

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 297\*

Education/Higher Education Committee Substitute Adopted 4/3/97

Pensions & Retirement and Insurance Committee Substitute No. 2 Adopted 4/28/97

Short Title: Amend Charter Sch. Laws.

(Public)

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Sponsors:

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Referred to:

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March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

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

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

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

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

- 1 (2) A description of student achievement goals for the school's educational  
2 program and the method of demonstrating that students have attained  
3 the skills and knowledge specified for those student achievement goals.
- 4 (3) The governance structure of the school including the names of the  
5 proposed initial members of the board of directors of the nonprofit, tax-  
6 exempt corporation or of the board of directors whose members shall be  
7 approved by the State Board and the process to be followed by the  
8 school to ensure parental involvement.
- 9 (3a) The local school administrative unit in which the school will be located.
- 10 (4) Admission policies and procedures.
- 11 (5) A proposed budget for the school and evidence that the plan for the  
12 school is economically sound.
- 13 (6) Requirements and procedures for program and financial audits.
- 14 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 15 (8) Types and amounts of insurance coverage, including bonding insurance  
16 for the principal officers of the school, to be obtained by the charter  
17 school.
- 18 (9) The term of the contract.
- 19 (10) The qualifications required for individuals employed by the school.
- 20 (11) The procedures by which students can be excluded from the charter  
21 school and returned to a public school. Notwithstanding any law to the  
22 contrary, any local board may refuse to admit any student who is  
23 suspended or expelled from a charter school due to actions that would  
24 lead to suspension or expulsion from a public school under G.S. 115C-  
25 391 until the period of suspension or expulsion has expired.
- 26 (12) The number of students to be served, which number shall be at least 65,  
27 and the minimum number of teachers to be employed at the school,  
28 which number shall be at least three. However, the charter school may  
29 serve fewer than 65 students or employ fewer than three teachers if the  
30 application contains a compelling reason, such as the school would  
31 serve a geographically remote and small student population.
- 32 (13) Information regarding the facilities to be used by the school and the  
33 manner in which administrative services of the school are to be  
34 provided.
- 35 (14) ~~A description of whether the school will operate independently of the~~  
36 ~~local board of education or whether it agrees to be subject to some~~  
37 ~~supervision and control of its administrative operations by the local~~  
38 ~~board of education. In the event the charter school elects to operate~~  
39 ~~independently of the local board of education, A statement of whether~~  
40 the school will be operated by a nonprofit, tax-exempt corporation or by  
41 a board of directors whose members are approved by the State Board of  
42 Education. In the event a nonprofit, tax-exempt corporation will operate  
43 the charter school, the application must specify which employee

1 benefits will be offered to its employees and how the benefits will be  
2 funded.

3 (c) An applicant shall submit the application to a chartering entity for preliminary  
4 approval. A chartering entity may be:

5 (1) The local board of education of the local school administrative unit in  
6 which the charter school will be located;

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

10 (3) The State Board of Education.

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

13 (c1) Unless an applicant submits its application under subsection (c) of this section  
14 to the local board of education of the local school administrative unit in which the charter  
15 school will be located, the applicant shall submit a copy of its application to that local  
16 board by November 10. The local board may offer any information or comment  
17 concerning the application it considers appropriate to the chartering entity. The local  
18 board shall deliver this information to the chartering entity no later than January 1 of the  
19 next calendar year. The applicant shall not be required to obtain or deliver this  
20 information to the chartering entity on behalf of the local board."

21 Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is  
22 amended by adding the following new section to read:

23 "**§ 115C-238.29C1. Criminal history checks.**

24 (a) As used in this section:

25 (1) 'Criminal history' means a county, State, or federal criminal history of  
26 conviction of a crime, whether a misdemeanor or a felony, that indicates  
27 an individual (i) poses a threat to the physical safety of students or  
28 personnel, or (ii) has demonstrated that he or she does not have the  
29 integrity or honesty to fulfill his or her duties as the operator of a charter  
30 school. These crimes include the following North Carolina crimes  
31 contained in any of the following Articles of Chapter 14 of the General  
32 Statutes: Article 5A, Endangering Executive and Legislative Officers;  
33 Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8,  
34 Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious  
35 Injury or Damage by Use of Explosive or Incendiary Device or  
36 Material; Article 14, Burglary and Other Housebreakings; Article 15,  
37 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery;  
38 Article 18, Embezzlement; Article 19, False Pretense and Cheats;  
39 Article 19A, Obtaining Property or Services by False or Fraudulent Use  
40 of Credit Device or Other Means; Article 20, Frauds; Article 21,  
41 Forgery; Article 26, Offenses Against Public Morality and Decency;  
42 Article 26A, Adult Establishments; Article 27, Prostitution; Article 28,  
43 Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office;

