

1997

**SENATE
EDUCATION/HIGHER
ED COMMITTEE**

MINUTES

EDUCATION/HIGHER EDUCATION

AGENDA

July 22, 1997

SB 297 Amend Charter School Laws Senator Gulley

HB 510 Snow Days Offset/Certain Schools (Comm. Sub.)

Rep. Stan Fox

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, July 22, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, July 22, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Fifteen of the members of the Committee attended the meeting, including the Co-Chair, Senator Winner, who presided. The pages were Chris Hannah from Raleigh, Laura Howard from Selma, and Allison Martinelli.

Senator Winner introduced Representative Fox to explain and speak on HB510, Short Title: Snow Days Offset/Certain Schools.. He introduced a Committee Substitute which was adopted by the Committee for discussion. The Committee Substitute for HB510, Short Title: State Board Policy/Teacher Certification, was voted on by the Committee and received a favorable report as to the Senate Committee Substitute, but unfavorable as to the original bill.

Senator Winner introduced Senator Gulley to explain and speak on SB297, Short Title: Amend Charter School Laws. Senator Gulley introduced Bob Mulden of Centura Bank and on the Board of the Rocky Mount Charter School, to speak in favor of the House version of SB297. Dr. Richard Thompson of the State Board of Education spoke on the State Board's position on SB297. Senator Martin made a motion to appoint a sub-committee on SB297 and vote not to concur with the House Committee Substitute #2 on SB297. The Committee voted in favor of the motion.

The Committee was adjourned at 11:06 p.m.


Senator Leslie Winner, Co-Chair


Vickie Spears, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Sen. Leslie Winner, Co-Chair

Sen. Howard Lee, Co-Chair

AMENDED REPORT

Wednesday, July 23, 1997

SEN. WINNER,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.	510	State Board Policy/Teacher Certification.
		Draft Number: PCS6306
		Sequential Referral: None
		Recommended Referral: None
		Long Title Amended: Yes

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Sen. Leslie Winner, Co-Chair

Sen. Howard Lee, Co-Chair

Wednesday, July 23, 1997

SEN. WINNER,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO CONCURRENCE

S.B.(HCS#2)297 Amend Charter Sch. Laws.

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 510

Short Title: Snow Days Offset/Certain Schools.

(Local)

Sponsors: Representatives Fox; and Wilkins.

Referred to: Ways and Means.

March 13, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PERMIT THE LOCAL BOARDS OF EDUCATION IN CERTAIN
2 COUNTIES TO SCHEDULE LONGER SCHOOL DAYS SO AS TO OFFSET
3 DAYS LOST DUE TO INCLEMENT WEATHER.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 115C-84.1(c) reads as rewritten:

6 "(c) This section applies only to the Alleghany, Avery, Buncombe, Cherokee,
7 Clay, Craven, Duplin, Franklin, Gaston, Graham, Granville, Haywood, Henderson,
8 Jackson, Jones, Lenoir, Macon, Madison, McDowell, Mitchell, Pamlico, Polk,
9 Rockingham, Stokes, Swain, Transylvania, Vance, Wake, Warren, Watauga, and
10 Yancey County School Administrative Units. The local board of education in each of
11 these counties shall evaluate the educational effectiveness of this type of scheduling
12 and shall report the results of this evaluation to the State Board of Education for the
13 first two years following the ratification of this section."

14 Section 2. This act is effective when it becomes law and applies to school
15 years beginning with the 1997-98 school year.
16

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

H510-CSRC-001
PROPOSED SENATE COMMITTEE SUBSTITUTE
HOUSE BILL 510
THIS IS A DRAFT 21-JUL-97 15:39:20
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: State Board Policy/Teacher Certification. (Public)

Sponsors:

Referred to: Ways and Means

March 13, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE STATE BOARD OF EDUCATION TO ADOPT POLICIES
3 SETTING MINIMUM SCORES FOR CERTIFICATION OF PROFESSIONAL SCHOOL
4 PERSONNEL.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 115C-296 is amended by adding a new
7 subsection to read:
8 "(a) The State Board shall adopt policies that establish the
9 minimum scores for the standard examinations and other measures
10 necessary to assess the qualifications of professional personnel
11 as required under subsection (a) of this section. For purposes
12 of this subsection, the State Board shall not be subject to
13 Article 2A of Chapter 150B of the General Statutes. At least 30
14 days prior to changing any policy adopted under this subsection,
15 the State Board shall provide written notice to all North
16 Carolina schools of education and to all local boards of
17 education. The written notice shall include the proposed revised
18 policy."

