

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 337

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PROPOSED HOUSE COMMITTEE SUBSTITUTE S337-PCS85243-TC-39

Short Title: NC Charter School Advisory Board.

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

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.

- (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:



\* S 3 3 7 - P C S 8 5 2 4 3 - T C - 3 9 \*

- 1           a. Three members appointed by the Governor, including the chair and  
2           vice-chair of the Advisory Board.
- 3           b. Three members appointed by the General Assembly upon the  
4           recommendation of the President Pro Tempore of the Senate, in  
5           accordance with G.S. 120-121.
- 6           c. Three members appointed by the General Assembly upon the  
7           recommendation of the Speaker of the House of Representatives, in  
8           accordance with G.S. 120-121.
- 9           d. One member appointed by the State Board of Education.
- 10          e. The Lieutenant Governor or the Lieutenant Governor's designee.
- 11          (2) Covered board. – The Advisory Board shall be treated as a board for  
12          purposes of Chapter 138A of the General Statutes.
- 13          (3) Qualifications of members. – Members appointed to the Advisory Board  
14          shall collectively possess strong experience and expertise in public and  
15          nonprofit governance, management and finance, assessment, curriculum and  
16          instruction, public charter schools, and public education law. All appointed  
17          members of the Advisory Board shall have demonstrated an understanding  
18          of and a commitment to charter schools as a strategy for strengthening public  
19          education.
- 20          (4) Terms of office and vacancy appointments. – Appointed members shall  
21          serve four-year terms of office beginning on July 1. No appointed member  
22          shall serve more than eight consecutive years. Vacancy appointments shall  
23          be made by the appointing authority for the remainder of the term of office.
- 24          (5) Presiding officers and quorum. – The chair shall preside over the Advisory  
25          Board's meetings. In the absence of the chair, the vice-chair shall preside  
26          over the Advisory Board's meetings. A majority of the Advisory Board  
27          constitutes a quorum.
- 28          (6) Meetings. – Meetings of the Advisory Board shall be held upon the call of  
29          the chair or the vice-chair with the approval of the chair.
- 30          (7) Expenses. – Members of the Advisory Board shall be reimbursed for travel  
31          and subsistence expenses at the rates allowed to State officers and  
32          employees by G.S. 138-6(a).
- 33          (8) Powers and duties. – The Advisory Board shall have the following duties:
- 34               a. To make recommendations to the State Board of Education on the  
35               adoption of rules regarding all aspects of charter school operation,  
36               including time lines, standards, and criteria for acceptance and  
37               approval of applications, monitoring of charter schools, and grounds  
38               for revocation of charters.
- 39               b. To review applications and make recommendations to the State  
40               Board for final approval of charter applications.
- 41               c. To make recommendations to the State Board on actions regarding a  
42               charter school, including renewals of charters, nonrenewals of  
43               charters, and revocations of charters.
- 44               d. To undertake any other duties and responsibilities as assigned by the  
45               State Board."

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

47          **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**  
48          **for approval.**

49          (a) Any ~~person, group of persons, or~~ nonprofit corporation seeking to establish a charter  
50 school may apply to establish a charter school. If the applicant seeks to convert a public school  
51 to a charter school, the application shall include a statement signed by a majority of the

1 teachers and instructional support personnel currently employed at the school indicating that  
2 they favor the conversion and evidence that a significant number of parents of children enrolled  
3 in the school favor conversion.

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

- 5 (1) A description of a program that implements one or more of the purposes in  
6 G.S. 115C-238.29A.
- 7 (2) A description of student achievement goals for the school's educational  
8 program and the method of demonstrating that students have attained the  
9 skills and knowledge specified for those student achievement goals.
- 10 (3) The governance structure of the school including the names of the ~~proposed~~  
11 initial members of the board of directors of the nonprofit, tax-exempt  
12 corporation and the process to be followed by the school to ensure parental  
13 involvement.
- 14 (3a) The local school administrative unit in which the school will be located.
- 15 (4) Admission policies and procedures.
- 16 (5) A proposed budget for the school and evidence that the financial plan for the  
17 school is economically sound.
- 18 (6) Requirements and procedures for program and financial audits.
- 19 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 20 (8) Types and amounts of insurance coverage, including bonding insurance for  
21 the principal officers of the school, to be obtained by the charter school.
- 22 (9) The term of the charter.
- 23 (10) The qualifications required for individuals employed by the school.
- 24 (11) The procedures by which students can be excluded from the charter school  
25 and returned to a public school. Notwithstanding any law to the contrary,  
26 any local board may refuse to admit any student who is suspended or  
27 expelled from a charter school due to actions that would lead to suspension  
28 or expulsion from a public school under G.S. 115C-390.5 through  
29 G.S. 115C-390.11 until the period of suspension or expulsion has expired.
- 30 (12) The number of students to be served, which number shall be at least 65, and  
31 the minimum number of teachers to be employed at the school, which  
32 number shall be at least three. However, the charter school may serve fewer  
33 than 65 students or employ fewer than three teachers if the application  
34 contains a compelling reason, such as the school would serve a  
35 geographically remote and small student population.
- 36 (13) Information regarding the facilities to be used by the school and the manner  
37 in which administrative services of the school are to be provided.
- 38 (14) Repealed by Session Laws 1997-430, s. 1.

