

# APPENDIX A (Draft Legislation)

*The following model charter school legislation was adopted by the American Legislative Exchange Council (ALEC), based on CER's recommendations. A variety of other components of model charter school legislation can be found at [www.edreform.com](http://www.edreform.com).*

## NEXT GENERATION CHARTER SCHOOLS ACT

*Draft Model Legislation*

### Summary

The state of [insert name] recognizes establishment of charter schools as necessary to improving the opportunities of all families to choose the public school that meets the needs of their children, and believes that charter schools serve a distinct purpose in supporting innovations and best practices that can be adopted among all public schools. Further, the state of [insert name] recognizes that there must be a variety of public institutions that can authorize the establishment of charter schools as defined by law, and recognizes that independent but publicly accountable multiple authorizing authorities, such as independent state commissions or universities, contribute to the health and growth of strong public charter schools. Therefore, the purpose of this act is to establish that existing [or new] public entities may be created to approve and monitor charter schools in addition to public school district boards. This act also removes procedural and funding barriers to charter school success.

### Section 1: Title

This article will be entitled “The Next Generation Charter Schools Act”

### Section 2: Declaration of Purpose

- (A) The General Assembly hereby finds and declares that
- (i) The Charter School Act of [year] as approved by this body has provided students in our state with high-quality public school choices while advancing overall academic excellence<sup>1</sup> and helping to close the achievement gap; and
  - (ii) The demand for quality public school choices in our state consistently outstrips the supply; and
  - (iii) National research and accumulated experience have documented that quality public charter schools best fulfill their potential when they have the resources, autonomy and accountability they need to succeed.
- (B) The General Assembly further finds and declares that the provisions established in this article update and improve our Charter School Act to meet our state’s 21st Century educational needs.

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## Section 3: Definitions

- (A) “Charter authorizer” as used in this article means an entity or body established in Section 4 to approve charter schools.
- (B) “Charter Board” means the independent, state-level entity created pursuant to Section 4 as a charter authorizer.
- (C) “Charter applicant” means an eligible person(s), organization or entity as defined by the Charter School Law that seeks approval from a charter authorizer to found a charter school.
- (D) “Charter school” means:
  - (i) Any new school or a distance-learning program which is not currently being operated as a public or private school that is approved by a charter authorizer to operate as a public school under the Charter School Law;
  - (ii) Any school converted from an existing public or private school and approved by a charter authorizer to operate as a public charter school under the Charter School Law.
- (E) “School district” means each school district now or hereafter legally organized as a body corporate pursuant to [insert statute];
- (F) “State Board” means the state board of education appointed pursuant to [insert statute].

## Section 4:<sup>2</sup> Charter Authorizers<sup>3</sup>

- (A) Upon the effective date of this article and thereafter, a charter applicant seeking to establish a public charter school may submit the charter petition to one of several charter authorizers:
  - (i) The elected governing authority of a county or municipality [define limitations, if any];
  - (ii) The mayor of a city [define limitations, if any];
  - (iii) The state board of education;
  - (iv) The board of trustees of a two or four year institution of higher learning as defined by [insert statute], as described in subsection 4(B);
  - (v) The Public Charter School Board established in subsection 4(C).
- (B) Establishment – University Authorizer
  - (i) In general, there is established within the state public university authorizers.
  - (ii) The ultimate responsibility for choosing to sponsor a charter school and responsibilities for maintaining sponsorship shall rest with the university’s board of trustees.
  - (iii) Notwithstanding subsection (ii), the university’s board of trustees may vote to assign sponsorship authority and sponsorship responsibilities to another person

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or entity that functions under the direction of the university's board. Any decisions made under this subsection shall be communicated in writing to the department of education and the charter school review panel.

- (iv) Before a university may sponsor a charter school, the university must conduct a public meeting with public notice in the county where the charter school will be located.
- (v) The total number of charter schools that may be approved and opened in a calendar year by all university sponsors may not exceed [add restriction, if any]. This subsection expires [XXXX].

## (C) Establishment – Public Charter School Board.

- (i) There is established within the state a Public Charter School Board (in this section referred to as the "Board").
- (ii) Membership. – The Governor shall solicit from the Speaker of the House and the President of the Senate a list of 15 individuals they determine are qualified to serve on the Board. The Governor shall appoint 7 individuals from the list to serve on the Board. The Governor shall choose members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:
  - (a) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools;
  - (b) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise;
  - (c) The educational, social, and economic development needs of the state; and
  - (d) The needs and interests of students and parents in the state, as well as methods of involving parents and other members of the community in individual schools.
- (iii) Vacancies. –
  - (a) Other than from expiration of term. – Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a member of the Board, the Governor, not later than 30 days after the vacancy occurs, shall request from the leaders of the Legislature a list of 3 people they determine are qualified to serve on the Board. The Governor shall appoint 1 person from the list to serve on the Board. The Legislature shall recommend, and the Governor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2) of this subsection. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.
  - (b) Expiration of term. – Not later than the date that is 60 days before the expiration of the term of a member of the Board, the Governor shall appoint 1 person from a list of 3 people that the Legislative leaders determines are qualified to serve on the Board. The Speaker and Senate

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President shall recommend, and the Governor shall appoint, any member of the Board taking into consideration the criteria described in paragraph (2) of this subsection.