1 Section 2. Immediately upon adopting policies under
2 this act, all administrative rules previously adopted by the
3 State Board of Education regarding the minimum scores for the
4 standard examinations for certification of professional personnel
5 are repealed. The State Board of Education shall notify the
6 Codifier of Rules when it adopts policies under of this act.
7 Upon receiving notification that a rule has been repealed under
8 this act, the Codifier of Rules shall enter the repeal of the
9 rule in the North Carolina Administrative Code.

10 Section 3. This act is effective when it becomes law.



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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory Goldsmith, Committee Counsel *KJb*

DATE: July 22, 1997

RE: Summary H510 (PCS) - State Board Policy/Teacher Certification

Section 1 allows the State Board of Education to adopt policies, rather than administrative rules, setting the minimum scores for teacher certification examinations. It explicitly exempts the State Board from the rule making process for this limited purpose. It also requires that the State Board notify all North Carolina schools of education and all local school boards of the proposed change at least thirty days before adopting the policy.

Section 2 provides that administrative rules that the State Board has previously adopted are repealed upon the State Board adopting a policy that changes the minimum scores for teacher certification exams. The State Board is directed to notify the Codifier of Rules when the State Board adopts a new policy, and the Codifier is directed to make a notation in the Administrative Code that the specific policy has been repealed.

The act is effective upon becoming law.

Background: The North Carolina Constitution empowers the State Board of Education to "make all needed rules and regulations" for the supervision and control of the public schools. G.S. 115C-296(a) grants to the State Board "entire control of certifying all applicants for teaching positions in all public elementary and high schools" in North Carolina. Pursuant to this authority, the State Board has adopted administrative rules, including 16 NCAC 6C .0310 Standard Examinations which sets the minimum scores a prospective teacher must receive on certain standardized tests in order to receive a North Carolina teaching certificate. Unlike most other North Carolina licensing agencies, the State Board is the only one that sets-out in the administrative rules the minimum passing scores for each examination. Most other licensing boards have broad enabling language in the Administrative Code, and then set the minimum scores by policy.

H510-SMRC-001

1 charter school authority, this information shall include the names
2 of the proposed initial members of the authority, the terms of
3 office of those members if less than the proposed duration of the
4 charter school authority's existence as set forth in subdivision (9)
5 of this subsection, and the proposed method for filling vacancies in
6 the membership of the authority.

7 (3a) The local school administrative unit in which the school will be
8 located.

9 (4) Admission policies and procedures.

10 (5) A proposed budget for the school and evidence that the plan for
11 the school is economically sound.

12 (6) Requirements and procedures for program and financial audits.

13 (7) A description of how the school will comply with G.S. 115C-
14 238.29F.

15 (8) Types and amounts of insurance coverage, including bonding
16 insurance for the principal officers of the school, to be obtained by
17 the charter school.

18 (9) The term of the ~~contract~~ contract or, in the case of a charter
19 school operated by a charter school authority, the duration of the
20 charter school authority's existence.

21 (10) The qualifications required for individuals employed by the school.

22 (11) The procedures by which students can be excluded from the
23 charter school and returned to a public school. Notwithstanding
24 any law to the contrary, any local board may refuse to admit any
25 student who is suspended or expelled from a charter school due to
26 actions that would lead to suspension or expulsion from a public
27 school under G.S. 115C-391 until the period of suspension or
28 expulsion has expired.

29 (12) The number of students to be served, which number shall be at
30 least 65, and the minimum number of teachers to be employed at
31 the school, which number shall be at least three. However, the
32 charter school may serve fewer than 65 students or employ fewer
33 than three teachers if the application contains a compelling reason,
34 such as the school would serve a geographically remote and small
35 student population.

36 (13) Information regarding the facilities to be used by the school and
37 the manner in which administrative services of the school are to be
38 provided.

39 ~~A description of whether the school will operate independently of~~
40 ~~the local board of education or whether it agrees to be subject to~~
41 ~~some supervision and control of its administrative operations by~~
42 ~~the local board of education. In the event the charter school elects~~
43 ~~to operate independently of the local board of education, A~~
44 statement of whether the school will be operated by a nonprofit,

1 tax-exempt corporation or by a charter school authority. In the
2 event a nonprofit, tax-exempt corporation will operate the charter
3 school, the application must specify which employee benefits will
4 be offered to its employees and how the benefits will be funded.