39 (e) ~~An applicant shall submit the application to a chartering entity for preliminary  
40 approval. A chartering entity may be:~~

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

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

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

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

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

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

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

19 **"§ 115C-238.29D. Final approval of applications for charter schools.**

20 (a) The State Board may grant final approval of an application if it finds (i) that the  
21 application meets the requirements set out in this Part ~~or~~ and such other requirements as may be  
22 adopted by the State Board of Education, (ii) that the applicant has the ability to  
23 operate the school and would be likely to operate the school in an educationally and  
24 economically sound manner, and (iii) that granting the application would achieve one or more  
25 of the purposes set out in G.S. 115C-238.29A. The State Board shall act by ~~March~~ January 15  
26 of a calendar year on all applications and appeals it receives prior to ~~February 15~~ a date  
27 established by the Office of Charter Schools for receipt of applications in the prior of that  
28 calendar year. In reviewing applications for the establishment of charter schools within a local  
29 school administrative unit, the State Board is encouraged to give preference to applications that  
30 demonstrate the capability to provide comprehensive learning experiences to students identified  
31 by the applicants as at risk of academic failure.

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

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

37 (d) The State Board of Education may grant the initial charter for a period not to exceed  
38 10 years and may renew the charter upon the request of the chartering entity for subsequent  
39 periods not to exceed 10 years each. The State Board of Education shall review the operations  
40 of each charter school at least once every five years to ensure that the school is meeting the  
41 expected academic, financial, and governance standards.

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

44 It shall not be considered a material revision of a charter application and shall not require  
45 the prior approval of the State Board for a charter school to increase its enrollment during the  
46 charter school's second year of operation and annually thereafter (i) by up to twenty percent  
47 (20%) of the school's previous year's enrollment or (ii) in accordance with planned growth as  
48 authorized in the charter. Other enrollment growth shall be considered a material revision of the  
49 charter application, and the State Board may approve such additional enrollment growth of  
50 greater than twenty percent (20%) only if the State Board finds ~~that~~ all of the following:

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

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

15 **"§ 115C-238.29E. Charter school operation.**

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

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

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

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

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

44 At the request of the charter school, the local board of education of the local school  
45 administrative unit in which the charter school will be located shall lease any available building  
46 or land to the charter school unless the board demonstrates that the lease is not economically or  
47 practically feasible or that the local board does not have adequate classroom space to meet its  
48 enrollment needs. Notwithstanding any other law, a local board of education may provide a  
49 school facility to a charter school free of charge; however, the charter school is responsible for  
50 the maintenance of and insurance for the school facility. If a charter school has requested to  
51 lease available buildings or land and is unable to reach an agreement with the local board of

1 education, the charter school shall have the right to appeal to the board of county  
2 commissioners in which the building or land is located. The board of county commissioners  
3 shall have the final decision-making authority on the leasing of the available building or land.

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

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

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

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

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

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

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

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

36 (c) Civil Liability and Insurance. –

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

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

49 (d) Instructional Program. –

50 (1) The school shall provide instruction each year for at least 185 days or 1,025  
51 hours over nine calendar months.

