

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  
Fourth Edition Engrossed 4/30/97  
House Committee Substitute Favorable 6/11/97  
House Committee Substitute #2 Favorable 6/26/97  
Seventh Edition Engrossed 7/3/97

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

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

3 The General Assembly of North Carolina enacts:

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

5 "**§ 115C-238.29B. Eligible applicants; contents of applications; submission of**  
6 **applications for approval.**

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

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

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

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

- 3 (1) The local board of education of the local school administrative unit in  
4 which the charter school will be located;  
5 (2) The board of trustees of a constituent institution of The University of  
6 North Carolina, so long as the constituent institution is involved in the  
7 planning, operation, or evaluation of the charter school; or  
8 (3) The State Board of Education.

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

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

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

21 **"§ 115C-238.29K. Criminal history checks.**

22 (a) As used in this section:

- 23 (1) 'Criminal history' means a county, state, or federal criminal history of  
24 conviction of a crime, whether a misdemeanor or a felony, that indicates  
25 an individual (i) poses a threat to the physical safety of students or  
26 personnel, or (ii) has demonstrated that he or she does not have the  
27 integrity or honesty to fulfill his or her duties as school personnel.  
28 These crimes include the following North Carolina crimes contained in  
29 any of the following Articles of Chapter 14 of the General Statutes:  
30 Article 5A, Endangering Executive and Legislative Officers; Article 6,  
31 Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults;  
32 Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or  
33 Damage by Use of Explosive or Incendiary Device or Material; Article  
34 14, Burglary and Other Housebreakings; Article 15, Arson and Other  
35 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,  
36 Embezzlement; Article 19, False Pretense and Cheats; Article 19A,  
37 Obtaining Property or Services by False or Fraudulent Use of Credit  
38 Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article  
39 26, Offenses Against Public Morality and Decency; Article 26A, Adult  
40 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,  
41 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses  
42 Against the Public Peace; Article 36A, Riots and Civil Disorders;  
43 Article 39, Protection of Minors; and Article 60, Computer-Related

1 Crime. These crimes also include possession or sale of drugs in  
2 violation of the North Carolina Controlled Substances Act, Article 5 of  
3 Chapter 90 of the General Statutes, and alcohol-related offenses such as  
4 sale to underage persons in violation of G.S. 18B-302 or driving while  
5 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In  
6 addition to the North Carolina crimes listed in this subdivision, such  
7 crimes also include similar crimes under federal law or under the laws  
8 of other states.

9 (2) 'School personnel' means any:

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

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

25 The State Board shall not require school personnel to pay for the criminal history  
26 check authorized under this section.

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

42 The State Board shall not require school personnel to pay for the fingerprints  
43 authorized under this section.

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

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

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

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

41       Section 2.1. G.S. 115C-238.29D is amended by adding a new subsection to  
42 read:

1        "(b1) Notwithstanding subsection (b) of this section, the State Board may authorize  
2 an unlimited number of charter schools that primarily serve students with special needs,  
3 students who are at risk of academic failure, or students who have dropped out of school.  
4 In order for a charter school to qualify under this subsection, at least seventy-five percent  
5 (75%) of the projected and actual enrollment must be students with special needs,  
6 students who are at risk of academic failure, or students who have dropped out of  
7 school."

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

9        "(d) The State Board of Education may grant ~~a~~ the initial charter for a period not to  
10 exceed ~~five-10~~ years and may renew the charter upon the request of the chartering entity  
11 for subsequent periods not to exceed five years each. If the State Board grants the initial  
12 charter for a period greater than five years, the Board shall review the status of the charter  
13 school five years after it grants the initial charter. A material revision of the provisions of  
14 a charter application shall be made only upon the approval of the State Board of  
15 Education. The State Board shall establish a policy to enable a charter school to increase  
16 the number of students to be served in years following the initial year of a charter  
17 school's operation in a manner that would not be considered a material revision of a  
18 charter application and would not require the Board's approval."