5 (c) An applicant shall submit the application to a chartering entity for preliminary
6 approval. A chartering entity for a charter school to be operated by a nonprofit, tax-
7 exempt corporation may be:

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

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

13 (3) The State Board of Education.

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

17 Only the State Board of Education may approve an application for a charter
18 school that will be operated by a charter school authority.

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

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

30 "**§ 115C-238.29C1. Criminal history checks.**

31 (a) As used in this section:

32 (1) 'Criminal history' means a county, state, or federal criminal history
33 of conviction of a crime, whether a misdemeanor or a felony, that
34 indicates an individual (i) poses a threat to the physical safety of
35 students or personnel, or (ii) has demonstrated that he or she does
36 not have the integrity or honesty to fulfill his or her duties as the
37 operator of a charter school. These crimes include the following
38 North Carolina crimes contained in any of the following Articles of
39 Chapter 14 of the General Statutes: Article 5A, Endangering
40 Executive and Legislative Officers; Article 6, Homicide; Article
41 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10,
42 Kidnapping and Abduction; Article 13, Malicious Injury or
43 Damage by Use of Explosive or Incendiary Device or Material;
44 Article 14, Burglary and Other Housebreakings; Article 15, Arson

1 and Other Burnings; Article 16, Larceny; Article 17, Robbery;
2 Article 18, Embezzlement; Article 19, False Pretense and Cheats;
3 Article 19A, Obtaining Property or Services by False or
4 Fraudulent Use of Credit Device or Other Means; Article 20,
5 Frauds; Article 21, Forgery; Article 26, Offenses Against Public
6 Morality and Decency; Article 26A, Adult Establishments; Article
7 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,
8 Misconduct in Public Office; Article 35, Offenses Against the
9 Public Peace; Article 36A, Riots and Civil Disorders; Article 39,
10 Protection of Minors; and Article 60, Computer-Related Crime.
11 These crimes also include possession or sale of drugs in violation
12 of the North Carolina Controlled Substances Act, Article 5 of
13 Chapter 90 of the General Statutes, and alcohol-related offenses
14 such as sale to underage persons in violation of G.S. 18B-302 or
15 driving while impaired in violation of G.S. 20-138.1 through G.S.
16 20-138.5. In addition to the North Carolina crimes listed in this
17 subdivision, such crimes also include similar crimes under federal
18 law or under the laws of other states.

19 (2) 'School personnel' means any:

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

29 (b) The State Board of Education shall adopt a policy on whether and under what
30 circumstances school personnel shall be required to be checked for a criminal history
31 after preliminary approval has been granted but before the Board grants final
32 approval of an application under G.S. 115C-238.29D. The Board shall apply its
33 policy uniformly in requiring school personnel to be checked for a criminal history.
34 The Board may grant conditional approval of an application while the Board is
35 checking a person's criminal history and making a decision based on the results of
36 the check.

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

39 (c) The Department of Justice shall provide to the State Board of Education the
40 criminal history from the State and National Repositories of Criminal Histories of any
41 school personnel for which the Board requires a criminal history check. The Board
42 of Education shall require the person to be checked by the Department of Justice to
43 (i) be fingerprinted and to provide any additional information required by the
44 Department of Justice to a person designated by the local board, or to the local

1 sheriff or the municipal police, whichever is more convenient for the person, and (ii)
2 sign a form consenting to the check of the criminal record and to the use of
3 fingerprints and other identifying information required by the repositories. The State
4 Board shall consider refusal to consent when deciding whether to grant final approval
5 of an application under G.S. 115C-238.29D.

6 The State Board shall not require school personnel to pay for being fingerprinted
7 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
13 grant final approval under G.S. 115C-238.29D. The State Board shall make written
14 findings with regard to how it used the information when deciding whether to grant
15 final approval under G.S. 115C-238.29D.

16 (e) All the information received by the State Board of Education through the
17 checking of the criminal history is privileged information and is not a public record
18 but is for the exclusive use of the State Board of Education. The State Board of
19 Education may destroy the information after it is used for the purposes authorized by
20 this section after one calendar year.