1 Article 35, Offenses Against the Public Peace; Article 36A, Riots and  
2 Civil Disorders; Article 39, Protection of Minors; and Article 60,  
3 Computer-Related Crime. These crimes also include possession or sale  
4 of drugs in violation of the North Carolina Controlled Substances Act,  
5 Article 5 of Chapter 90 of the General Statutes, and alcohol-related  
6 offenses such as sale to underage persons in violation of G.S. 18B-302  
7 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-  
8 138.5. In addition to the North Carolina crimes listed in this  
9 subdivision, such crimes also include similar crimes under federal law  
10 or under the laws of other states.

11 (2) 'Operator' means any:

- 12 a. Member of the board of directors of a nonprofit, tax-exempt  
13 corporation, or  
14 b. Member of a board of directors whose members are approved by  
15 the State Board,  
16 which operates a charter school.

17 (3) 'School personnel' means any:

- 18 a. Employee of a charter school,  
19 b. Independent contractor or employee of independent contractor of  
20 a charter school if the independent contractor carries out duties  
21 customarily performed by school personnel, or  
22 c. Operator of a charter school,  
23 whether paid with federal, State, local, or other funds, who has  
24 significant access to students or who has responsibility for the fiscal  
25 management of a charter school.

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

33 Funds allocated or to be allocated by the State Board to the charter school may be  
34 used to reimburse school personnel for the criminal history checks authorized under this  
35 section.

36 (c) The State Board of Education shall require the person to be checked by the  
37 Department of Justice to (i) be fingerprinted and to provide any additional information  
38 required by the Department of Justice to a person designated by the State Board, or to the  
39 local sheriff or the municipal police, whichever is more convenient for the person, and  
40 (ii) sign a form consenting to the check of the criminal record and to the use of  
41 fingerprints and other identifying information required by the repositories. The State  
42 Board shall consider refusal to consent when deciding whether to grant final approval of  
43 an application under G.S. 115C-238.29D and when making an employment

1 recommendation. The fingerprints of the individual shall be forwarded to the State  
2 Bureau of Investigation for a search of the State criminal history record file, and the State  
3 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of  
4 Investigation for a national criminal history record check. The Department of Justice  
5 shall provide to the State Board of Education the criminal history from the State and  
6 National Repositories of Criminal Histories of any school personnel for which the Board  
7 requires a criminal history check.

8 Funds allocated or to be allocated by the State Board to the charter school may be  
9 used to reimburse school personnel for the fingerprints as authorized under this section.

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

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

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

42 (g) There shall be no liability for negligence on the part of the State Board of  
43 Education or the charter school, or their employees, arising from any act taken or

1 omission by any of them in carrying out the provisions of this section. The immunity  
2 established by this subsection shall not extend to gross negligence, wanton conduct, or  
3 intentional wrongdoing that would otherwise be actionable. The immunity established by  
4 this subsection shall be deemed to have been waived to the extent of indemnification by  
5 insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General  
6 Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as  
7 set forth in Article 31 of Chapter 143 of the General Statutes."

8 Section 3. G.S. 115C-238.29D(d) reads as rewritten:

9 "(d) The State Board of Education may grant a charter for a period not to exceed  
10 five years and may renew the charter upon the request of the chartering entity for  
11 subsequent periods not to exceed five years each. A material revision of the provisions of  
12 a charter application shall be made only upon the approval of the State Board of  
13 Education. Nonrenewal of a charter operated by a board of directors whose members are  
14 approved by the State Board of Education shall constitute a termination of that board of  
15 directors."

16 Section 4. G.S. 115C-238.29E reads as rewritten:

17 "**§ 115C-238.29E. Charter school operation.**

18 (a) A charter school that is approved by the State shall be a public school within  
19 the local school administrative unit in which it is located. ~~It—A charter school shall be~~  
20 accountable to the local board of education of the local school administrative unit in  
21 which the school is located for purposes of ensuring compliance with applicable laws and  
22 the provisions of its ~~charter—~~charter, unless that local board denied preliminary approval  
23 of the charter school. A charter school that is denied preliminary approval from that local  
24 board shall be accountable to the State Board of Education for purposes of ensuring  
25 compliance with applicable laws and the provisions of their charters.

