

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 297\*

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

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House Committee Substitute Favorable 6/11/97

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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 (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-238.29C1. 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 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 3. G.S. 115C-238.29D(d) reads as rewritten:

42       "(d) The State Board of Education may grant ~~a~~ the initial charter for a period not to  
43 exceed ~~five~~ 10 years and may renew the charter upon the request of the chartering entity

1 for subsequent periods not to exceed five years each. If the State Board grants the initial  
2 charter for a period greater than five years, the Board shall review the status of the charter  
3 school five years after it grants the initial charter. A material revision of the provisions of  
4 a charter application shall be made only upon the approval of the State Board of  
5 Education. The State Board shall establish a policy to enable a charter school to increase  
6 the number of students to be served in years following the initial year of a charter  
7 school's operation in a manner that would not be considered a material revision of a  
8 charter application and would not require the Board's approval."

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

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

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

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

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

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

27 (e) ~~A charter school shall be located in the local school administrative unit with which it~~  
28 ~~signed the contract. Its~~ A charter school's specific location shall not be prescribed or  
29 limited by a local board or other authority except a zoning authority. The school may  
30 lease space from a local board of education, from a public or private nonsectarian  
31 organization, education or as is otherwise lawful in the local school administrative unit in  
32 which the charter school is located. At the request of the charter school, the local board  
33 of education of the local school administrative unit in which the charter school will be  
34 located shall lease any available building or land to the charter school unless the board  
35 demonstrates that the lease is not economically or practically feasible or that the local  
36 board does not have adequate classroom space to meet its enrollment needs. In the event  
37 that a public school converts to a charter school, the local board of education of the local  
38 school administrative unit in which the school is located shall lease to the charter school  
39 the school facilities that have been used by that public school unless the board  
40 demonstrates that the lease is not economically or practically feasible or that the local  
41 board does not have adequate classroom space to meet its enrollment needs.  
42 Notwithstanding any other law, a local board of education may provide a school facility

1 to a charter school free of charge; however, the charter school is responsible for the  
2 maintenance of and insurance for the school facility.

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

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

7 "**§ 115C-238.29F. General requirements.**

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

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

14 (c) Civil Liability and Insurance. –

15 (1) The board of directors of a charter school may sue and be sued. The  
16 State Board of Education shall adopt rules to establish reasonable  
17 amounts and types of liability insurance that the board of directors shall  
18 be required by the contract to obtain. The board of directors shall obtain  
19 at least the amount of and types of insurance required by these rules to  
20 be included in the contract.

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

32 (d) Instructional Program. –

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

34 (2) The school shall design its programs to at least meet the student  
35 performance standards adopted by the State Board of Education and the  
36 student performance standards contained in the ~~contract with the local~~  
37 ~~board of education~~contract.

38 (3) A charter school shall conduct the student assessments required for  
39 charter schools by the State Board of Education.

40 (4) The school shall comply with policies adopted by the State Board of  
41 Education for charter schools relating to the education of children with  
42 special needs.

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



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

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

26           (f) Accountability. –

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

30           (2) The school shall comply with the reporting requirements established by  
31 the State Board of Education in the Uniform Education Reporting  
32 System.

33           (3) The school shall report at least annually to the chartering entity and the  
34 State Board of Education the information required by the chartering  
35 entity or the State Board.

36           (g) Admission Requirements. –

37           (1) Any child who is qualified under the laws of this State for admission to  
38 a public school is qualified for admission to a charter school.

39           (2) No local board of education shall require any student enrolled in the  
40 local school administrative unit to attend a charter school.

41           (3) Admission to a charter school shall not be determined according to the  
42 school attendance area in which a student resides, except that any local  
43 school administrative unit in which a public school converts to a charter

1 school shall give admission preference to students who reside within the  
2 former attendance area of that ~~school~~ school, and any private school that  
3 becomes a charter school may give admission preference to former  
4 students of that school during the first year of the charter school's  
5 operation so long as these students are limited to no more than fifty  
6 percent (50%) of the total number of students admitted to the charter  
7 school.