21 (f) There shall be no liability for negligence on the part of the State Board of
22 Education, or its employees, arising from any act taken or omission by any of them in
23 carrying out the provisions of this section. The immunity established by this
24 subsection shall not extend to gross negligence, wanton conduct, or intentional
25 wrongdoing that would otherwise be actionable. The immunity established by this
26 subsection shall be deemed to have been waived to the extent of indemnification by
27 insurance, indemnification under Articles 31A and 31B of Chapter 143 of the
28 General Statutes, and to the extent sovereign immunity is waived under the Tort
29 Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

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

31 "(d) The State Board of Education may grant a charter for a period not to exceed
32 five years and may renew the charter upon the request of the chartering entity for
33 subsequent periods not to exceed five years each. A material revision of the
34 provisions of a charter application shall be made only upon the approval of the State
35 Board of Education. Nonrenewal of a charter to a charter school authority shall
36 constitute revocation of the resolution creating the authority."

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

38 "**§ 115C-238.29E. Charter school operation.**

39 (a) A charter school that is approved by the State shall be a public school within
40 the local school administrative unit in which it is located. It shall be accountable to
41 the ~~local board of education~~ State Board of Education for purposes of ensuring
42 compliance with applicable laws and the provisions of its charter.

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

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

7 (2) By a charter school authority created by resolution of the State
8 Board of Education. The resolution creating the charter school
9 authority shall incorporate at a minimum the information provided
10 in the application, as modified during the charter approval process,
11 and any other terms and conditions imposed on the charter school
12 by the State Board. A charter school authority shall have all
13 powers necessary or convenient to carry out and effectuate the
14 purposes and provisions of this Part as well as the obligations and
15 duties imposed on it by the State Board's creating resolution.

16 (c) A charter school that is operated by a nonprofit, tax-exempt corporation shall
17 operate under a written contract signed by the ~~local board of education~~ State Board
18 of Education and the applicant. The contract shall incorporate at a minimum the
19 information provided in the application, as modified during the charter approval
20 process, and any terms and conditions imposed on the charter school by the State
21 Board of Education.

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

24 (d) The board of directors of ~~the~~ a charter school operated by a nonprofit, tax-
25 exempt corporation or the charter school authority, as applicable, shall decide matters
26 related to the operation of the school, including budgeting, curriculum, and operating
27 procedures.

28 (e) ~~A charter school shall be located in the local school administrative unit with~~
29 ~~which it signed the contract. Its~~ A charter school's specific location shall not be
30 prescribed or limited by a local board or other authority except a zoning authority.
31 The school may lease space from a local board of education, from a public or private
32 nonsectarian organization, or as is otherwise lawful in the local school administrative
33 unit in which the charter school is located. At the request of the charter school, the
34 local board of education of the local school administrative unit in which the charter
35 school will be located shall lease any available space to the charter school unless the
36 board demonstrates that the lease is not economically or practically feasible.

37 (f) Except as provided in this Part and pursuant to the provisions of its ~~contract,~~
38 contract or creating resolution, a charter school is exempt from statutes and rules
39 applicable to a local board of education or local school administrative unit."

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

41 "**§ 115C-238.29F. General requirements.**

42 (a) Health and Safety Standards. -- A charter school shall meet the same health
43 and safety requirements required of a local school administrative unit.

1 (b) School Nonsectarian. -- A charter school shall be nonsectarian in its programs,
2 admission policies, employment practices, and all other operations and shall not
3 charge tuition. A charter school shall not be affiliated with a nonpublic sectarian
4 school or a religious institution.

5 (c) Civil Liability and Insurance. --

6 (1) The board of directors of a charter school operated by a nonprofit,
7 tax-exempt corporation or the charter school authority may sue
8 and be sued. The board of directors or charter school authority
9 shall obtain at least the amount of and types of insurance required
10 by the ~~contract.~~ contract or creating resolution.

11 (2) No civil liability shall attach to any chartering entity, to the State
12 Board of Education, or to any of their members or employees,
13 individually or collectively, for any acts or omissions of the charter
14 school. ~~In the event a charter school has not elected total~~
15 ~~independence from the local board of education under subsection~~
16 ~~(e) of this section,~~ In the case of a charter school operated by a
17 charter school authority, the immunity established by this
18 subsection shall be deemed to have been waived to the extent of
19 indemnification by insurance, indemnification under Articles 31A
20 and 31B of Chapter 143 of the General Statutes, and to the extent
21 sovereign immunity is waived under the Tort Claims Act, as set
22 forth in Article 31 of Chapter 143 of the General Statutes.