26 (b) A charter school shall be operated ~~by a private nonprofit corporation that shall~~  
27 ~~have received federal tax exempt status no later than 24 months following final approval~~  
28 ~~of the application.~~ in one of the following ways:

29 (1) By a nonprofit corporation that receives federal tax-exempt status no  
30 later than 24 months after final approval of the application.

31 (2) By a board of directors whose members are approved by the State Board  
32 of Education. The board of directors shall be composed of no more than  
33 25 members. The initially proposed members shall serve terms no  
34 longer than the length of the charter granted by the State Board.  
35 Subsequently proposed members shall serve terms no longer than five  
36 years. No member may serve more than two full terms. Appointments  
37 to the board of directors, including those necessary to fill vacancies,  
38 shall be recommended by the current board of directors and approved by  
39 the State Board of Education.

40 In the event a charter school receives final approval from the State Board of  
41 Education by March 31, 1997, the State Board shall provide the opportunity for the  
42 school to be operated by a board of directors whose members are approved by the State  
43 Board.

1 (c) A charter school shall operate under a written contract signed by the local board  
2 of education entity to which the charter school is accountable under subsection (a) of this  
3 section and the applicant. The contract shall incorporate at a minimum the information  
4 provided in the application, as modified during the charter approval process, and any  
5 terms and conditions imposed on the charter school by the State Board of Education.

6 ~~If the local board of education does not sign the contract, the State Board may sign on~~  
7 ~~behalf of the local board.~~

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

10 (e) ~~A charter school shall be located in the local school administrative unit with which it~~  
11 ~~signed the contract. Its~~ A charter school's specific location shall not be prescribed or  
12 limited by a local board or other authority except a zoning authority. The school may  
13 lease space from a local board of education, from a public or private nonsectarian  
14 organization, or as is otherwise lawful in the local school administrative unit in which the  
15 charter school is located. At the request of the charter school, the local board of  
16 education of the local school administrative unit in which the charter school will be  
17 located shall lease any available building or land to the charter school unless the board  
18 demonstrates that the lease is not economically or practically feasible or that the local  
19 board does not have adequate classroom space to meet its enrollment needs.

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

23 Section 5. G.S. 115C-238.29F reads as rewritten:

24 "**§ 115C-238.29F. General requirements.**

25 (a) Health and Safety Standards. – A charter school shall meet the same health and  
26 safety requirements required of a local school administrative unit.

27 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,  
28 admission policies, employment practices, and all other operations and shall not charge  
29 tuition or fees. A charter school shall not be affiliated with a nonpublic sectarian school  
30 or a religious institution.

31 (c) Civil Liability and Insurance. –

32 (1) ~~The board of directors-operator~~ of a charter school may sue and be sued.  
33 The State Board of Education shall adopt rules to establish reasonable  
34 amounts and types of liability insurance that the operator shall be  
35 required by the contract to obtain. The board of directors-operator shall  
36 obtain at least the amount of and types of insurance required by these  
37 rules to be included in the contract. The liability in tort of the charter  
38 school, the organization that operates the charter school, including any  
39 member, officer, or director of that organization, and the charter  
40 school's employees shall not be covered under the Tort Claims Act, as  
41 set out in Article 31 of Chapter 143 of the General Statutes, and the  
42 State shall not provide for the defense of any civil or criminal action or  
43 proceeding brought against any charter school, any organization that

operates the charter school or any of its members, officers, or directors, or any charter school employee. Any sovereign immunity of the charter school, of the organization that operates the charter school or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

- (2) No civil liability shall attach to any chartering entity, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. ~~In the event a charter school has not elected total independence from the local board of education under subsection (e) of this section, the immunity established by this subsection~~ The immunity established by this subdivision 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.

(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 ~~contract with the local board of education.~~ contract.
- (3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education.
- (4) The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.
- (5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes; ~~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 contract.

(e) Employees. –

- (1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's ~~board of directors~~ operator 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. The ~~board~~ operator also may employ necessary employees



1 who are not required to hold teacher certificates to perform duties other  
2 than teaching and may contract for other services. The ~~board~~operator  
3 may discharge teachers and noncertificated employees.