- 1 (2) The school shall design its programs to at least meet the student performance  
2 standards adopted by the State Board of Education and the student  
3 performance standards contained in the charter.  
4 (3) A charter school shall conduct the student assessments required ~~for charter~~  
5 ~~schools~~ by the State Board of Education.  
6 (4) The school is subject to and shall comply with Article 9 of Chapter 115C of  
7 the General Statutes and The Individuals with Disabilities Education  
8 Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.~~shall~~  
9 ~~comply with policies adopted by the State Board of Education for charter~~  
10 ~~schools relating to the education of children with disabilities.~~  
11 (5) The school is subject to and shall comply with Article 27 of Chapter 115C of  
12 the General Statutes, except that a charter school may also exclude a student  
13 from the charter school and return that student to another school in the local  
14 school administrative unit in accordance with the terms of its ~~charter.~~charter  
15 after due process.  
16 (d1) Reading Proficiency and Student Promotion. –  
17 (1) Students in the third grade shall be retained if the student fails to  
18 demonstrate reading proficiency by reading at or above the third grade level  
19 as demonstrated by the results of the State-approved standardized test of  
20 reading comprehension administered to third grade students. The charter  
21 school shall provide reading interventions to retained students to remediate  
22 reading deficiency, which may include 90 minutes of daily, uninterrupted,  
23 evidence-based reading instruction, accelerated reading classes, transition  
24 classes containing third and fourth grade students, and summer reading  
25 camps.  
26 (2) Students may be exempt from mandatory retention in third grade for good  
27 cause but shall continue to receive instructional supports and services and  
28 reading interventions appropriate for their age and reading level. Good cause  
29 exemptions shall be limited to the following:  
30 a. Limited English Proficient students with less than two years of  
31 instruction in an English as a Second Language program.  
32 b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose  
33 individualized education program indicates the use of alternative  
34 assessments and reading interventions.  
35 c. Students who demonstrate reading proficiency appropriate for third  
36 grade students on an alternative assessment of reading  
37 comprehension. The charter school shall notify the State Board of  
38 Education of the alternative assessment used to demonstrate reading  
39 proficiency.  
40 d. Students who demonstrate, through a student reading portfolio,  
41 reading proficiency appropriate for third grade students.  
42 e. Students who have (i) received reading intervention and (ii)  
43 previously been retained more than once in kindergarten, first,  
44 second, or third grades.  
45 (3) The charter school shall provide notice to parents and guardians when a  
46 student is not reading at grade level. The notice shall state that if the  
47 student's reading deficiency is not remediated by the end of third grade, the  
48 student shall be retained unless he or she is exempt from mandatory  
49 retention for good cause. Notice shall also be provided to parents and  
50 guardians of any student who is to be retained under this subsection of the  
51 reason the student is not eligible for a good cause exemption, as well as a

- 1 description of proposed reading interventions that will be provided to the  
2 student to remediate identified areas of reading deficiency.
- 3 (4) The charter school shall annually publish on the charter school's Web site  
4 and report in writing to the State Board of Education by September 1 of each  
5 year the following information on the prior school year:
- 6 a. The number and percentage of third grade students demonstrating  
7 and not demonstrating reading proficiency on the State-approved  
8 standardized test of reading comprehension administered to third  
9 grade students.
- 10 b. The number and percentage of third grade students not demonstrating  
11 reading proficiency and who do not return to the charter school for  
12 the following school year.
- 13 c. The number and percentage of third grade students who take and  
14 pass the alternative assessment of reading comprehension.
- 15 d. The number and percentage of third grade students retained for not  
16 demonstrating reading proficiency.
- 17 e. The number and percentage of third grade students exempt from  
18 mandatory third grade retention by category of exemption as listed in  
19 subdivision (2) of this subsection.
- 20 (e) Employees. –
- 21 (1) An employee of a charter school is not an employee of the local school  
22 administrative unit in which the charter school is located. The charter  
23 school's board of directors shall employ and contract with necessary teachers  
24 to perform the particular service for which they are employed in the school;  
25 at least ~~seventy five~~fifty percent (~~75%~~)(50%) of these teachers in grades  
26 kindergarten through five, at least fifty percent (50%) of these teachers in  
27 grades six through eight, and at least fifty percent (50%) of these teachers in  
28 grades nine through 12 shall hold teacher certificates. All teachers ~~in grades~~  
29 ~~six through 12~~ who are teaching in the core subject areas of mathematics,  
30 science, social studies, and language arts shall be college graduates.
- 31 The board also may employ necessary employees who are not required  
32 to hold teacher ~~certificates~~licenses to perform duties other than teaching and  
33 may contract for other services. The board may discharge teachers and  
34 ~~noncertificated~~nonlicensed employees.
- 35 (2) No local board of education shall require any employee of the local school  
36 administrative unit to be employed in a charter school.
- 37 (3) If a teacher employed by a local school administrative unit makes a written  
38 request for a leave of absence to teach at a charter school, the local school  
39 administrative unit shall grant the leave for one year. For the initial year of a  
40 charter school's operation, the local school administrative unit may require  
41 that the request for a leave of absence be made up to 45 days before the  
42 teacher would otherwise have to report for duty. After the initial year of a  
43 charter school's operation, the local school administrative unit may require  
44 that the request for a leave of absence be made up to 90 days before the  
45 teacher would otherwise have to report for duty. A local board of education  
46 is not required to grant a request for a leave of absence or a request to extend  
47 or renew a leave of absence for a teacher who previously has received a  
48 leave of absence from that school board under this subdivision. A teacher  
49 who has career status under G.S. 115C-325 prior to receiving a leave of  
50 absence to teach at a charter school may return to a public school in the local  
51 school administrative unit with career status at the end of the leave of



