

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-355
SENATE BILL 337**

AN ACT TO CREATE THE NORTH CAROLINA CHARTER SCHOOLS ADVISORY BOARD AND MAKE OTHER CHANGES TO CHARTER SCHOOL LAWS.

The General Assembly of North Carolina enacts:

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

"§ 115C-238.29A. ~~Purpose.~~Purpose of charter schools and establishment of North Carolina Charter Schools Advisory Board.

(a) Purpose of Charter Schools. – The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish all of the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;
- (5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(b) North Carolina Charter Schools Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Part as the Advisory Board. The Advisory Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.

- (1) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Advisory Board and a nonvoting member. The Advisory Board shall consist of the following 11 voting members:
 - a. Three members appointed by the Governor, including the chair of the Advisory Board.
 - b. Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.
 - c. Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.
 - d. One member appointed by the State Board of Education.
 - e. The Lieutenant Governor or the Lieutenant Governor's designee.
- (2) Covered board. – The Advisory Board shall be treated as a board for purposes of Chapter 138A of the General Statutes.
- (3) Qualifications of members. – Members appointed to the Advisory Board shall collectively possess strong experience and expertise in public and



nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Advisory Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

- (4) Terms of office and vacancy appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.
- (5) Presiding officers and quorum. – The Advisory Board shall annually elect a vice-chair from among its membership. The chair shall preside over the Advisory Board's meetings. In the absence of the chair, the vice-chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.
- (6) Meetings. – Meetings of the Advisory Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.
- (7) Expenses. – Members of the Advisory Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).
- (8) Removal. – Any appointed member of the Advisory Board may be removed by a vote of at least two-thirds of the members of the Advisory Board at any duly held meeting for any cause that renders the member incapable or unfit to discharge the duties of the office.
- (9) Powers and duties. – The Advisory Board shall have the following duties:
 - a. To make recommendations to the State Board of Education on the adoption of rules regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.
 - b. To review applications and make recommendations to the State Board for final approval of charter applications.
 - c. To make recommendations to the State Board on actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocations of charters.
 - d. To undertake any other duties and responsibilities as assigned by the State Board."

SECTION 1.(b) G.S. 115C-238.29B reads as rewritten:

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

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

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

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.
- (2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.
- (3) The governance structure of the school including the names of the ~~proposed~~ initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement.
- (3a) The local school administrative unit in which the school will be located.
- (4) Admission policies and procedures.
- (5) A proposed budget for the school and evidence that the financial plan for the school is economically sound.

- (6) Requirements and procedures for program and financial audits.
 - (7) A description of how the school will comply with G.S. 115C-238.29F.
 - (8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.
 - (9) The term of the charter.
 - (10) The qualifications required for individuals employed by the school.
 - (11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.
 - (12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.
 - (13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.
 - (14) Repealed by Session Laws 1997-430, s. 1.
- (e) ~~An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity may be:~~
- (1) ~~The local board of education of the local school administrative unit in which the charter school will be located;~~
 - (2) ~~The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or~~
 - (3) ~~The State Board of Education.~~

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

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within 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 applicant shall submit a copy of its application to that local board 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. 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 on behalf of the local board. The State Board 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 grant preliminary and final approval of the charter school.~~

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

SECTION 1.(c) G.S. 115C-238.29C is repealed.

SECTION 1.(d) G.S. 115C-238.29D reads as rewritten:

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

(a) The State Board may grant final approval of an application if it finds (i) that the application meets the requirements set out in this Part ~~or~~ and such other requirements as may be adopted by the State Board of Education, (ii) that 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) that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A. The State Board shall act by ~~March~~ January 15 of a calendar year on all applications and appeals it receives prior to ~~February 15~~ a date established by the Office of Charter Schools for receipt of applications in the prior of that calendar year. In reviewing applications for the establishment of charter schools within a local school administrative unit, the State Board 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.

(b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

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

(d) The State Board of Education may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The State Board of Education shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

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

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

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

SECTION 1.(e) G.S. 115C-238.29E reads as rewritten:

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

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

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.

(c) A charter school shall operate under the written charter signed by the ~~entity to which it is accountable under subsection (a) of this section~~ State Board and the applicant. A charter

school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

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

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

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility. If a charter school has requested to lease available buildings or land and is unable to reach an agreement with the local board of education, the charter school shall have the right to appeal to the board of county commissioners in which the building or land is located. The board of county commissioners shall have the final decision-making authority on the leasing of the available building or land.

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

SECTION 1.(f) G.S. 115C-238.29F reads as rewritten:

"§ 115C-238.29F. General requirements.

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

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

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

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

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

(c) Civil Liability and Insurance. –

- (1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.
 - (2) No civil liability shall attach to ~~any chartering entity, to~~ the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.
- (d) Instructional Program. –
- (1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months.
 - (2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.
 - (3) A charter school shall conduct the student assessments required ~~for charter schools~~ by the State Board of Education.
 - (4) ~~The school is subject to and shall comply with Article 9 of Chapter 115C of the General Statutes and The Individuals with Disabilities Education Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended, shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with disabilities.~~
 - (5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its ~~charter~~ charter after due process.
- (d1) Reading Proficiency and Student Promotion. –
- (1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.
 - (2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:
 - a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.
 - b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.
 - c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.
 - d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.
 - e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

- (3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.
- (4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:
- a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
 - b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.
 - c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.
 - d. The number and percentage of third grade students retained for not demonstrating reading proficiency.
 - e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection.
- (e) Employees. –
- (1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least ~~seventy-five~~fifty percent (~~75%~~)(50%) of these teachers ~~in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates/licenses.~~ All teachers ~~in grades six through 12~~ who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.
- The board also may employ necessary employees who are not required to hold teacher ~~certificates/licenses~~ to perform duties other than teaching and may contract for other services. The board may discharge teachers and ~~noncertificated nonlicensed~~ employees.
- (2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.
- (3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of

absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

- (4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.
- (5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9.