4 (2) No local board of education shall require any employee of the local  
5 school administrative unit to be employed in a charter school.

6 (3) If a teacher employed by a local school administrative unit makes a  
7 written request for an extended leave of absence to teach at a charter  
8 school, the local school administrative unit shall grant the leave. The  
9 local school administrative unit shall grant a leave for any number of  
10 years requested by the teacher, shall extend the leave for any number of  
11 years requested by the teacher, and shall extend the leave at the teacher's  
12 request. The For the initial year of a charter school's operation, the local  
13 school administrative unit may require that the request for a leave or  
14 extension of leave be made up to 45 days before the teacher would  
15 otherwise have to report for duty. For subsequent years, the local  
16 school administrative unit may require that the request for a leave or  
17 extension of leave be made up to 90 days before the teacher would  
18 otherwise have to report for duty. A teacher who has career status under  
19 G.S. 115C-325 prior to receiving an extended leave of absence to teach  
20 at a charter school may return to a public school in the local school  
21 administrative unit with career status at the end of the leave of absence  
22 or upon the end of employment at the charter school if an appropriate  
23 position is available. If an appropriate position is unavailable, the  
24 teacher's name shall be placed on a list of available teachers and that  
25 teacher shall have priority on all positions for which that teacher is  
26 qualified in accordance with G.S. 115C-325(e)(2).

27 (4) ~~In the event a charter school, in its application, elects total independence~~  
28 ~~from the local board of education, its employees shall not be deemed to~~  
29 ~~be employees of the local school administrative unit and shall not be~~  
30 ~~entitled to any State funded employee benefits, including membership~~  
31 ~~in the North Carolina Teachers' and State Employees' Retirement~~  
32 ~~System or the Teachers' and State Employees' Comprehensive Major~~  
33 ~~Medical Plan. In the event a charter school, in its application, agrees to~~  
34 ~~be subject to some supervision and control of its administrative~~  
35 ~~operations by the local board of education, the employees of the charter~~  
36 ~~school will be deemed employees of the local school administrative unit~~  
37 ~~for purposes of providing certain State funded employee benefits,~~  
38 ~~including membership in the Teachers' and State Employees' Retirement~~  
39 ~~System and the Teachers' and State Employees' Comprehensive Major~~  
40 ~~Medical Plan. The Board of Trustees of the Teachers' and State~~  
41 ~~Employees' Retirement System, in consultation with the State Board of~~  
42 ~~Education, shall determine the degree of supervision and control~~  
43 ~~necessary to qualify the employees of the applicant for membership in~~

1           ~~the Retirement System. In no event shall anything contained in this Part~~  
2           ~~require the North Carolina Teachers' and State Employees' Retirement~~  
3           ~~System to accept employees of a private employer as members or~~  
4           ~~participants of the System.~~

5           The employees of a charter school operated by a board of directors  
6           whose members are approved by the State Board are public employees  
7           and are 'teachers' within the meaning of G.S. 135-1(25) to the same  
8           extent as if they were employees of a local school administrative unit.  
9           Employees of a charter school operated by a nonprofit, tax-exempt  
10           corporation are not public employees and are not 'teachers' within the  
11           meaning of G.S. 135-1(25).

12       (f)    Accountability. –

- 13           (1)   The school is subject to the financial audits, the audit procedures, and  
14           the audit requirements adopted by the State Board of Education for  
15           charter schools.  
16           (2)   The school shall comply with the reporting requirements established by  
17           the State Board of Education in the Uniform Education Reporting  
18           System.  
19           (3)   The school shall report at least annually to the chartering entity and the  
20           State Board of Education the information required by the chartering  
21           entity or the State Board.

22       (g)    Admission Requirements. –

- 23           (1)   Any child who is qualified under the laws of this State for admission to  
24           a public school is qualified for admission to a charter school.  
25           (2)   No local board of education shall require any student enrolled in the  
26           local school administrative unit to attend a charter school.  
27           (3)   Admission to a charter school shall not be determined according to the  
28           school attendance area in which a student resides, except that any local  
29           school administrative unit in which a public school converts to a charter  
30           school shall give admission preference to students who reside within the  
31           former attendance area of that school.  
32           (4)   Admission to a charter school shall not be determined according to the  
33           local school administrative unit in which a student resides, ~~except that~~  
34           ~~the provisions of G.S. 115C-366(d) shall apply to a student who wishes~~  
35           ~~to attend a charter school in a county other than the county in which the~~  
36           ~~student resides. resides.~~  
37           (5)   A charter school shall not discriminate against any student on the basis  
38           of ethnicity, national origin, gender, or disability. Except as otherwise  
39           provided by law or the mission of the school as set out in the contract,  
40           the school shall not limit admission to students on the basis of  
41           intellectual ability, measures of achievement or aptitude, athletic ability,  
42           disability, race, creed, gender, national origin, religion, or ancestry.  
43           Within one year after the charter school begins operation, the population