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

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

23 (5) Education employee associations shall have equal access to charter school  
24 employees as provided in G.S. 115C-335.9.

25 (e1) Criminal History Checks. –

26 (1) The board of directors of each charter school shall adopt a policy on whether  
27 and under what circumstances an applicant for a school personnel position  
28 shall be required to be checked for a criminal history before the applicant is  
29 offered an unconditional job. The board of directors shall apply the policy  
30 uniformly in requiring applicants for school personnel positions to be  
31 checked for a criminal history. A board of directors of a charter school that  
32 requires a criminal history check for an applicant may employ an applicant  
33 conditionally while the board is checking the person's criminal history and  
34 making a decision based on the results of the check. The board of directors  
35 of a charter school shall not require an applicant to pay for the criminal  
36 history check authorized under this subdivision.

37 (2) There shall be no liability for negligence on the part of the State Board of  
38 Education or the board of directors of the charter school, or their employees,  
39 arising from any act taken or omission by any of them in carrying out the  
40 provisions of this subsection. The immunity established by this subsection  
41 shall not extend to gross negligence, wanton conduct, or intentional  
42 wrongdoing that would otherwise be actionable. The immunity established  
43 by this subsection shall be deemed to have been waived to the extent of  
44 indemnification by insurance, indemnification under Articles 31A and 31B  
45 of Chapter 143 of the General Statutes, and to the extent sovereign immunity  
46 is waived under the Tort Claims Act, as set forth in Article 31 of Chapter  
47 143 of the General Statutes.

48 (f) Accountability. –

49 (1) The school is subject to the financial audits, the audit procedures, and the  
50 audit requirements adopted by the State Board of Education for charter

- 1 schools. These audit requirements may include the requirements of the  
 2 School Budget and Fiscal Control Act.
- 3 (2) The school shall comply with the reporting requirements established by the  
 4 State Board of Education in the Uniform Education Reporting System.
- 5 (3) The school shall report at least annually to the ~~chartering entity and the~~ State  
 6 Board of Education the information required by the ~~chartering entity or the~~  
 7 State Board.
- 8 (g) Admission Requirements. –
- 9 (1) Any child who is qualified under the laws of this State for admission to a  
 10 public school is qualified for admission to a charter school.
- 11 (2) No local board of education shall require any student enrolled in the local  
 12 school administrative unit to attend a charter school.
- 13 (3) Admission to a charter school shall not be determined according to the  
 14 school attendance area in which a student resides, except that any local  
 15 school administrative unit in which a public school converts to a charter  
 16 school shall give admission preference to students who reside within the  
 17 former attendance area of that school.
- 18 (4) Admission to a charter school shall not be determined according to the local  
 19 school administrative unit in which a student resides.
- 20 (5) A charter school shall not discriminate against any student on the basis of  
 21 ethnicity, national origin, gender, or disability. Except as otherwise provided  
 22 by law or the mission of the school as set out in the charter, the school shall  
 23 not limit admission to students on the basis of intellectual ability, measures  
 24 of achievement or aptitude, athletic ability, disability, race, creed, gender,  
 25 national origin, religion, or ancestry. Within one year after the charter school  
 26 begins operation, the population of the school shall reasonably reflect the  
 27 racial and ethnic composition of the general population residing within the  
 28 local school administrative unit in which the school is located or the racial  
 29 and ethnic composition of the special population that the school seeks to  
 30 serve residing within the local school administrative unit in which the school  
 31 is located. The school shall be subject to any court-ordered desegregation  
 32 plan in effect for the local school administrative unit.
- 33 (5a) The charter school may give enrollment priority to any of the following:
- 34 a. ~~siblings~~ Siblings of currently enrolled students who were admitted to  
 35 the charter school in a previous ~~year and year~~. For the purposes of  
 36 this subsection, the term "siblings" includes half siblings,  
 37 stepsiblings, and children residing in a family foster home.
- 38 b. ~~to children~~ Children of the school's principal, teachers, and teacher  
 39 ~~assistants~~ assistants.
- 40 c. Children of all school employees.
- 41 d. ~~In addition, and only for~~ For its first three year-years of operation, the  
 42 ~~charter school may give enrollment priority to~~ children of the initial  
 43 members of the charter school's board of directors, so long as ~~(i)~~  
 44 these children are limited to no more than ten percent (10%) of the  
 45 school's total enrollment or to 20 students, whichever is ~~less, and (ii)~~  
 46 ~~the charter school is not a former public or private school~~ less.
- 47 e. A student who was enrolled in the charter school within the two  
 48 previous school years but left the school (i) to participate in  
 49 extraordinary educational opportunities available to the student, such  
 50 as a study abroad program or a competitive admission residential