(e1) Criminal History Checks. –

- (1) If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring the local board of education policy that requires an applicant for employment to be checked for a criminal history, as defined in G.S. 115C-332. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check.
- (2) There shall be no liability for negligence on the part of the State Board of Education or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Accountability. –

- (1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.
- (2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.
- (3) The school shall report at least annually to the ~~chartering entity and the State Board of Education~~ the information required by the ~~chartering entity or the State Board.~~

(g) Admission Requirements. –

- (1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a 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.
- (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. 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-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no

available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is located.

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

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

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

(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 1.(g) G.S. 115C-238.29G reads as rewritten:

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

(a) ~~The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, Education may terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board terminate or not renew a charter upon any of the following grounds:~~

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

(a1) The State Board shall adopt criteria for adequate performance by a charter school and shall identify charter schools with inadequate performance. The criteria shall include a requirement that a charter school which demonstrates no growth in student performance and has annual performance composites below sixty percent (60%) in any two years in a three-year period is inadequate.

- (1) If a charter school is inadequate in the first five years of the charter, the charter school shall develop a strategic plan to meet specific goals for student performance that are consistent with State Board criteria and the mission approved in the charter school. The strategic plan shall be reviewed and approved by the State Board. The State Board is authorized to terminate or not renew a charter for failure to demonstrate improvement under the strategic plan.
- (2) If a charter school is inadequate and has had a charter for more than five years, the State Board is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board. ~~terminate or not renew the charter.~~ The State

Board shall develop rules on the assumption of a charter by a new entity that include all aspects of the operations of the charter school, including the status of the employees. Public assets would transfer to the new entity and not revert to the local school administrative unit in which the charter school is located pursuant to G.S. 115C-238.29F(i).

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

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

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

SECTION 1.(h) G.S. 115C-238.29H reads as rewritten:

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

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

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

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

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

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for ~~facilities or equipment~~ facilities, equipment, or operations. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every

contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense appropriation fund of ~~to~~ the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. The local school administrative unit and charter school may use the process for mediation of differences between the State Board and a charter school provided in G.S. 115C-238.29G(c) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides.

(c) The local school administrative unit shall also provide each charter school to which it transfers a per pupil share of its local current expense fund with all of the following information within the 30-day time period provided in subsection (b) of this section:

- (1) The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).
- (2) The student membership numbers used to calculate the per pupil share of the local current expense fund.
- (3) How the per pupil share of the local current expense fund was calculated.

(d) Prior to commencing an action under subsection (b) of this section, the complaining party shall give the other party 15 days' written notice of the alleged violation. The court shall award the prevailing party reasonable attorneys' fees and costs incurred in an action under subsection (b) of this section. The court shall order any delinquent funds, costs, fees, and interest to be paid in equal monthly installments and shall establish a time for payment in full that shall be no later than three years from the entry of any judgment."

SECTION 1.(i) G.S. 115C-238.29I reads as rewritten:

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

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

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

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

- (1) The current and projected impact of charter schools on the delivery of services by the public schools.
- (2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.
- (3) Best practices resulting from charter school operations.
- (4) Other information the State Board considers appropriate.

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

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

SECTION 1.(j) G.S. 115C-238.29J is repealed.

SECTION 1.(k) G.S. 115C-238.29K is repealed.

SECTION 2.(a) G.S. 115C-426(c) reads as rewritten:

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

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

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

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

SECTION 2.(b) G.S. 115C-448 reads as rewritten:

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

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

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

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

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

SECTION 3. G.S. 105-275 reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...
(46) Real property that is occupied by a charter school and is wholly and exclusively used for educational purposes as defined in G.S. 105-278.4(f) regardless of the ownership of the property."

SECTION 4. G.S. 143B-426.40A is amended by adding a new subsection to read:

"(m) Assignment of Funds Allocated by the State Board of Education to Charter Schools. – This section does not apply to assignments by charter schools to obtain funds for facilities, equipment, or operations pursuant to G.S. 115C-238.29H."

SECTION 5. Section 7.17(b) of S.L. 2010-31 is repealed.

SECTION 6. Notwithstanding G.S. 115C-238.29A, as amended by this act, initial appointments to the Advisory Board shall be made by the Governor, the General Assembly,

and the State Board of Education no later than August 1, 2013. Initial terms of office to the Advisory Board shall be as follows:

- (1) Two members appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2015. One member appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2017, including the chair.
- (2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as designated by the Speaker, shall be appointed to serve until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as designated by the Speaker, shall be appointed to serve until June 30, 2017.
- (3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be appointed to serve until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be appointed to serve until June 30, 2017.
- (4) One member appointed by the State Board of Education shall be appointed to serve until June 30, 2015.

SECTION 7. The North Carolina Charter School Advisory Council, as established by the State Board of Education on August 4, 2011, by Policy TCS-B-006, is abolished.

SECTION 8. Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2013. Section 7 of this act becomes effective August 1, 2013. The remainder of this act is effective when it becomes law. G.S. 115C-238.29H(d), as enacted by this act, applies to proceedings commenced on or after the effective date of this act. Nothing in this act shall be construed to affect pending litigation.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

s/ Louis M. Pate, Jr.
Deputy President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:54 p.m. this 25th day of July, 2013