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

The General Assembly of North Carolina enacts:

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

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

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.
The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish, in the aggregate, 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 and administrators, 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.

(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.

(7) Encourage the replication of successful charter schools.


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

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

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

(1) Four members appointed by the Governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) To adopt policies 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.

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

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

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

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

(m) The State Board shall have the authority to veto any decision of the Commission by a two-thirds vote.

"§ 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 other than a local board of education 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 include an executive summary and shall contain at least the following information:

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

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

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

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

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

The school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, academically at-risk students, and academically gifted students, including, but not limited to, compliance with applicable laws and regulations.
teacher councils, and any external organizations that will play a role in
managing the school.

(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.

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

(16) The school's plans, if any, for providing transportation. The school shall
make efforts to ensure that transportation is not a barrier to any student who
resides within three miles of the charter school in a household with an
income below one hundred and eighty five percent (185%) of the poverty
level as defined by the federal government.

(17) The school's plans for providing food services. The school shall develop a
plan for food services which ensures that lack of food services shall not be a
barrier for any student enrolled in the charter school who resides in a
household with an income below one hundred and eighty five percent
(185%) of the poverty level as defined by the federal government.

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

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

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

(c) An applicant shall submit the application to the Commission, which shall have the
authority to approve the charter school in accordance with the standards and criteria set forth in
this Part, 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 the local
board of education of the local school administrative unit in which the charter school will be
§ 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 shall determine the schedule and deadlines for the submission of charter school applications.

(b) The chartering entity shall give preliminary approval to the application if it 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; (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.

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

(a) The State Board may grant final approval of an application if it finds that the application meets the requirements set out in this Part or adopted by the State Board of Education and 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 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year to establish a time line to take final action on applications declared complete under G.S. 115C-238.29C and shall make this information available to applicants. The Commission's decision shall be based on the evidence contained in the application or collected by the Commission following a procedure for application review that is uniform across all applicants and provides opportunities for applicants to respond to questions and requests for further information.
(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board of Education Commission shall authorize no more than 100 additional charter schools statewide in each calendar year, not including renewals of existing charters. If more than five charter schools in one local school administrative unit or more than 100 schools statewide meet the standards for final approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located.

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

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

(c) The State Board of Education Commission 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 Commission 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 Commission may include in the charter any standards or requirements it determines are necessary to fulfill the purposes of this Part as well as any other objectives set forth by the charter school applicant. The charter shall set forth clear, measurable, and attainable academic and operational performance standards the chartering entity must meet to earn charter renewal and the type of objective and verifiable data the Commission will review to evaluate performance. Those standards shall include:

1. Measures of student academic achievement status or proficiency,
2. Student academic growth, including adequacy of growth toward state standards,
3. Achievement gaps between student subgroups identified by federal law,
4. Attendance and recurrent enrollment from year to year,
5. Financial performance and sustainability,
6. Compliance with all applicable laws, regulations, and terms of the charter contract.

The State Board of Education Commission 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 Commission.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board Commission 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 (10%) 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 Commission may approve such additional enrollment growth of greater than ten (twenty) percent (10%)-(20%) only if the State Board Commission finds that:

1. The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;
2. The charter school has commitments for ninety percent (90%) of the requested maximum 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 Commission 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;

(5) The charter school meets generally accepted standards of fiscal management; and

(6) It is otherwise appropriate to approve the enrollment growth.

"§ 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 located and shall be accountable to the State Board Commission 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 of Education.

(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. A local board of education approved to convert a school to a charter school shall not be required to form a nonprofit, tax-exempt corporation if the local board of education serves as the board of directors of the charter school.

(c) A charter school shall operate under the written charter signed by the Commission to which it is accountable under subsection (a) of this section 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 and insurance for the school facility.

(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.
§ 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 twelve. 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 twelve 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–Commission 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, the Commission, 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 180 days.

(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–Commission.
The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with disabilities.

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.

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, except for employees of charter schools converted by a local board of education where a nonprofit, tax-exempt corporation was not required to be formed because the local board of education serves as the board of directors of the charter school. 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 percent (75%) 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. 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. No charter school shall employ as a teacher any person whose certification has been revoked by the State Board of Education.

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

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

(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, and the Commission 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.

(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 Commission 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, except that reports shall be made to the Commission as well as the State Board of Education.

(3) The school shall report at least annually to the chartering entity Commission and the State Board of Education the information required by the chartering entity Commission 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. Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll persons of school age who are not domiciliaries of the State and charge those students a tuition amount equal to the per pupil allocation of the local appropriation for the county in which the charter school is located and the 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 public school converting to a charter school. A 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, 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.

(8) Nothing in this subsection shall be interpreted to preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, academically at-risk students, or academically gifted students.
(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall make efforts to 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 within three miles of the charter school in a household with an income below one hundred and eighty five percent (185%) of the poverty level as defined by the federal government. 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.

(h1) Food Services. - For charter schools approved after July 1, 2011, the charter school shall develop a plan for food services which ensures that lack of food services shall not be a barrier for any student enrolled in the charter school who resides in a household with an income below one hundred and eighty five percent (185%) of the poverty level as defined by the federal government.

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

(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.

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

(a) The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, Commission may terminate or not renew a charter upon any of the following grounds:
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 Commission shall develop 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 three year period shall be deemed inadequate. A charter school identified as inadequate shall develop a school improvement plan to meet specific goals for student performance that are consistent with Commission criteria and the mission approved in the charter of the school. The school improvement plan shall be reviewed and approved by the Commission. Failure to demonstrate improvement under the school improvement plan shall be cause for termination or nonrenewal of the charter.

(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 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.