8 (4) Admission to a charter school shall not be determined according to the  
9 local school administrative unit in which a student resides, ~~except that~~  
10 ~~the provisions of G.S. 115C-366(d) shall apply to a student who wishes~~  
11 ~~to attend a charter school in a county other than the county in which the~~  
12 ~~student resides.~~

13 (5) A charter school shall not discriminate against any student on the basis  
14 of ethnicity, national origin, gender, or disability. Except as otherwise  
15 provided by law or the mission of the school as set out in the contract,  
16 the school shall not limit admission to students on the basis of  
17 intellectual ability, measures of achievement or aptitude, athletic ability,  
18 disability, race, creed, gender, national origin, religion, or ancestry.  
19 However, so long as admission is not limited to only these children, the  
20 school may give enrollment priority to the siblings of a pupil currently  
21 enrolled in the charter school, the children of the employees of the  
22 charter school, the children of the members of the school's board of  
23 directors, and the children of the applicants for the charter school.  
24 Within one year after the charter school begins operation, the population  
25 of the school shall reasonably reflect the racial and ethnic composition  
26 of the general population residing within the local school administrative  
27 unit in which the school is located or the racial and ethnic composition  
28 of the special population that the school seeks to serve residing within  
29 the local school administrative unit in which the school is located. The  
30 school shall be subject to any court-ordered desegregation plan in effect  
31 for the local school administrative unit.

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

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

40 (h) Transportation. – ~~The charter school shall provide transportation for students~~  
41 ~~enrolled at the school who reside in the local school administrative unit in which the~~  
42 ~~school is located. The charter school may provide transportation for students enrolled at~~  
43 ~~the school who reside in different local school administrative units.~~ school. The charter

1 school shall develop a transportation plan so that transportation is not a barrier to any  
2 student who resides in the local school administrative unit in which the school is located.  
3 The charter school is not required to provide transportation to any student who lives  
4 within one and one-half miles of the school. The local board of the local school  
5 administrative unit in which the charter school is located is encouraged to contract with  
6 the charter school for the provision of transportation if the board operates a school bus  
7 transportation system.

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

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

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

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

27 (a1) Funds allocated by the State Board of Education ~~shall not be used to purchase~~  
28 ~~land or buildings.~~ may be used to enter into leases for real property or mobile classroom  
29 units for use as school facilities for charter schools and may be used for payments on  
30 loans to charter schools for facilities or equipment. However, State funds shall not be  
31 used to obtain any other interest in real property or mobile classroom units. No  
32 indebtedness of any kind incurred or created by the charter school shall constitute an  
33 indebtedness of the State or its political subdivisions, and no indebtedness of the charter  
34 school shall involve or be secured by the faith, credit, or taxing power of the State or its  
35 political subdivisions. The school also may own land and buildings it ~~obtained~~ obtains  
36 through non-State sources."

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

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

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

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

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

38           Notwithstanding the foregoing, effective July 1, 1963, with respect  
39 to the period of service commencing on July 1, 1963, and ending  
40 December 31, 1965, the rates of such deduction shall be four per centum  
41 (4%) of the portion of compensation not in excess of forty-eight  
42 hundred dollars (\$4,800) and six per centum (6%) of the portion of  
43 compensation in excess of forty-eight hundred dollars (\$4,800); and

1 with respect to the period of service commencing January 1, 1966, and  
2 ending June 30, 1967, the rate of such deductions shall be four per  
3 centum (4%) of the portion of compensation not in excess of fifty-six  
4 hundred dollars (\$5,600) and six per centum (6%) of the portion of  
5 compensation in excess of fifty-six hundred dollars (\$5,600); and with  
6 respect to the period of service commencing July 1, 1967, and ending  
7 June 30, 1975, the rate of such deductions shall be five per centum (5%)  
8 of the portion of compensation not in excess of fifty-six hundred dollars  
9 (\$5,600) and six per centum (6%) of the portion of compensation in  
10 excess of fifty-six hundred dollars (\$5,600). Such rates shall apply  
11 uniformly to all members of the Retirement System, without regard to  
12 their coverage under the Social Security Act.

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

19 (2) The deductions provided for herein shall be made notwithstanding that  
20 the minimum compensation provided for by law for any member shall  
21 be reduced thereby. Every member shall be deemed to consent and  
22 agree to the deductions made and provided for herein and shall receipt  
23 for his full salary or compensation, and payment of salary or  
24 compensation less said deduction shall be a full and complete discharge  
25 and acquittance of all claims and demands whatsoever for the services  
26 rendered by such person during the period covered by such payment,  
27 except as to the benefits provided under this Chapter. The employer  
28 shall certify to the Board of Trustees on each and every payroll or in  
29 such other manner as the Board of Trustees may prescribe, the amounts  
30 to be deducted; and each of said amounts shall be deducted, and when  
31 deducted shall be paid into said annuity savings fund, and shall be  
32 credited, together with regular interest thereon, to the individual account  
33 of the member from whose compensation said deduction was made.