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

20        "(a) A charter school that is approved by the State shall be a public  
21 school within the local school administrative unit in which it is located. It shall be  
22 accountable to ~~the local board of education~~ its chartering entity, or to the State Board if the  
23 chartering entity denied preliminary approval, for purposes of ensuring compliance with  
24 applicable laws and the provisions of its charter.

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

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

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

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

37        (e) ~~A charter school shall be located in the local school administrative unit with which it~~  
38 ~~signed the contract. Its~~ A charter school's specific location shall not be prescribed or  
39 limited by a local board or other authority except a zoning authority. The school may  
40 lease space from a local board of education, ~~from a public or private nonsectarian~~  
41 ~~organization,~~ education or as is otherwise lawful in the local school administrative unit in  
42 which the charter school is located. At the request of the charter school, the local board  
43 of education of the local school administrative unit in which the charter school will be

1 located shall lease any available building or land to the charter school unless the board  
2 demonstrates that the lease is not economically or practically feasible or that the local  
3 board does not have adequate classroom space to meet its enrollment needs. In the event  
4 that a public school converts to a charter school, the local board of education of the local  
5 school administrative unit in which the school is located shall lease to the charter school  
6 the school facilities that have been used by that public school unless the board  
7 demonstrates that the lease is not economically or practically feasible or that the local  
8 board does not have adequate classroom space to meet its enrollment needs.  
9 Notwithstanding any other law, a local board of education may provide a school facility  
10 to a charter school free of charge; however, the charter school is responsible for the  
11 maintenance of and insurance for the school facility.

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

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

16 "**§ 115C-238.29F. General requirements.**

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

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

23 (c) Civil Liability and Insurance. –

24 (1) The board of directors of a charter school may sue and be sued. The  
25 State Board of Education shall adopt rules to establish reasonable  
26 amounts and types of liability insurance that the board of directors shall  
27 be required by the contract to obtain. The board of directors shall obtain  
28 at least the amount of and types of insurance required by these rules to  
29 be included in the contract.

30 (2) No civil liability shall attach to any chartering entity, to the State Board  
31 of Education, or to any of their members or employees, individually or  
32 collectively, for any acts or omissions of the charter school. In the event  
33 a charter school has not elected total independence ~~from the local board of~~  
34 ~~education~~ under subsection (e) of this section, section from the entity to  
35 which it is accountable under G.S. 115C-238.29E(a), the immunity  
36 established by this subsection shall be deemed to have been waived to  
37 the extent of indemnification by insurance, indemnification under  
38 Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
39 extent sovereign immunity is waived under the Tort Claims Act, as set  
40 forth in Article 31 of Chapter 143 of the General Statutes.

41 (d) Instructional Program. –

42 (1) The school shall provide instruction each year for at least 180 days.