1 program, or (ii) because of the vocational opportunities of the  
2 student's parent.

3 (5b) Lottery procedures for siblings.

4 a. If multiple birth siblings apply for admission to a charter school and  
5 a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school  
6 shall may enter one surname into the lottery to represent all of the  
7 multiple birth siblings applying at the same time. If that  
8 surname of the multiple birth siblings is selected, then all of the  
9 multiple birth siblings shall be admitted.

10 b. If multiple birth siblings apply for admission to a charter school and  
11 a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school  
12 shall enter one surname into the lottery to represent all of the  
13 multiple birth siblings applying at the same time. If that surname of  
14 the multiple birth siblings is selected, then all of the multiple birth  
15 siblings shall be admitted.

16 ~~Within one year after the charter school begins operation, the population of~~  
17 ~~the school shall reasonably reflect the racial and ethnic composition of the~~  
18 ~~general population residing within the local school administrative unit in~~  
19 ~~which the school is located or the racial and ethnic composition of the~~  
20 ~~special population that the school seeks to serve residing within the local~~  
21 ~~school administrative unit in which the school is located. The school shall be~~  
22 ~~subject to any court ordered desegregation plan in effect for the local school~~  
23 ~~administrative unit.~~

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

29 (7) Notwithstanding any law to the contrary, a charter school may refuse  
30 admission to any student who has been expelled or suspended from a public  
31 school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of  
32 suspension or expulsion has expired.

33 (h) Transportation. – The charter school may provide transportation for students  
34 enrolled at the school. The charter school shall develop a transportation plan so that  
35 transportation is not a barrier to any student who resides in the local school administrative unit  
36 in which the school is located. The charter school is not required to provide transportation to  
37 any student who lives within one and one-half miles of the school. At the request of the charter  
38 school and if the local board of the local school administrative unit in which the charter school  
39 is located operates a school bus system, then that local board may contract with the charter  
40 school to provide transportation in accordance with the charter school's transportation plan to  
41 students who reside in the local school administrative unit and who reside at least one and  
42 one-half miles of the charter school. A local board may charge the charter school a reasonable  
43 charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local  
44 board may refuse to provide transportation under this subsection if it demonstrates there is no  
45 available space on buses it intends to operate during the term of the contract or it would not be  
46 practically feasible to provide this transportation.

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

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

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

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

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

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

23 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

24 (a) ~~The State Board of Education, or a chartering entity subject to the approval of the~~  
25 ~~State Board of Education, Education~~ may terminate or not renew a charter upon any of the  
26 following grounds:

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

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

- 41 (1) If a charter school is inadequate in the first five years of the charter, the  
42 charter school shall develop a strategic plan to meet specific goals for  
43 student performance that are consistent with State Board criteria and the  
44 mission approved in the charter school. The strategic plan shall be reviewed  
45 and approved by the State Board. The State Board is authorized to terminate  
46 or not renew a charter for failure to demonstrate improvement under the  
47 strategic plan.
- 48 (2) If a charter school is inadequate and has had a charter for more than five  
49 years, the State Board is authorized to terminate or not renew the charter.

