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SENATE BILL 297\*

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Short Title: Amend Charter Sch. Laws.

(Public)

Sponsors:

Referred to:

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.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

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

1 (c) An applicant shall submit the application to a chartering entity for  
2 preliminary 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  
12 section to the local board of education of the local school administrative unit in which  
13 the charter school will be located, the applicant shall submit a copy of its application to  
14 that local board by November 10. The local board may offer any information or  
15 comment concerning the application it considers appropriate to the chartering entity.  
16 The local board shall deliver this information to the chartering entity no later than  
17 January 1 of the next calendar year. The applicant shall not be required to obtain or  
18 deliver this 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-238.29C1. 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  
25 indicates an individual (i) poses a threat to the physical safety of  
26 students or personnel, or (ii) has demonstrated that he or she does not  
27 have the integrity or honesty to fulfill his or her duties as the operator  
28 of a charter school. These crimes include the following North  
29 Carolina crimes contained in any of the following Articles of Chapter  
30 14 of the General Statutes: Article 5A, Endangering Executive and  
31 Legislative Officers; Article 6, Homicide; Article 7A, Rape and  
32 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and  
33 Abduction; Article 13, Malicious Injury or Damage by Use of  
34 Explosive or Incendiary Device or Material; Article 14, Burglary and  
35 Other Housebreakings; Article 15, Arson and Other Burnings; Article  
36 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article  
37 19, False Pretense and Cheats; Article 19A, Obtaining Property or  
38 Services by False or Fraudulent Use of Credit Device or Other Means;  
39 Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against  
40 Public Morality and Decency; Article 26A, Adult Establishments;  
41 Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery;  
42 Article 31, Misconduct in Public Office; Article 35, Offenses Against  
43 the Public Peace; Article 36A, Riots and Civil Disorders; Article 39,  
44 Protection of Minors; and Article 60, Computer-Related Crime. These

1 crimes also include possession or sale of drugs in violation of the  
2 North Carolina Controlled Substances Act, Article 5 of Chapter 90 of  
3 the General Statutes, and alcohol-related offenses such as sale to  
4 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) 'Operator' means any:

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

15 (3) 'School personnel' means any:

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

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

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

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

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

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

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

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

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

40 (g) There shall be no liability for negligence on the part of the State Board of  
41 Education or the charter school, or their employees, arising from any act taken or  
42 omission by any of them in carrying out the provisions of this section. The immunity  
43 established by this subsection shall not extend to gross negligence, wanton conduct, or  
44 intentional wrongdoing that would otherwise be actionable. The immunity established

1 by this subsection shall be deemed to have been waived to the extent of indemnification  
2 by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the  
3 General Statutes, and to the extent sovereign immunity is waived under the Tort Claims  
4 Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

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

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

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

14 **"§ 115C-238.29E. Charter school operation.**

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

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

- 26 (1) By a nonprofit corporation that receives federal tax-exempt status no  
27 later than 24 months after final approval of the application.  
28 (2) By a board of directors whose members are approved by the State  
29 Board of Education. The board of directors shall be composed of no  
30 more than 25 members. The initially proposed members shall serve  
31 terms no longer than the length of the charter granted by the State  
32 Board. Subsequently proposed members shall serve terms no longer  
33 than five years. No member may serve more than two full terms.  
34 Appointments to the board of directors, including those necessary to  
35 fill vacancies, shall be recommended by the current board of directors  
36 and approved by the State Board of Education.

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

41 (c) A charter school shall operate under a written contract signed by the ~~local~~  
42 ~~board of education~~ entity to which the charter school is accountable under subsection (a)  
43 of this section and the applicant. The contract shall incorporate at a minimum the  
44 information provided in the application, as modified during the charter approval

1 process, and any terms and conditions imposed on the charter school by the State Board  
2 of Education.

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

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

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

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

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

22 "**§ 115C-238.29F. General requirements.**

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

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

29 (c) Civil Liability and Insurance. –

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

1                   or its members, officers, or directors, or of the employees of the  
2                   charter school or the organization that operates the charter school, is  
3                   waived to the extent of indemnification by insurance.

- 4           (2) No civil liability shall attach to any chartering entity, to the State  
5           Board of Education, or to any of their members or employees,  
6           individually or collectively, for any acts or omissions of the charter  
7           school. ~~In the event a charter school has not elected total independence from~~  
8           ~~the local board of education under subsection (e) of this section, the~~  
9           ~~immunity established by this subsection—~~The immunity established by  
10           this subdivision shall be deemed to have been waived to the extent of  
11           indemnification by insurance, indemnification under Articles 31A and  
12           31B of Chapter 143 of the General Statutes, and to the extent  
13           sovereign immunity is waived under the Tort Claims Act, as set forth  
14           in Article 31 of Chapter 143 of the General Statutes.