1 of the school shall reasonably reflect the racial and ethnic composition  
2 of the general population residing within the local school administrative  
3 unit in which the school is located or the racial and ethnic composition  
4 of the special population that the school seeks to serve residing within  
5 the local school administrative unit in which the school is located. The  
6 school shall be subject to any court-ordered desegregation plan in effect  
7 for the local school administrative unit.

8 (6) The school shall enroll an eligible student who submits a timely  
9 application, unless the number of applications exceeds the capacity of a  
10 program, class, grade level, or building. In this case, students shall be  
11 accepted by lot.

12 (7) Notwithstanding any law to the contrary, a charter school may refuse  
13 admission to any student who has been expelled or suspended from a  
14 public school under G.S. 115C-391 until the period of suspension or  
15 expulsion has expired.

16 (h) Transportation. – ~~The charter school shall provide transportation for students~~  
17 ~~enrolled at the school who reside in the local school administrative unit in which the~~  
18 ~~school is located. The charter school may provide transportation for students enrolled at~~  
19 ~~the school who reside in different local school administrative units.~~ school. The charter  
20 school shall develop a transportation plan so that transportation is not a barrier to any  
21 student who resides in the local school administrative unit in which the school is located.  
22 The charter school is not required to provide transportation to any student who lives  
23 within one and one-half miles of the school. At the request of the charter school and if  
24 the local board of the local school administrative unit in which the charter school is  
25 located operates a school bus system, then that local board shall contract with the charter  
26 school to provide transportation in accordance with the charter school's transportation  
27 plan to students who reside in the local school administrative unit and who reside at least  
28 one and one-half miles of the charter school. A local board may charge the charter  
29 school a reasonable fee that is sufficient to cover the cost of providing this transportation.  
30 Furthermore, a local board may refuse to provide transportation under this subsection if it  
31 demonstrates there is no available space on buses it intends to operate during the term of  
32 the contract or it would not be practically feasible to provide this transportation.

33 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the  
34 charter, all net assets of the charter school shall be deemed the property of the local  
35 school administrative unit in which the charter school is located."

36 Section 6. Part 6A of Article 16 of Chapter 115C of the General Statutes is  
37 amended by adding the following new section:

38 **"§ 115C-238.29F1. Powers of board of directors whose members are approved by**  
39 **State Board.**

40 In addition to the powers enumerated in this Part as well as the obligations and duties  
41 imposed on it by the State Board, its contract, and its charter, the board of directors  
42 whose members are approved by the State Board of Education shall have the following  
43 powers:

- 1           (1)    The powers of a corporate body, including the power to sue and be sued,  
2           to make contracts, to adopt and use a common seal, and to alter the  
3           adopted seal as needed.
- 4           (2)    To rent, lease, purchase, acquire, own, encumber, dispose of, or  
5           mortgage real or personal property, not including the power to acquire  
6           property by eminent domain.
- 7           (3)    To establish, construct, purchase, maintain, equip, and operate any  
8           structure or facilities necessary for the operation of a charter school.
- 9           (4)    To pay all necessary costs and expenses in the formation, organization,  
10           administration, and operation of the charter school.
- 11           (5)    To apply for, accept, and administer loans and grants of money from  
12           any federal agency, from the State or its political subdivisions, or from  
13           any other public or private sources available, to expend the money in  
14           accordance with the requirements imposed by the lender or donor, and  
15           to give any evidences of indebtedness that are required. No  
16           indebtedness of any kind incurred or created by the board of directors  
17           shall constitute an indebtedness of the State or its political subdivisions,  
18           and no indebtedness of the board of directors shall involve or be secured  
19           by the faith, credit, or taxing power of the State or its political  
20           subdivisions.
- 21           (6)    To execute financing agreements, security documents, and other  
22           instruments necessary in exercising its power under this Part.
- 23           (7)    To employ, elect, or appoint officers, employees, and agents of the  
24           board of directors, define their duties, and fix their compensation.
- 25           (8)    To receive and use allocations from the State Board and local board.
- 26           (9)    To pay pensions and establish pension plans, pension trusts, and other  
27           benefit and incentive plans for any or all of its current or former  
28           directors, officers, employees, and agents.