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

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

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

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

26 **"§ 115C-238.29H. State and local funds for a charter school.**

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

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

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

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

47 (a1) Funds allocated by the State Board of Education may be used to enter into  
48 operational and financing leases for real property or mobile classroom units for use as school  
49 facilities for charter schools and may be used for payments on loans made to charter schools for  
50 ~~facilities or equipment.~~ facilities, equipment, or operations. However, State funds shall not be  
51 used to obtain any other interest in real property or mobile classroom units. No indebtedness of

1 any kind incurred or created by the charter school shall constitute an indebtedness of the State  
2 or its political subdivisions, and no indebtedness of the charter school shall involve or be  
3 secured by the faith, credit, or taxing power of the State or its political subdivisions. Every  
4 contract or lease into which a charter school enters shall include the previous sentence. The  
5 school also may own land and buildings it obtains through non-State sources.

6 (b) If a student attends a charter school, the local school administrative unit in which  
7 the child resides shall transfer to the charter school an amount equal to the per pupil share of  
8 the local current expense appropriation fund of ~~to~~ the local school administrative unit for the  
9 fiscal year. The per pupil share of the local current expense fund shall be transferred to the  
10 charter school within 30 days of the receipt of monies into the local current expense fund. If the  
11 local school administrative unit fails to timely comply with the requirements of this subsection,  
12 interest at the legal rate as provided in G.S. 24-1 on the amount required to be transferred to the  
13 charter school shall accrue from the date of delinquency until that amount, together with any  
14 interest, is transferred to the charter school. If the charter school is transferred a greater share of  
15 funds than required by this subsection and fails to return those funds within 30 days, unless the  
16 charter school and local school administrative unit otherwise have an agreement on  
17 overpayment of funds, interest at the legal rate as provided in G.S. 24-1 on the overpayment of  
18 funds shall accrue from the date of delinquency until that amount, together with interest, is  
19 transferred to the local school administrative unit. The amount transferred under this subsection  
20 that consists of revenue derived from supplemental taxes shall be transferred only to a charter  
21 school located in the tax district for which these taxes are levied and in which the student  
22 resides.

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

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

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

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

38 **"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter**  
39 **School Advisory Committee.**~~schools.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **"§ 115C-448. Special funds of individual schools.**

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

50 (b) Nothing in this section shall prevent the board of education from requiring that all  
51 funds of individual schools be deposited with and accounted for by the school finance officer.

1 If this is done, these moneys shall be disbursed and accounted for in the same manner as other  
2 school funds except that the check or draft shall not bear the certificate of preaudit.

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

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

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

11 "**§ 105-275. Property classified and excluded from the tax base.**

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

14 ...

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

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

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

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

23 **SECTION 6.** Notwithstanding G.S. 115C-238.29A, as amended by this act, initial  
24 appointments to the Advisory Board shall be made by the Governor, the General Assembly,  
25 and the State Board of Education no later than August 1, 2013. Initial terms of office to the  
26 Advisory Board shall be as follows:

27 (1) Two members appointed by the Governor, as designated by the Governor,  
28 shall be appointed to serve until June 30, 2015, including the vice-chair. One  
29 member appointed by the Governor, as designated by the Governor, shall be  
30 appointed to serve until June 30, 2017, including the chair.

31 (2) One member appointed by the General Assembly upon the recommendation  
32 of the Speaker of the House of Representatives, as designated by the  
33 Speaker, shall be appointed to serve until June 30, 2015. Two members  
34 appointed by the General Assembly upon the recommendation of the  
35 Speaker of the House of Representatives, as designated by the Speaker, shall  
36 be appointed to serve until June 30, 2017.

37 (3) One member appointed by the General Assembly upon the recommendation  
38 of the President Pro Tempore of the Senate, as designated by the President  
39 Pro Tempore, shall be appointed to serve until June 30, 2015. Two members  
40 appointed by the General Assembly upon the recommendation of the  
41 President Pro Tempore of the Senate, as designated by the President Pro  
42 Tempore, shall be appointed to serve until June 30, 2017.

43 (4) One member appointed by the State Board of Education shall be appointed  
44 to serve until June 30, 2015.

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

47 **SECTION 8.** Section 3 of this act is effective for taxes imposed for taxable years  
48 beginning on or after July 1, 2013. Section 7 of this act becomes effective August 1, 2013. The  
49 remainder of this act is effective when it becomes law. G.S. 115C-238.29H(d), as enacted by  
50 this act, applies to proceedings commenced on or after the effective date of this act.