- 1           (2) The school shall design its programs to at least meet the student  
2 performance standards adopted by the State Board of Education and the  
3 student performance standards contained in the ~~contract with the local~~  
4 ~~board of education contract.~~
- 5           (3) A charter school shall conduct the student assessments required for  
6 charter schools by the State Board of Education.
- 7           (4) The school shall comply with policies adopted by the State Board of  
8 Education for charter schools relating to the education of children with  
9 special needs.
- 10          (5) The school is subject to and shall comply with Article 27 of Chapter  
11 115C of the General ~~Statutes;~~ Statutes, except that a charter school may  
12 also exclude a student from the charter school and return that student to  
13 another school in the local school administrative unit in accordance with  
14 the terms of its contract.
- 15       (e) Employees. –
- 16           (1) An employee of a charter school is not an employee of the local school  
17 administrative unit in which the charter school is located. The charter  
18 school's board of directors shall employ and contract with necessary  
19 teachers to perform the particular service for which they are employed  
20 in the school; at least seventy-five percent (75%) of these teachers in  
21 grades kindergarten through five, at least fifty percent (50%) of these  
22 teachers in grades six through eight, and at least fifty percent (50%) of  
23 these teachers in grades nine through 12 shall hold teacher certificates.  
24 The board also may employ necessary employees who are not required  
25 to hold teacher certificates to perform duties other than teaching and  
26 may contract for other services. The board may discharge teachers and  
27 noncertificated employees.
- 28           (2) No local board of education shall require any employee of the local  
29 school administrative unit to be employed in a charter school.
- 30           (3) If a teacher employed by a local school administrative unit makes a  
31 written request for an extended leave of absence to teach at a charter  
32 school, the local school administrative unit shall grant the leave. The  
33 local school administrative unit shall grant a leave for any number of  
34 years requested by the teacher, shall extend the leave for any number of  
35 years requested by the teacher, and shall extend the leave at the teacher's  
36 request. ~~The~~ For the initial year of a charter school's operation, the local  
37 school administrative unit may require that the request for a leave or  
38 extension of leave be made up to 45 days before the teacher would  
39 otherwise have to report for duty. For subsequent years, the local  
40 school administrative unit may require that the request for a leave or  
41 extension of leave be made up to 90 days before the teacher would  
42 otherwise have to report for duty. A teacher who has career status under  
43 G.S. 115C-325 prior to receiving an extended leave of absence to teach



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

8 (4) In the event a charter school, in its application, elects total independence  
9 from the ~~local board of education, entity to which it is accountable under~~  
10 G.S. 115C-238.29E(a), its employees shall not be deemed to be  
11 employees of the local school administrative unit and shall not be  
12 entitled to any State-funded employee benefits, including membership  
13 in the North Carolina Teachers' and State Employees' Retirement  
14 System or the Teachers' and State Employees' Comprehensive Major  
15 Medical Plan. In the event a charter school, in its application, agrees to  
16 be subject to some supervision and control of its administrative  
17 operations by the ~~local board of education, entity to which it is~~  
18 accountable under G.S. 115C-238.29E(a), the employees of the charter  
19 school shall be deemed employees of the local school administrative  
20 unit for purposes of providing certain State-funded employee benefits,  
21 including membership in the Teachers' and State Employees' Retirement  
22 System and the Teachers' and State Employees' Comprehensive Major  
23 Medical Plan. The Board of Trustees of the Teachers' and State  
24 Employees' Retirement System, in consultation with the State Board of  
25 Education, shall determine the degree of supervision and control  
26 necessary to qualify the employees of the applicant for membership in  
27 the Retirement System. In no event shall anything contained in this Part  
28 require the North Carolina Teachers' and State Employees' Retirement  
29 System to accept employees of a private employer as members or  
30 participants of the System.

31 (5) In the event a teacher is granted a leave of absence under subdivision (3)  
32 of this subsection, the teacher is eligible to make monthly contributions  
33 to the North Carolina Teachers' and State Employees' Retirement  
34 System as provided under G.S. 135-8(b)(5).

35 (f) Accountability. –

36 (1) The school is subject to the financial audits, the audit procedures, and  
37 the audit requirements adopted by the State Board of Education for  
38 charter schools.

39 (2) The school shall comply with the reporting requirements established by  
40 the State Board of Education in the Uniform Education Reporting  
41 System.