34 (3) Each board of education of each county and each board of education of  
35 each city, and the employer in any department, agency or institution of  
36 the State, in which any teacher receives compensation from sources  
37 other than appropriations of the State of North Carolina shall deduct  
38 from the salaries of these teachers paid from sources other than State  
39 appropriations an amount equal to that deducted from the salaries of the  
40 teachers whose salaries are paid from State funds, and remit this amount  
41 to the State Retirement System. City boards of education and county  
42 boards of education in each and every county and city which has  
43 employees compensated from other than the State appropriation shall

1 pay to the State Retirement System the same per centum of the  
2 compensation that the State of North Carolina pays and shall transmit  
3 same to the State Retirement System monthly: Provided, that for the  
4 purpose of enabling the boards of education to make such payment, the  
5 tax-levying authorities are hereby authorized, empowered and directed  
6 to provide the necessary funds therefor. In case the salary is paid in part  
7 from State funds and in part from local funds, the local authorities shall  
8 not be relieved of providing and remitting the same per centum of the  
9 salary paid from local funds as is paid from State funds. In case the  
10 entire salary of any teacher, as defined in this Chapter, is paid from  
11 county or local funds, the county or city paying such salary shall  
12 provide and remit to the Retirement System the same per centum that  
13 would be required if the salary were provided by the State of North  
14 Carolina.

15 (4) In addition to contributions deducted from compensation as  
16 hereinbefore provided, subject to the approval of the Board of Trustees,  
17 any member may redeposit in the annuity savings fund by a single  
18 payment an amount equal to the total amount which he previously  
19 withdrew therefrom, as provided in this Chapter. Such amounts so  
20 redeposited shall become a part of his accumulated contributions as if  
21 such amounts had initially been contributed within the calendar year of  
22 such redeposit. In no event, however, shall any member be permitted to  
23 redeposit any amount withdrawn after July 1, 1959, except as provided  
24 for in G.S. 135-4(e).

25 (5) The Board of Trustees may approve the purchase of creditable service  
26 by any member for leaves of absence or for interrupted service to an  
27 employer for the sole purpose of acquiring knowledge, talents, or  
28 abilities and to increase the efficiency of service to the employer. This  
29 approval shall be made prior to the purchase of the creditable service, is  
30 limited to a career total of six years for each member, and may be  
31 obtained in the following manner:

32 a. Approved leave of absence. – Where the employer grants an  
33 approved leave of absence, a member may make monthly  
34 contributions to the annuity savings fund on the basis of  
35 compensation the member was earning immediately prior to such  
36 leave of absence. The employer shall make monthly  
37 contributions equal to the normal and accrued liability  
38 contribution on such compensation or, in lieu thereof, the  
39 member may pay into the annuity savings fund monthly an  
40 amount equal to the employer's normal and accrued liability  
41 contribution when the policy of the employer is not to make such  
42 payment.

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

26                 Payments required to be made by the ~~member and/or the employer~~  
27                 member, the employer, or both under subparagraphs a or b are due by  
28                 the 15th of the month following the month for which the service credit  
29                 is allowed and payments made after the due date shall be assessed a  
30                 penalty, in lieu of interest, of one percent (1%) per month or fraction  
31                 thereof the payment is made beyond the due date; provided, that these  
32                 payments shall be made prior to retirement and provided further, that if  
33                 the member did not become a contributing member within 12 months  
34                 after completing the educational program and failed to complete three  
35                 years of subsequent membership service, except in the event of death or  
36                 disability, any payment made by the member including penalty shall be  
37                 refunded with regular interest thereon and the service credits cancelled  
38                 prior to or at retirement.

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

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

6           Section 9. The Board of Trustees of the North Carolina Teachers' and State  
7 Employees' Retirement System shall request a letter of determination or ruling from the  
8 Internal Revenue Service, United States Department of Treasury, as to whether the status  
9 of the North Carolina Teachers' and State Employees' Retirement System as a  
10 governmental plan would be adversely affected by the participation of employees of a  
11 charter school that agrees to be subject to some control and supervision of its  
12 administrative operations by the entity to which it is accountable under G.S. 115C-  
13 238.29E(a). The request shall be made to the Internal Revenue Service after it is  
14 approved by the Speaker of the House of Representatives and the President Pro Tempore  
15 of the Senate or their designees and no later than 30 days after the effective date of this  
16 act. Employees of these charter schools shall be eligible for participation in the North  
17 Carolina Teachers' and State Employees' Retirement System upon the first day of the  
18 calendar month following the State's receipt of a favorable letter of determination or  
19 ruling.

20           Section 10. This act is effective when it becomes law. If the State receives a  
21 favorable letter of determination or ruling from the Internal Revenue Service, United  
22 States Department of Treasury, under Section 9 of this act, then G.S. 115C-  
23 238.29F(e)(5), as amended by Section 5 of this act, and Section 8 of this act are repealed  
24 on the first day of the calendar month following the State's receipt of the letter of  
25 determination or ruling.