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

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

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

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

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. Funds allocated by the State Board of Education may also be used to
acquire equipment, real property, buildings, and mobile classroom units for use as school
facilities for charter schools, to enter into operational and financing leases for equipment, and
for any other purpose identified in G.S. 115C-426(f). 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 fund, as defined by G.S. 115C-426, of local current expense
appropriation to the local school administrative unit for the fiscal year. The amount transferred
under this subsection that consists of revenue derived from supplemental taxes shall be
transferred only to a charter school for students residing within located in the tax district for
which these taxes are levied and in which the student resides. The amount transferred
under this subsection shall not include special funds of individual schools established pursuant
to G.S. 115C-448. The local school administrative unit shall provide a detailed accounting of
the funds to be transferred and transfer these funds based on a preliminary projection of charter
school enrollment provided to the local school administrative unit by the charter school no later
than 15 days after the local school administrative unit receives its local current expense
appropriation. Adjustments to this amount shall be made within 30 days of the State Board of
Education determining and certifying to the charter school its average daily membership for the
school year. If the local school administrative unit fails to comply with the deadlines set forth
in this subsection, it shall pay a penalty of one percent (1%) of the amount transferred to the
charter school.

(c) Counties may provide funds to the nonprofit tax-exempt corporation that holds the
charter of a charter school by direct appropriation as set forth in G.S. 153A-457. These funds
shall be used only for purposes identified in G.S. 115C-426(f).

§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter
School Advisory Committee.
(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 approach 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 no later than January 1, 2002, 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:

(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.

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

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

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

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

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

§ 115C-238.29K. Criminal history checks.

(a) As used in this section:

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

(2) "School personnel" means any:

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

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

The State BoardCommission shall not require members of boards of directors of charter
schools or employees of charter schools to pay for the criminal history check authorized under
this section.

(c) The Board of EducationCommission shall require the person to be checked by the
Department of Justice to (i) be fingerprinted and to provide any additional information required by
the Department of Justice to a person designated by the State BoardCommission, or to the
local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign
a form consenting to the check of the criminal record and to the use of fingerprints and other
identifying information required by the repositories. The State BoardCommission shall
consider refusal to consent when deciding whether to grant final approval of an application
under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints
of the individual shall be forwarded to the State Bureau of Investigation for a search of the
State criminal history record file, and the State Bureau of Investigation shall forward a set of
fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Justice shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the Board-Commission requires a criminal history check.

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

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

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

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

(g) 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 section. 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."

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

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

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

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

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

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

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

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

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

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

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

... (2) Restart model, in which the State Board of Education would authorize the
local board of education to operate the school with the same exemptions
from statutes and rules as a charter school authorized under Part 6A of
Article 16 of this Chapter, or under the management of an educational
management organization that has been selected through a rigorous review
process. A school operated under this subdivision remains under the control
of the local board of education, and employees assigned to the school are
employees of the local school administrative unit with the protections
provided by G.S. 115C-325. This subdivision shall not be interpreted to
increase the maximum number of charter schools provided in
G.S. 115C-238.29D(b). No school authorized under this subsection shall
SECTION 5. G.S. 115C-426 reads as rewritten:

"§ 115C-426. Uniform budget format.

... (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, 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.

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

SECTION 6. 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 7. G.S. 115C-546.2 reads as rewritten:

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

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

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.
(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

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

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

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

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

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

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

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

SECTION 8.(a) G.S. 135-5.3 reads as rewritten:

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

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

SECTION 8.(b) G.S. 135-45.5 reads as rewritten:

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

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

SECTION 9. G.S. 150B-1(e) is amended by adding a new subdivision to read:

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

SECTION 10.(a) Article 23 of Chapter 153A is amended by adding a new section to read:


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

SECTION 10.(b) G.S. 153A-459(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

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

...."

SECTION 11. Each local board of education shall amend its budget resolution for the 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 5 of this act. In the event that a local board of education fails to amend its budget resolution for the 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 5 of this act, and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of compliance with G.S. 115C-238.29H(b).

SECTION 12. If in any fiscal year a local board of education approves a budget resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), that budget resolution shall be deemed to have been amended to include all such moneys in the local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

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

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

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

(1) The Commission's strategic vision and plan for charter schools and progress toward achieving the vision and carrying out the plan.

(2) The academic and financial performance of all operating charter schools overseen by the Commission, according to the performance expectations for charter schools set forth in this act.
The status of the Commission's charter school portfolio, identifying all charter schools in each of the following categories: approved to open, in operation, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened.

Composite annual data disaggregated by charter school on the gender, race and ethnicity and disability status of students enrolled in charter schools; testing data disaggregated by the purpose of the charter school, and by gender, race, ethnicity, and disability; the number of students long-term suspended and expelled; the number of students receiving a free and reduced meal plan through a federal subsidy program; the number of students receiving a free or reduced meal plan through means other than a federal subsidy program; and the number of students receiving special education services.

SECTION 16. Beginning in 2012, the Department of Public Instruction shall prepare an annual report to the Joint Legislative Education Oversight Committee of the General Assembly no later than October 15 of each year. This report shall also be distributed electronically to each local board of education in the State. The report shall be based on a review of charter school programs throughout North Carolina, and shall identify operational, educational, and administrative programs and policies implemented by charter schools that the Department finds could improve the State's public schools, or some subset, based on demographics, academic performance, or other criteria, of the State's public schools. The North Carolina Public Charter Schools Commission shall provide the Department any information needed by the Department to meet the reporting requirement set forth in this section.

SECTION 17. Appointments required in Section 2 of this act shall be made no later than August 1, 2011. Sections 5, 11, 12, and 13 of this act are effective when they become law. The remainder of this act becomes effective July 1, 2011.