established under this Part accountable for meeting  
8 measurable student achievement results, and provide the schools with a  
9 method to change from rule-based to performance-based accountability  
10 systems.

11 (7) Encourage the replication of successful charter schools.

12 "§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.

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

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

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

21 (1) Four members appointed by the Governor.

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

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

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

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

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

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

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

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

49 (f) Officers. – The Commission shall elect a chair and a vice-chair from among its  
50 membership. In the absence of the chair, the vice-chair shall preside over the Commission's

1 meetings. All members are voting members, and a majority of the Commission constitutes a  
2 quorum. The Commission shall adopt rules to govern its proceedings.

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

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

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

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

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

16 (l) Powers and Duties. – The Commission shall have the following duties:

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

20 (2) To recommend policies to the State Board regarding all aspects of charter  
21 school operation, including time lines, standards, and criteria for acceptance  
22 and approval of applications, monitoring of charter schools, and grounds for  
23 revocation of charters.

24 (3) To oversee the process for accepting and approving applications for charters  
25 and to make recommendations to the State Board for final approval of  
26 charter applications.

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

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

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

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

45 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**  
46 **for approval.**

47 (a) Any person, group of persons, or nonprofit corporation seeking to establish a charter  
48 school may apply to establish a charter school. If ~~the~~any applicant other than a local board of  
49 education seeks to convert a public school to a charter school, the application shall include a  
50 statement signed by a majority of the teachers and instructional support personnel currently

1 employed at the school indicating that they favor the conversion and evidence that a significant  
2 number of parents of children enrolled in the school favor conversion.

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

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

7 (1a) The targeted student population and the community the school intends to  
8 serve, as well as evidence of need and community support for the proposed  
9 charter school.

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

13 (2a) A description of the school's instructional design, including the type of  
14 learning environment, such as classroom-based or independent study, class  
15 size and structure, curriculum overview, and teaching methods.

16 (2b) The school's plans for identifying and successfully serving students with  
17 disabilities, students who are English language learners, academically at-risk  
18 students, and academically gifted students, including, but not limited to,  
19 compliance with applicable laws and regulations.

20 (3) The governance structure of the ~~school—school,~~ including proposed  
21 governing bylaws and the names and biographical information of the  
22 proposed initial members of the board of directors of the nonprofit,  
23 tax-exempt ~~corporation—corporation. and the process to be followed by the~~  
24 ~~school to ensure parental involvement.~~ A local board of education seeking to  
25 convert a school to a charter school shall not be required to form a nonprofit,  
26 tax-exempt corporation if the local board of education serves as the board of  
27 directors of the charter school.

28 (3a) The local school administrative unit in which the school will be located.

29 (4) Admission policies and procedures.

30 (5) A proposed budget for the school for at least the first five years of operation  
31 and evidence that the financial plan for the school is economically sound.

32 (6) Requirements and procedures for program and financial audits.

33 (7) A description of how the school will comply with G.S. 115C-238.29F.

34 (8) Types and amounts of insurance coverage, including bonding insurance for  
35 the principal officers of the school, to be obtained by the charter school.

36 (9) The term of the charter.

37 (10) The qualifications required for individuals employed by the school.

38 (11) The procedures by which students can be excluded from the charter school  
39 and returned to a public school. Notwithstanding any law to the contrary,  
40 any local board may refuse to admit any student who is suspended or  
41 expelled from a charter school due to actions that would lead to suspension  
42 or expulsion from a public school under G.S. 115C-391 until the period of  
43 suspension or expulsion has expired.

44 (12) The number of students to be served, which number shall be at least 65, The  
45 number of students to be served, including the grades to be served each year  
46 for the full term of the charter, and the minimum, planned, and maximum  
47 enrollment per grade per year for the term of the charter. The number of  
48 students to be served shall be at least 50, however the charter school may  
49 serve fewer than 50 students if the application contains a compelling reason,  
50 such as the school would serve a geographically remote and small student  
51 population and the minimum number of teachers to be employed at the

1 ~~school, which number shall be at least three. However, the charter school~~  
2 ~~may serve fewer than 65 students or employ fewer than three teachers if the~~  
3 ~~application contains a compelling reason, such as the school would serve a~~  
4 ~~geographically remote and small student population.~~

5 (12a) The minimum number of teachers to be employed at the school.

6 (12b) An organization chart that clearly presents the school's organizational  
7 structure, including lines of authority and reporting between the governing  
8 board, staff, any related bodies, such as advisory bodies or parent and  
9 teacher councils, and any external organizations that will play a role in  
10 managing the school.

11 (13) Information regarding the facilities to be used by the school and the manner  
12 in which administrative services of the school are to be provided.

13 (14) Repealed by Session Laws 1997-430, s. 1.

14 (15) The process to be followed by the school to ensure parental involvement.

15 (16) The school's plans for providing transportation. The school shall develop a  
16 plan for transportation for any student enrolled in the charter school who  
17 resides within three miles of the charter school in a household with an  
18 income below one hundred eighty-five percent (185%) of the poverty level  
19 as defined by the federal government.

20 (17) The school's plans for providing food services. The school shall develop a  
21 plan for food services for any student enrolled in the charter school who  
22 resides in a household with an income below one hundred and eighty five  
23 percent (185%) of the poverty level as defined by the federal government.

24 (18) Explanations of any partnerships or contractual relationships central to the  
25 school's operations or mission.