- 1           (3)    The school shall report at least annually to the chartering entity and the  
2           State Board of Education the information required by the chartering  
3           entity or the State Board.
- 4    (g)    Admission Requirements. –
- 5           (1)    Any child who is qualified under the laws of this State for admission to  
6           a public school is qualified for admission to a charter school.
- 7           (2)    No local board of education shall require any student enrolled in the  
8           local school administrative unit to attend a charter school.
- 9           (3)    Admission to a charter school shall not be determined according to the  
10          school attendance area in which a student resides, except that any local  
11          school administrative unit in which a public school converts to a charter  
12          school shall give admission preference to students who reside within the  
13          former attendance area of that school.
- 14          (4)    Admission to a charter school shall not be determined according to the  
15          local school administrative unit in which a student resides, ~~except that~~  
16          ~~the provisions of G.S. 115C-366(d) shall apply to a student who wishes~~  
17          ~~to attend a charter school in a county other than the county in which the~~  
18          ~~student resides.~~
- 19          (5)    A charter school shall not discriminate against any student on the basis  
20          of ethnicity, national origin, gender, or disability. Except as otherwise  
21          provided by law or the mission of the school as set out in the contract,  
22          the school shall not limit admission to students on the basis of  
23          intellectual ability, measures of achievement or aptitude, athletic ability,  
24          disability, race, creed, gender, national origin, religion, or ancestry.  
25          However, so long as their total is limited to no more than fifty percent  
26          (50%) of the total number of students enrolled in the charter school, the  
27          charter school may give enrollment priority to the following students:
- 28           a.    Siblings of students currently enrolled in the charter school;  
29           b.    Children of the employees of the charter school;  
30           c.    Children of the members of the charter school's board of  
31           directors;  
32           d.    Children of the applicants for the charter school; and  
33           e.    For the first year of its operation as a charter school, former  
34           students of a private school that becomes that charter school.
- 35          Within one year after the charter school begins operation, the population  
36          of the school shall reasonably reflect the racial and ethnic composition  
37          of the general population residing within the local school administrative  
38          unit in which the school is located or the racial and ethnic composition  
39          of the special population that the school seeks to serve residing within  
40          the local school administrative unit in which the school is located. The  
41          school shall be subject to any court-ordered desegregation plan in effect  
42          for the local school administrative unit.

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

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

10           (h) Transportation. – The charter school ~~shall provide transportation for students~~  
11 ~~enrolled at the school who reside in the local school administrative unit in which the~~  
12 ~~school is located. The charter school may provide transportation for students enrolled at~~  
13 ~~the school who reside in different local school administrative units.~~ school. The charter  
14 school shall develop a transportation plan so that transportation is not a barrier to any  
15 student who resides in the local school administrative unit in which the school is located.  
16 The charter school is not required to provide transportation to any student who lives  
17 within one and one-half miles of the school. The local board of the local school  
18 administrative unit in which the charter school is located is encouraged to contract with  
19 the charter school for the provision of transportation if the board operates a school bus  
20 transportation system.

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

25           Section 6. G.S. 115C-238.29H(a) reads as rewritten:

26           "(a) The State Board of Education shall allocate to each charter school (i) an  
27 amount equal to the average per pupil allocation for average daily membership from the  
28 local school administrative unit allotments in which the charter school is located for each  
29 child attending the charter school except for the allocation for children with special needs  
30 and (ii) an additional amount for each child attending the charter school who is a child  
31 with special needs. In accordance with its policy adopted under G.S. 115C-238.29D(d),  
32 the State Board shall allow for annual adjustments to the amount allocated to a charter  
33 school based on its enrollment growth in school years subsequent to the initial year of  
34 operation.

35           In the event a child with special needs leaves the charter school and enrolls in a public  
36 school during the first 60 school days in the school year, the charter school shall return  
37 the additional State funds allocated for that child to the State Board, and the State Board  
38 shall reallocate those funds to the local school administrative unit in which the public  
39 school is located.

40           (a1) ~~Funds allocated by the State Board of Education shall not be used to purchase~~  
41 ~~land or buildings.~~ may be used to enter into leases for real property or mobile classroom  
42 units for use as school facilities for charter schools and may be used for payments on  
43 loans to charter schools for facilities or equipment. However, State funds shall not be

1 used to obtain any other interest in real property or mobile classroom units. No  
2 indebtedness of any kind incurred or created by the charter school shall constitute an  
3 indebtedness of the State or its political subdivisions, and no indebtedness of the charter  
4 school shall involve or be secured by the faith, credit, or taxing power of the State or its  
5 political subdivisions. The school also may own land and buildings it ~~obtained~~ obtains  
6 through non-State sources."