29           The board of directors shall not have the authority to levy taxes or issue bonds."

30           Section 7. G.S. 115C-238.29G reads as rewritten:

31           "**§ 115C-238.29G. Causes for nonrenewal or ~~termination~~-termination; disputes.**

32           (a)    The State Board of Education, or a chartering entity subject to the approval of  
33           the State Board of Education, may terminate or not renew a contract upon any of the  
34           following grounds:

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

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

4 Section 8. G.S. 115C-238.29H(a) reads as rewritten:

5 "(a) The State Board of Education shall allocate to each charter school (i) an  
6 amount equal to the average per pupil allocation for average daily membership from the  
7 local school administrative unit allotments in which the charter school is located for each  
8 child attending the charter school except for the allocation for children with special needs  
9 and (ii) an additional amount for each child attending the charter school who is a child  
10 with special needs.

11 Funds allocated by the State Board of Education ~~shall not be used to purchase land or~~  
12 ~~buildings.~~ may be used to enter into operational leases for real property or mobile  
13 classroom units for use as school facilities for charter schools. However, funds allocated  
14 by the State Board of Education shall not be used to obtain any other interest in real  
15 property or mobile classroom units. As used in this subsection, the term 'operational  
16 leases' is defined according to generally accepted accounting principles. The school may  
17 own land and buildings it ~~obtained~~ obtains through non-State sources."

18 Section 9. G.S. 115C-238.29I is amended by adding the following new  
19 subsection to read:

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

24 Section 10. G.S. 115C-238.29J(a) reads as rewritten:

25 "(a) Local boards of education are authorized and encouraged to provide  
26 administrative and evaluative support to charter schools located within their local school  
27 administrative units ~~and to contract with those charter schools to provide student transportation~~.  
28 units."

29 Section 11. G.S. 143-291 is amended by adding the following new subsection:

30 "(d) Charter schools as authorized under Part 6A of Article 16 of Chapter 115C of  
31 the General Statutes and the organizations authorized to operate these charter schools are  
32 not State agencies for purposes of this Article, and their liability in tort is not subject to  
33 this Article."

34 Section 12. Article 31A of Chapter 143 of the General Statutes is amended by  
35 adding the following new section:

36 "**§ 143-300.4A. Defense of charter school personnel.**

37 Notwithstanding any other provisions of this Article, the State shall not provide the  
38 defense of any civil or criminal action or proceeding brought against any charter school  
39 authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes, any  
40 organization that operates a charter school or its members, officers, or directors, or any  
41 charter school employee, individually or collectively."

42 Section 13. Article 31B of Chapter 143 of the General Statutes is amended by  
43 adding the following new section:

1 **"§ 143-300.15A. Defense of charter school personnel.**

2 Notwithstanding any other provisions of this Article, the State shall not provide the  
3 defense of any civil or criminal action or proceeding brought against any member,  
4 director, or officer of an organization that operates a charter school authorized under Part  
5 6A of Article 16 of Chapter 115C of the General Statutes, or any employee of a charter  
6 school, individually or collectively."

7 Section 14. (a) G.S. 150B-21.2(a)(1) shall not apply to proposed rules adopted by  
8 the State Board of Education if the proposed rules are directly related to the  
9 implementation of this act.

10 (b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the  
11 State Board of Education, is approved by the Rules Review Commission, and is directly  
12 related to the implementation of this act, shall become effective five business days after  
13 the Commission delivers the rule to the Codifier of Rules, unless the rule specifies a later  
14 effective date. If the State Board of Education specifies a later effective date, the rule  
15 becomes effective upon that date. A permanent rule that is adopted by the State Board of  
16 Education that is directly related to the implementation of this act, but is not approved by  
17 the Rules Review Commission, shall not become effective.

18 (c) G.S. 150B-21.4(b1) shall not apply to permanent rules the State Board of  
19 Education proposes to adopt if those rules are directly related to the implementation of  
20 this act.

21 Section 15. This act is effective when it becomes law.