26 (19) A detailed school start-up plan, identifying tasks, time lines, and responsible  
27 individuals.

28 (20) For an applicant seeking a charter to operate a virtual charter school,  
29 information showing that the school has a physical facility in the State, that  
30 the chief administrator of the school is located in the State, and that the  
31 teachers serving the virtual charter school are responsible for improving  
32 learning by planned instruction, diagnosing learning needs, prescribing  
33 content delivery through instructional activities, assessing learning, reporting  
34 outcomes to administrators and parents and guardians, and evaluating the  
35 effects of instruction.

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

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

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

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

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

48 ~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that~~  
49 ~~an applicant (i) submitted an application to a local board of education and received final~~  
50 ~~approval from the State Board of Education, but (ii) is unable to find a suitable location within~~  
51 ~~that local school administrative unit to operate, the State Board of Education may authorize the~~

~~charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

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

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

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

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

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

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

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

(a) ~~The~~ Upon recommendation of the Commission, the State Board shall ~~may~~ grant final approval of an application if it ~~finds that~~ determines that the application meets the

1 requirements set out in this Part or adopted by the State Board of Education and that granting  
2 the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

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

10 (b) ~~The State Board shall authorize no more than five charter schools per year in one~~  
11 ~~local school administrative unit.~~ The State Board shall authorize no more than ~~100~~50  
12 additional charter schools statewide in each calendar year, not including renewals of existing  
13 charters. ~~If more than five charter schools in one local school administrative unit or more than~~  
14 ~~100 schools statewide meet the standards for final approval, the State Board shall give priority~~  
15 ~~to applications that are most likely to further State education policies and to strengthen the~~  
16 ~~educational program offered in the local school administrative units in which they are located.~~

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

22 (b2) A decision to disapprove an application is exempt from review pursuant to Chapter  
23 150B of the General Statutes.

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

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

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

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

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

1 It shall not be considered a material revision of a charter application and shall not require  
2 the prior approval of the State Board for a charter school to increase its enrollment during the  
3 charter school's second year of operation and annually thereafter (i) by up to ~~ten~~twenty percent  
4 ~~(10%)-(20%)~~ of the school's previous year's enrollment or (ii) in accordance with planned  
5 growth as authorized in the charter. Other enrollment growth shall be considered a material  
6 revision of the charter application, and upon recommendation of the Commission the State  
7 Board may approve such additional enrollment growth of greater than ~~ten~~(twenty) percent  
8 ~~(10%)-(20%)~~ only if the State Board Commission finds that:

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

22 **"§ 115C-238.29E. Charter school operation.**

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

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

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

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

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



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

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

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

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

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

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

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

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

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

41 (c) Civil Liability and Insurance. –

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

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

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

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

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

33 (f) Accountability. –

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

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

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

43 (g) Admission Requirements. –

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

school age who are not domiciliaries of the State who are enrolled in a charter school may not exceed ten percent (10%) of the total number of students enrolled in the charter school.

- (2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.
- (3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any ~~local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.~~ public school converting to a charter school shall adopt a policy giving enrollment preference to students who reside within the former attendance area of that public school for at least the first two years of operation of the charter school.
- (4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.
- (5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, ~~and teacher assistants.~~ teacher assistants, and other full-time employees of the charter school. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.
- (6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.
- (7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

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

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

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

27           (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the  
28 charter, all net assets of the charter ~~school~~ school, other than real property, purchased with  
29 public funds shall be deemed the property of the local school administrative unit in which the  
30 charter school is located. Upon dissolution of the charter school or upon the nonrenewal of the  
31 charter, State funds used to purchase real property shall be remitted back to the State, after all  
32 liens on the property are satisfied. Upon dissolution of the charter school or upon the  
33 nonrenewal of the charter, county funds used to purchase real property shall be remitted back to  
34 the county, after all liens on the property are satisfied.

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

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

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

51 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

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

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

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

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

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

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

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

49 **"§ 115C-238.29H. State and local funds for a charter school.**

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

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

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

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

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

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

50 (c) Counties may provide funds to the nonprofit tax-exempt corporation that holds the  
51 charter of a charter school by direct appropriation as set forth in G.S. 153A-457. These funds

1 shall be used only for purposes identified in G.S. 115C-426(f). If a county decides to provide  
2 funds, the funds shall be distributed equitably and apportioned according to the average daily  
3 membership of each charter school that has requested funds. These funds shall be used only for  
4 purposes identified in G.S. 115C-426(f).

5 **"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter**  
6 **School Advisory Committee.**

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

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

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

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

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

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

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

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

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

39 **"§ 115C-238.29J. Public and private assistance to charter schools.**

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

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

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

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

50 **"§ 115C-238.29K. Criminal history checks.**

51 (a) As used in this section:



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

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

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

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

48 (c) The ~~Board of Education~~Commission shall require the person to be checked by the  
49 Department of Justice to (i) be fingerprinted and to provide any additional information required  
50 by the Department of Justice to a person designated by the ~~State Board, Commission,~~  
51 local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign

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

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

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

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

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

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

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

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

5 "**§ 114-19.2. Criminal record checks of school personnel.**

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

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

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

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

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

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

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

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

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

46 ...

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

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

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

10 **"§ 115C-426. Uniform budget format.**

11 ...

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

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

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

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

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

26 **"§ 115C-448. Special funds of individual schools.**

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

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

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

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

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

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

51 ...

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 July 1, 2011,  
36 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.