7 Section 7. G.S. 115C-238.29J(a) reads as rewritten:

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

12 Section 8. G.S. 135-8(b) reads as rewritten:

13 "(b) Annuity Savings Fund. – The annuity savings fund shall be a fund in which  
14 shall be accumulated contributions from the compensation of members to provide for  
15 their annuities. Contributions to any payments from the annuity savings fund shall be  
16 made as follows:

- 17 (1) Prior to the first day of July, 1947, each employer shall cause to be  
18 deducted from the salary of each member on each and every payroll of  
19 such employer for each and every payroll period four per centum (4%)  
20 of his actual compensation; and the employer also shall deduct four per  
21 centum (4%) of any compensation received by any member for teaching  
22 in public schools, or in any of the institutions, agencies or departments  
23 of the State, from salaries other than the appropriations from the State of  
24 North Carolina. On and after such date the rate so deducted shall be  
25 five per centum (5%) of actual compensation except that, with respect to  
26 each member who is eligible for coverage under the Social Security Act  
27 in accordance with the agreement entered into during 1955 in  
28 accordance with the provisions of Article 2 of Chapter 135 of Volume  
29 17 of the General Statutes, as amended, and with respect to members  
30 covered under G.S. 135-27, with such coverage retroactive to January 1,  
31 1955, such deduction shall, commencing with the first day of the period  
32 of service with respect to which such agreement is effective, be at the  
33 rate of three per centum (3%) of the part of his actual compensation not  
34 in excess of the amount taxable to him under the Federal Insurance  
35 Contributions Act as from time to time in effect plus five per centum  
36 (5%) of the part of his earnable compensation not so taxable; provided  
37 that in the case of any member so eligible and receiving compensation  
38 from two or more employers such deductions may be adjusted under  
39 such rules as the Board of Trustees may establish so as to be as nearly  
40 equivalent as practicable to the deductions which would have been  
41 made had the member received all of such compensation from one  
42 employer. Notwithstanding the foregoing, the Board of Trustees may in  
43 its discretion cause such portion as it may determine of deductions made

1 between January 1, 1955, and December 1, 1955, to be transferred into  
2 the contribution fund established under G.S. 135-24; such amounts so  
3 transferred shall in that event be deemed to be taxes contributed by  
4 employees as required under Article 2, Chapter 135 of Volume 17 of the  
5 General Statutes as amended, and shall be in lieu of contributions  
6 otherwise payable in the same amount as so required.

7 Notwithstanding the foregoing, effective July 1, 1963, with respect  
8 to the period of service commencing on July 1, 1963, and ending  
9 December 31, 1965, the rates of such deduction shall be four per centum  
10 (4%) of the portion of compensation not in excess of forty-eight  
11 hundred dollars (\$4,800) and six per centum (6%) of the portion of  
12 compensation in excess of forty-eight hundred dollars (\$4,800); and  
13 with respect to the period of service commencing January 1, 1966, and  
14 ending June 30, 1967, the rate of such deductions shall be four per  
15 centum (4%) of the portion of compensation not in excess of fifty-six  
16 hundred dollars (\$5,600) and six per centum (6%) of the portion of  
17 compensation in excess of fifty-six hundred dollars (\$5,600); and with  
18 respect to the period of service commencing July 1, 1967, and ending  
19 June 30, 1975, the rate of such deductions shall be five per centum (5%)  
20 of the portion of compensation not in excess of fifty-six hundred dollars  
21 (\$5,600) and six per centum (6%) of the portion of compensation in  
22 excess of fifty-six hundred dollars (\$5,600). Such rates shall apply  
23 uniformly to all members of the Retirement System, without regard to  
24 their coverage under the Social Security Act.

25 Notwithstanding the foregoing, effective July 1, 1975, with respect  
26 to the period of service commencing on July 1, 1975, the rate of such  
27 deductions shall be six per centum (6%) of the compensation received  
28 by any member. Such rates shall apply uniformly to all members of the  
29 Retirement System, without regard to their coverage under the Social  
30 Security Act.