23 (d) Instructional Program. --

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

25 (2) The school shall design its programs to at least meet the student
26 performance standards adopted by the State Board of Education
27 and the student performance standards contained in the contract
28 ~~with the local board of education.~~ or creating resolution.

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

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

34 (5) The school is subject to and shall comply with Article 27 of
35 Chapter 115C of the General ~~Statutes;~~ Statutes, except that a
36 charter school may also exclude a student from the charter school
37 and return that student to another school in the local school
38 administrative unit in accordance with the terms of its ~~contract.~~
39 contract or creating resolution.

40 (e) Employees. --

41 (1) An employee of a charter school is not an employee of the local
42 school administrative unit in which the charter school is located.
43 The charter school's board of directors or the charter school
44 authority, as applicable, shall employ and contract with necessary

1 teachers to perform the particular service for which they are
2 employed in the school; at least seventy-five percent (75%) of these
3 teachers in grades kindergarten through five, at least fifty percent
4 (50%) of these teachers in grades six through eight, and at least
5 fifty percent (50%) of these teachers in grades nine through 12
6 shall hold teacher certificates. The board or authority also may
7 employ necessary employees who are not required to hold teacher
8 certificates to perform duties other than teaching and may contract
9 for other services. The board or authority may discharge teachers
10 and noncertificated employees.

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

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

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

1 ~~State Employees' Retirement System and the Teachers' and State~~
2 ~~Employees' Comprehensive Major Medical Plan. The Board of~~
3 ~~Trustees of the Teachers' and State Employees' Retirement~~
4 ~~System, in consultation with the State Board of Education, shall~~
5 ~~determine the degree of supervision and control necessary to~~
6 ~~qualify the employees of the applicant for membership in the~~
7 ~~Retirement System. In no event shall anything contained in this~~
8 ~~Part require the North Carolina Teachers' and State Employees'~~
9 ~~Retirement System to accept employees of a private employer as~~
10 ~~members or participants of the System.~~

11 (5) Employees of a charter school operated by a charter school
12 authority created by resolution of the State Board are public
13 employees and are 'teachers' within the meaning of G.S. 135-5(25)
14 to the same extent as if they were employees of a local school
15 administrative unit. The charter school shall remit all retirement
16 contributions required by G.S. 135-8 with the retirement
17 contributions of the local school administrative unit in which the
18 school is located, and the employees of the school shall be
19 reported for purposes of the Teachers' and State Employees'
20 Retirement System of North Carolina only, as employees of that
21 local school administrative unit. Employees of a charter school
22 operated by a nonprofit, tax-exempt corporation are not public
23 employees and are not 'teachers' within the meaning of G.S. 135-
24 5(25).

25 (f) Accountability. --

- 26 (1) The school is subject to the financial audits, the audit procedures,
27 and the audit requirements adopted by the State Board of
28 Education for charter schools.
- 29 (2) The school shall comply with the reporting requirements
30 established by the State Board of Education in the Uniform
31 Education Reporting System.
- 32 (3) The school shall report at least annually to the chartering entity
33 and the State Board of Education the information required by the
34 chartering entity or the State Board.

35 (g) Admission Requirements. --

- 36 (1) Any child who is qualified under the laws of this State for
37 admission to a public school is qualified for admission to a charter
38 school.
- 39 (2) No local board of education shall require any student enrolled in
40 the local school administrative unit to attend a charter school.
- 41 (3) Admission to a charter school shall not be determined according to
42 the school attendance area in which a student resides, except that
43 any local school administrative unit in which a public school
44 converts to a charter school shall give admission preference to

1 students who reside within the former attendance area of that
2 school.

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

8 (5) A charter school shall not discriminate against any student on the
9 basis of ethnicity, national origin, gender, or disability. Except as
10 otherwise provided by law or the mission of the school as set out
11 in the ~~contract~~, contract or creating resolution, the school shall not
12 limit admission to students on the basis of intellectual ability,
13 measures of achievement or aptitude, athletic ability, disability,
14 race, creed, gender, national origin, religion, or ancestry. Within
15 one year after the charter school begins operation, the population
16 of the school shall reasonably reflect the racial and ethnic
17 composition of the general population residing within the local
18 school administrative unit in which the school is located or the
19 racial and ethnic composition of the special population that the
20 school seeks to serve residing within the local school administrative
21 unit in which the school is located. The school shall be subject to
22 any court-ordered desegregation plan in effect for the local school
23 administrative unit.