- (iv) Time limit for appointments. – If, at any time, the Governor does not appoint members to the Board sufficient to bring the Board’s membership to 7 within 30 days after receiving a recommendation from the legislative leadership under paragraph (ii) or (iii) of this subsection, the Speaker, not later than 10 days after the final date for such an appointment, shall make such appointments as are necessary to bring the membership of the Board to 7.
- (v) Terms of members. –
  - (a) In general. – Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2) of this subsection, the Governor shall designate:
    - (i) Two members to serve terms of 3 years;
    - (ii) Two members to serve terms of 2 years; and
    - (iii) One member to serve a term of one year.
  - (b) Reappointment. – Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.
  - (c) Independence. – No person employed by the state’s public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.
- (vi) Operations of the Board. –
  - (a) Chair. – The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members’ terms, or when requested by a majority vote of the members of the Board.
  - (b) Quorum. – A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.
  - (c) Meetings. – The Board shall meet at the call of the Chair, subject to the hearing requirements of [cite statute here].
- (vii) No compensation for service. – Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.
- (viii) Personnel and resources. –
  - (a) In general. – Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary.

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- (b) Special rule. – The Board is authorized to use the services, personnel, and facilities of the state of [insert state].
- (ix) Expenses of Board. – Any start-up expenses of the Board shall be paid from such funds as may be available to the State Department of Education; provided, That within 45 days of [implementation date], the State Department of Education shall make available not less than \$130,000 to the Board.
- (x) Audit. – The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.
- (xi) Authorization of appropriations. – For the purpose of carrying out the provisions of this section and conducting the Board’s functions required by this subchapter, there are authorized to be appropriated to the Board \$300,000 for fiscal year [XXXX] and such sums as may be necessary for each of the 3 succeeding fiscal years.
- (xii) Fees – For the purposes of approval and oversight of charter schools, the Board may charge fees not to exceed 1.5 percent of per pupil enrollment revenues for each student in each school approved by the Board.

## Section 5: Application Process

- (A) Each charter authorizer must establish a charter petition process and timeline that conform to the requirements of the Charter School Act while optimizing effective review of its proposed charter schools and oversight of its approved charter schools. A charter authorizer is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval. An applicant shall submit an application to a charter authorizer for approval. [insert requirements]
- (B) Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters; provided, however, that a renewal application shall include:
  - (i) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.
  - (ii) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the state superintendent of public instruction.
  - (iii) Copies of each of the annual reports of the charter school required by [section XX of] the Charter School Law, including the charter school report cards and the certified financial statements.
  - (iv) Indications of parent and student satisfaction.
- (C) Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

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## Section 6: Blanket Waiver

A charter school is a public school and is part of the state's system of public education. Except as provided in [add relevant citation in state code], a charter school is exempt from all statutes and rules applicable to a school, a board, or a district, although it may elect to comply with one or more provisions of statutes or rules.

## Section 7: Equitable Funding

A charter school is a public school and is part of the state's system of public education. A charter school shall receive funding for each of its pupils from federal, state and local sources that is equal to the amount that a traditional public school would receive for that same pupil.

## Section 8: Caps

This article hereby removes the limit [of XXX] as established in the Charter School Law on the number of approved charter schools as of the effective date in Section 9.

## Section 9: Effective Date

The Next Generation Charter Schools Act will be in effect beginning no later than July 1, [XXXX].

## DRAFTING NOTES

<sup>1</sup> Insert supporting references of studies of charter school achievement and/or test-score/achievement comparisons. Some examples can be found at [www.edreform.com](http://www.edreform.com).

<sup>2</sup> States may use one or several of the options provided for in Section 4. As of 2007, seven states authorize the administration of a public university to take on chartering authority, separate from any of the specific departments representing a discipline. In this case, the individual campuses of a state university, for example, may open an office that is subsidized by state start up grants and or/per pupil enrollment fees. Other states have independent charter school Boards or commissions that are established, and some have a combination of the above. In states where the political environment is hostile, university authorizers may be a preferable route over a Board which is appointed by the Governor and state legislative leaders. Having additional authorizers (both Boards and universities) might help alleviate any negative political influences as there will be other alternatives for applicants and therefore less power concentrated in the hands of one authorizer.

<sup>3</sup> In some states, there is a perceived constitutional barrier to allowing an entity other than a school district or the state board of education to authorize public schools. States with multiple charter authorizers have established case law that can be useful for policy-makers in establishing the constitutionality of multiple charter school authorizers.