- 31 (2) The deductions provided for herein shall be made notwithstanding that  
32 the minimum compensation provided for by law for any member shall  
33 be reduced thereby. Every member shall be deemed to consent and  
34 agree to the deductions made and provided for herein and shall receipt  
35 for his full salary or compensation, and payment of salary or  
36 compensation less said deduction shall be a full and complete discharge  
37 and acquittance of all claims and demands whatsoever for the services  
38 rendered by such person during the period covered by such payment,  
39 except as to the benefits provided under this Chapter. The employer  
40 shall certify to the Board of Trustees on each and every payroll or in  
41 such other manner as the Board of Trustees may prescribe, the amounts  
42 to be deducted; and each of said amounts shall be deducted, and when  
43 deducted shall be paid into said annuity savings fund, and shall be

1 credited, together with regular interest thereon, to the individual account  
2 of the member from whose compensation said deduction was made.

- 3 (3) Each board of education of each county and each board of education of  
4 each city, and the employer in any department, agency or institution of  
5 the State, in which any teacher receives compensation from sources  
6 other than appropriations of the State of North Carolina shall deduct  
7 from the salaries of these teachers paid from sources other than State  
8 appropriations an amount equal to that deducted from the salaries of the  
9 teachers whose salaries are paid from State funds, and remit this amount  
10 to the State Retirement System. City boards of education and county  
11 boards of education in each and every county and city which has  
12 employees compensated from other than the State appropriation shall  
13 pay to the State Retirement System the same per centum of the  
14 compensation that the State of North Carolina pays and shall transmit  
15 same to the State Retirement System monthly: Provided, that for the  
16 purpose of enabling the boards of education to make such payment, the  
17 tax-levying authorities are hereby authorized, empowered and directed  
18 to provide the necessary funds therefor. In case the salary is paid in part  
19 from State funds and in part from local funds, the local authorities shall  
20 not be relieved of providing and remitting the same per centum of the  
21 salary paid from local funds as is paid from State funds. In case the  
22 entire salary of any teacher, as defined in this Chapter, is paid from  
23 county or local funds, the county or city paying such salary shall  
24 provide and remit to the Retirement System the same per centum that  
25 would be required if the salary were provided by the State of North  
26 Carolina.

- 27 (4) In addition to contributions deducted from compensation as  
28 hereinbefore provided, subject to the approval of the Board of Trustees,  
29 any member may redeposit in the annuity savings fund by a single  
30 payment an amount equal to the total amount which he previously  
31 withdrew therefrom, as provided in this Chapter. Such amounts so  
32 redeposited shall become a part of his accumulated contributions as if  
33 such amounts had initially been contributed within the calendar year of  
34 such redeposit. In no event, however, shall any member be permitted to  
35 redeposit any amount withdrawn after July 1, 1959, except as provided  
36 for in G.S. 135-4(e).

- 37 (5) The Board of Trustees may approve the purchase of creditable service  
38 by any member for leaves of absence or for interrupted service to an  
39 employer for the sole purpose of acquiring knowledge, talents, or  
40 abilities and to increase the efficiency of service to the employer. This  
41 approval shall be made prior to the purchase of the creditable service, is  
42 limited to a career total of six years for each member, and may be  
43 obtained in the following manner:

- 1 a. Approved leave of absence. – Where the employer grants an  
2 approved leave of absence, a member may make monthly  
3 contributions to the annuity savings fund on the basis of  
4 compensation the member was earning immediately prior to such  
5 leave of absence. The employer shall make monthly  
6 contributions equal to the normal and accrued liability  
7 contribution on such compensation or, in lieu thereof, the  
8 member may pay into the annuity savings fund monthly an  
9 amount equal to the employer's normal and accrued liability  
10 contribution when the policy of the employer is not to make such  
11 payment.
- 12 b. No educational leave policy. – Where the employer has a policy  
13 of not granting educational leaves of absence or the member has  
14 unsuccessfully petitioned for leave of absence and the member  
15 has interrupted service for educational purposes, the member  
16 may make monthly contributions into the annuity savings fund in  
17 an amount equal to the employee contribution plus the employer  
18 normal and accrued liability contribution on the basis of the  
19 compensation the member was earning immediately prior to the  
20 interrupted service.
- 21 c. Educational program prior to July 1, 1981. – Creditable service  
22 for leaves of absence or interrupted service for educational  
23 purposes prior to July 1, 1981, may be purchased by a member,  
24 before or after retirement, who returned as a contributing  
25 employee or teacher within 12 months after completing the  
26 educational program and completed 10 years of subsequent  
27 membership service, by making a lump sum payment into the  
28 annuity savings fund equal to the full cost of the service credits  
29 calculated on the basis of the assumptions used for purposes of  
30 the actuarial valuation of the system's liabilities and shall take  
31 into account the retirement allowance arising on account of the  
32 additional service credit commencing at the earliest age at which  
33 the member could retire on an unreduced retirement allowance as  
34 determined by the Board of Trustees upon the advice of the  
35 consulting actuary, plus a fee to be determined by the Board of  
36 Trustees.

37 Payments required to be made by the ~~member and/or the employer~~  
38 member, the employer, or both under subparagraphs a or b are due by  
39 the 15th of the month following the month for which the service credit  
40 is allowed and payments made after the due date shall be assessed a  
41 penalty, in lieu of interest, of one percent (1%) per month or fraction  
42 thereof the payment is made beyond the due date; provided, that these  
43 payments shall be made prior to retirement and provided further, that if

1 the member did not become a contributing member within 12 months  
2 after completing the educational program and failed to complete three  
3 years of subsequent membership service, except in the event of death or  
4 disability, any payment made by the member including penalty shall be  
5 refunded with regular interest thereon and the service credits cancelled  
6 prior to or at retirement.

7 For the purpose of this subdivision, a teacher who is granted a leave  
8 of absence under G.S. 115C-238.29F(e)(3) may make monthly  
9 contributions as provided by this subdivision. The local board of  
10 education that grants the leave of absence shall not be required to make  
11 any contributions while the teacher is on this leave of absence.

- 12 (6) The contributions of a member, and such interest as may be allowed  
13 thereon, paid upon his death or withdrawn by him as provided in this  
14 Chapter, shall be paid from the annuity savings fund, and any balance of  
15 the accumulated contributions of such a member shall be transferred to  
16 the pension accumulation fund."

17 Section 9. The Board of Trustees of the North Carolina Teachers' and State  
18 Employees' Retirement System shall request a letter of determination or ruling from the  
19 Internal Revenue Service, United States Department of Treasury, as to whether the status  
20 of the North Carolina Teachers' and State Employees' Retirement System as a  
21 governmental plan would be adversely affected by the participation of employees of a  
22 charter school that agrees to be subject to some control and supervision of its  
23 administrative operations by the entity to which it is accountable under G.S. 115C-  
24 238.29E(a). The request shall be made to the Internal Revenue Service after it is  
25 approved by the Speaker of the House of Representatives and the President Pro Tempore  
26 of the Senate or their designees and no later than 30 days after the effective date of this  
27 act. Employees of these charter schools shall be eligible for participation in the North  
28 Carolina Teachers' and State Employees' Retirement System upon the first day of the  
29 calendar month following the State's receipt of a favorable letter of determination or  
30 ruling.

31 Section 10. This act is effective when it becomes law. If the State receives a  
32 favorable letter of determination or ruling from the Internal Revenue Service, United  
33 States Department of Treasury, under Section 9 of this act, then G.S. 115C-  
34 238.29F(e)(5), as amended by Section 5 of this act, and Section 8 of this act are repealed  
35 on the first day of the calendar month following the State's receipt of the letter of  
36 determination or ruling.