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

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

32 (h) Transportation. -- ~~The charter school shall provide transportation for students~~
33 ~~enrolled at the school who reside in the local school administrative unit in which the~~
34 ~~school is located. The charter school may provide transportation for students enrolled~~
35 ~~at the school who reside in different local school administrative units.~~ school. The
36 charter school shall develop a transportation plan so that transportation is not a
37 barrier to any student who resides in the local school administrative unit in which the
38 school is located. The charter school is not required to provide transportation to any
39 student who lives within one and one-half miles of the school. The local board of the
40 local school administrative unit in which the charter school is located shall contract
41 with the charter school for the provision of transportation if the board operates a
42 school bus transportation system. However, the local board may refuse to provide
43 transportation if it demonstrates there is no available space or it would not be
44 practically feasible.

1 (i) Assets. -- Upon dissolution of the charter school or upon the nonrenewal of the
2 charter, all assets of the charter school shall be deemed the property of the local
3 school administrative unit in which the charter school is located."

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

5 "**§ 115C-238.29G. Causes for nonrenewal or termination.**

6 The State Board of Education, or a chartering entity subject to the approval of the
7 State Board of Education, may terminate or not renew a contract or may revoke or
8 not renew a resolution creating a charter school authority upon any of the following
9 grounds:

- 10 (1) Failure to meet the requirements for student performance
11 contained in the ~~contract~~; contract or creating resolution;
- 12 (2) Failure to meet generally accepted standards of fiscal management;
- 13 (3) Violations of law;
- 14 (4) Material violation of any of the conditions, standards, or
15 procedures set forth in the ~~contract~~; contract or creating resolution;
- 16 (5) Two-thirds of the faculty and instructional support personnel at the
17 school request that the contract be terminated or not renewed or
18 that the creating resolution be revoked or not renewed; or
- 19 (6) Other good cause identified.

20 The State Board of Education shall develop and implement a process to address
21 contractual and other grievances between a charter school and its chartering entity
22 during the time of its charter. Only the State Board may revoke a resolution creating
23 a charter school authority."

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

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

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

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

40 "(d) The State Board of Education may establish a Charter School Advisory
41 Committee to assist with the implementation of this Part. The Charter School
42 Advisory Committee may (i) provide technical assistance to chartering entities or to
43 potential applicants, (ii) review applications for preliminary approval, (iii) make
44 recommendations as to whether the State Board should approve applications for

1 charter schools, (iv) make recommendations as to whether the State Board should
2 terminate or not renew a ~~contract~~, contract or revoke or not renew a creating
3 resolution, (v) make recommendations concerning grievances between a charter
4 school and its chartering entity, (vi) assist with the review under subsection (c) of this
5 section, and (vii) provide any other assistance as may be required by the State
6 Board."

7 Section 9. This act is effective when it becomes law.
8

SENATE BILL 297:
Charter Schools – Differences

TO: Members of Senate Education/Higher Education
FROM: Robin S. Johnson, Committee Counsel
DATE: July 17, 1997

The following items are in controversy between the Senate (4th edition) and the House (7th edition):

1. **Participation in State Retirement System:** Current law allows a charter school that wishes its employees to participate in the State Retirement System to agree to be subject to some supervision and control of their administrative operations by the local board of education where the school is located. The Senate proposes to allow charter schools that wish their employees to be eligible for participation in the State Retirement System to opt to be operated by a public board of directors whose members are approved by the State Board of Education. Charter schools that wish to remain more independent would continue to be operated by private, nonprofit corporations. The House would require the Board of Trustees of the Retirement System to obtain a private letter ruling from the IRS on whether the charter school employees under current law can participate in the System without jeopardizing its status as a governmental plan.¹ The House also would allow teachers² who obtain a leave of absence to teach in a charter school to make contributions for up to six years to the Retirement System as if they are on an approved educational leave of absence.
2. **Immune from Liability:** Under current law, charter schools that opt to be subject to some control and supervision are immune from liability to the extent of indemnification; other charter schools are not immune. The Senate version specifies that no charter school is immune from liability. The House did not amend the current law.