15   (d) Instructional Program. –

- 16           (1) The school shall provide instruction each year for at least 180 days.  
17           (2) The school shall design its programs to at least meet the student  
18           performance standards adopted by the State Board of Education and  
19           the student performance standards contained in the ~~contract with the~~  
20           ~~local board of education—contract.~~  
21           (3) A charter school shall conduct the student assessments required for  
22           charter schools by the State Board of Education.  
23           (4) The school shall comply with policies adopted by the State Board of  
24           Education for charter schools relating to the education of children with  
25           special needs.  
26           (5) The school is subject to and shall comply with Article 27 of Chapter  
27           115C of the General ~~Statutes, Statutes,~~ except that a charter school may  
28           also exclude a student from the charter school and return that student  
29           to another school in the local school administrative unit in accordance  
30           with the terms of its contract.

31   (e) Employees. –

- 32           (1) An employee of a charter school is not an employee of the local school  
33           administrative unit in which the charter school is located. The charter  
34           school's ~~board of directors—operator~~ shall employ and contract with  
35           necessary teachers to perform the particular service for which they are  
36           employed in the school; at least seventy-five percent (75%) of these  
37           teachers in grades kindergarten through five, at least fifty percent  
38           (50%) of these teachers in grades six through eight, and at least fifty  
39           percent (50%) of these teachers in grades nine through 12 shall hold  
40           teacher certificates. The ~~board—operator~~ also may employ necessary  
41           employees who are not required to hold teacher certificates to perform  
42           duties other than teaching and may contract for other services. The  
43           ~~board—operator~~ may discharge teachers and noncertificated employees.



- 1 (2) No local board of education shall require any employee of the local  
2 school administrative unit to be employed in a charter school.
- 3 (3) If a teacher employed by a local school administrative unit makes a  
4 written request for an extended leave of absence to teach at a charter  
5 school, the local school administrative unit shall grant the leave. The  
6 local school administrative unit shall grant a leave for any number of  
7 years requested by the teacher, shall extend the leave for any number  
8 of years requested by the teacher, and shall extend the leave at the  
9 teacher's request. The—For the initial year of a charter school's  
10 operation, the local school administrative unit may require that the  
11 request for a leave or extension of leave be made up to 45 days before  
12 the teacher would otherwise have to report for duty. For subsequent  
13 years, the local school administrative unit may require that the request  
14 for a leave or extension of leave be made up to 90 days before the  
15 teacher would otherwise have to report for duty. A teacher who has  
16 career status under G.S. 115C-325 prior to receiving an extended leave  
17 of absence to teach at a charter school may return to a public school in  
18 the local school administrative unit with career status at the end of the  
19 leave of absence or upon the end of employment at the charter school  
20 if an appropriate position is available. If an appropriate position is  
21 unavailable, the teacher's name shall be placed on a list of available  
22 teachers and that teacher shall have priority on all positions for which  
23 that teacher is qualified in accordance with G.S. 115C-325(e)(2).
- 24 (4) ~~In the event a charter school, in its application, elects total~~  
25 ~~independence from the local board of education, its employees shall~~  
26 ~~not be deemed to be employees of the local school administrative unit~~  
27 ~~and shall not be entitled to any State funded employee benefits,~~  
28 ~~including membership in the North Carolina Teachers' and State~~  
29 ~~Employees' Retirement System or the Teachers' and State Employees'~~  
30 ~~Comprehensive Major Medical Plan. In the event a charter school, in~~  
31 ~~its application, agrees to be subject to some supervision and control of~~  
32 ~~its administrative operations by the local board of education, the~~  
33 ~~employees of the charter school will be deemed employees of the local~~  
34 ~~school administrative unit for purposes of providing certain State-~~  
35 ~~funded employee benefits, including membership in the Teachers' and~~  
36 ~~State Employees' Retirement System and the Teachers' and State~~  
37 ~~Employees' Comprehensive Major Medical Plan. The Board of~~  
38 ~~Trustees of the Teachers' and State Employees' Retirement System, in~~  
39 ~~consultation with the State Board of Education, shall determine the~~  
40 ~~degree of supervision and control necessary to qualify the employees~~  
41 ~~of the applicant for membership in the Retirement System. In no event~~  
42 ~~shall anything contained in this Part require the North Carolina~~  
43 ~~Teachers' and State Employees' Retirement System to accept~~

1 ~~employees of a private employer as members or participants of the~~  
2 ~~System.~~

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

10 (f) Accountability. –

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

20 (g) Admission Requirements. –

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

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

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

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

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

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

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

36 "**§ 115C-238.29F1. Powers of board of directors whose members are approved by**  
37 **State Board.**

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

42 (1) The powers of a corporate body, including the power to sue and be  
43 sued, to make contracts, to adopt and use a common seal, and to alter  
44 the adopted seal as needed.

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

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

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

28 "**§ 115C-238.29G. Causes for nonrenewal or ~~termination~~; termination; disputes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

34 "**§ 143-300.4A. Defense of charter school personnel.**

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

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

42 "**§ 143-300.15A. Defense of charter school personnel.**

43 Notwithstanding any other provisions of this Article, the State shall not provide the  
44 defense of any civil or criminal action or proceeding brought against any member,

1 director, or officer of an organization that operates a charter school authorized under  
2 Part 6A of Article 16 of Chapter 115C of the General Statutes, or any employee of a  
3 charter school, individually or collectively."

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

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

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

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