¹ Under current law, the Board of Trustees is to determine the degree of supervision and control necessary to qualify the employees for participation in the System. In January, 1997, the Board issued a letter that enumerated the following requirements: (i) the chartering entity must have the authority to approve or appoint at least 80% of the members of the school's governing board; (ii) employment decisions must be made by the chartering entity upon the recommendation of the charter school's governing board; (iii) all teachers must hold NC teaching certificates; and (iv) contributions to the Retirement System must be remitted by the local school administrative unit, which must report the school's employees as its own employees. If a private letter ruling is sought, this letter would be submitted. If the General Assembly does not want this letter submitted in its current form, the provision that directs the Board to make this determination should be amended or repealed.

² The educational leave would only be offered to teachers who obtain a leave of absence from a public school. It would not be offered to other public school employees.

3. **Payment for Criminal History Check/Fingerprinting:** The Senate provides that funds allocated or to be allocated to the charter school may be used to reimburse employees and operators for the criminal record checks and fingerprinting. The House prohibits the State Board from requiring these individuals to pay for the criminal checks.

4. **Length of Charters:** Current law allows the State Board to grant initial charters and to renew charters for periods up to five years. The Senate did not amend this. The House allows initial charters to be for periods up to 10 years, with subsequent five-year renewals. If the Board grants an initial charter for more than five years, the Board must review the school's status five years after it grants the charter.

5. **Charter School Accountability:** Under current law, schools are accountable to the local board. The Senate would allow charter schools denied preliminary approval by the local board to be accountable to the State Board. The House provides that the schools are accountable to their chartering entities, or to the State Board if the chartering entity denies preliminary approval.

6. **Enrollment Growth:** The charter school application must state the anticipated enrollment number. Material changes to the charter require State Board approval. The Senate does not amend this. The House directs the State Board to adopt a policy to enable charter schools, without obtaining the State Board's approval, to increase its enrollment in years after the initial year of operation. The Board must also allow for adjustments in allocations of funds to charter schools based on future enrollment growth.

7. **Leasing:** The House would require a local board to lease facilities currently used by a public school that converts to a charter school unless the board can demonstrate the lease is not economically or practically feasible or that it does not have adequate classroom space to meet its enrollment needs. The House also would allow local boards to provide school facilities to charter schools free of charge so long as the charter schools maintain and insure the facilities. The House would remove the current restriction on leasing from sectarian organizations.³

8. **Number of Charter Schools:** Current law allows the State Board to approve up to five charter schools per school unit per year, with a State cap of 100 schools. The House would authorize an unlimited number of charter schools that primarily serve students with special needs, students who are risk of academic failure, or dropouts, so long as at least 75% of the projected and actual enrollment is comprised of these students.

³ There is an Attorney General's Opinion, which allows charter schools to lease from sectarian organizations so long as there is no violation of the Establishment Clause.

9. **Enrollment Issues:** The House allows a charter school to give enrollment priority to (1) siblings of students currently enrolled in the school; (2) children of employees, operators, members of board of directors, and applicants; and (3) former students of a private school that converts to a charter school during its first year of operation as a charter school. The total of these students cannot be more than 50% of the total enrollment at the school. The House also clarifies that, once enrolled, students are not required to reapply in subsequent enrollment periods.

10. **Transportation:** The Senate allows a local board to contract with the charter school and to charge a reasonable fee for the transportation of students who live at least 1-1/2 miles from the school and live within the local school administrative unit. The House does not amend current law, which encourages local boards to contract with charter schools for the provision of transportation.

11. **Assets:** Under current law, all assets of a charter school become the property of the local board upon dissolution of the school or upon nonrenewal of the charter. The Senate would limit this to "net" assets. The House would limit this to "net assets purchased with public funds".

12. **Special Needs Allocations:** The House would require charter schools to return the additional amount of State funds allocated for any child with special needs who returns to the public schools within the first 60 days of the school year.

13. **Grievance Procedure:** The current law directs the State Board to have a grievance procedure for disputes between a charter school and its chartering entity. The Senate would require the process to address disputes between the charter school and the local board and between the charter school and the State Board.

14. **Use of State Funds:** Currently, State funds allocated to charter schools cannot be used to purchase or lease land or buildings. The Senate would allow these funds to be used for operational leases of real property and mobile classrooms to be used as charter school facilities. The House would allow State funds to be used to enter into both operational and financing leases and for payment on loans to the charter school for facilities or equipment. The House also includes a provision that specifies that an indebtedness of a charter school is not an indebtedness of the State or its political subdivisions.

15. **Timelines:** Currently there are statutory timelines for applications, approvals, etc. The Senate would allow the State Board to set alternative timelines so long as final approval of charters occurs by March 15 of each year.

16. **Rulemaking:** The Senate would allow the State Board to use a streamlined procedure for adopting rules directly related to the implementation of this legislation.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 297

SHORT TITLE: Amend Charter School Law, Fourth Edition Engrossed 4/30/97

SPONSOR(S): Senator Gulley

FISCAL IMPACT

	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
REVENUES					
EXPENDITURES					
Background checks and fingerprints	\$5,700-19,000	5,700-19,000	5,700-19,000	5,700-19,000	5,700-19,000
Additional position DPI to handle record checks and fingerprints	\$15,779	31,557	33,739	34,920	36,177
Total Cost	\$21,479-34,779	37527-50,557	39,439-52739	40620-53920	41,877-55,177
POSITIONS:	1/2	1	1	1	1

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: State Board of Education and the Department of Public Instruction

EFFECTIVE DATE: Upon Ratification

- **BILL SUMMARY:** Under current law, charter schools are to be operated by private, nonprofit corporations. However, if they want their teachers to be eligible for participation in the State Teachers' and State Employees' Retirement System, then the application for a charter must include a description of whether the school agrees to be subject to some supervision and control of its administrative operations by the

local board. For federal tax purposes, participants in qualified retirement plans must be public employees. There is concern that a “private, nonprofit corporation” cannot be made into a public entity, and, therefore, no charter school will be able to have its employees eligible for participation. The committee substitute would allow applicants to declare whether they want to be operated by a non-profit, tax-exempt corporation or by a board of directors whose members are approved by the State Board.

Employees of charter schools operated by a board of directors whose members are approved by the State Board would be eligible for participation in the State Retirement System. Employees of charter schools operated by private, nonprofit corporations would not be eligible for participation. In the case of a board of directors whose members are approved by the State Board, there can be no more than 25 members. The terms for the initial members can be no longer than the term of the charter that the State Board grants (i.e., no more than 5 years); subsequent members’ terms can be no more than 5 years. No member may serve more than two full terms. Appointments, including those to fill vacancies, shall be recommended by the current board of directors and approved by the State Board. Nonrenewal of a charter operated by this board of directors shall constitute a termination of that body.

- The committee substitute provides that the local board of education of the local school administrative unit in which the charter school is proposed to be located may offer any information or comment concerning an application for a charter. The board must deliver the information to the chartering entity by January 1 following the date applications must be submitted for preliminary approval (November 1). The bill provides specifically that the applicant is not required to obtain or deliver this information. Currently, the State Board’s policy is that applicants must include an “impact statement” from the local board as part of their applications.
- Section 2 creates a new G.S. 115C-238.29C1 to direct the State Board to adopt a uniform policy on whether and under what circumstances it will require operators of a charter school and their employees and independent contractors who have significant access to students or who have responsibility for the fiscal management of the schools to be subject to a criminal history check. The criminal history check must occur after preliminary approval is given. Funds allocated or to be allocated to the charter school by the State Board may be used to reimburse persons for the criminal history checks and the fingerprinting. This section is virtually identical to G.S. 115C-332, which directs local boards to adopt a similar policy for their school personnel. The check is to be done for purposes of deciding whether to

grant final approval of a charter and for the State Board to make employment recommendations to charter schools. If the State Board recommends dismissal or non employment of a person, then the charter school shall dismiss or refuse to employ that person.

- Section 4 amends G.S. 115C-238.29E(a) to provide that charter schools denied preliminary approval from the local board of the school unit in which the school will be located shall be accountable to the State Board for purposes of ensuring compliance with applicable laws and their respective charters. All other charter schools will be accountable to that local board for these purposes. Currently, a charter school is to be accountable to the local board of the local school administrative unit in which the school is to be located. This change also removes the requirement that the State Board may sign on behalf of the local board the contract under which the school is to be operated.
- Also, Section 4 directs the State Board to provide the opportunity for charter who received final approval of their applications by March 31, 1997, the opportunity for them to be operated by a board of directors whose members are approved by the State Board.
- Section 4 also amends G.S. 115C-238.29E(e) to require local boards to lease any available building or land to the charter school, upon its request, unless it is not “economically or practically feasible” or the local board does not have adequate classroom space to meet its enrollment needs.
- Section 5 amends G.S. 115C-238.29F(c) to direct the State Board to adopt rules to set a reasonable amount and types of liability insurance that a charter school must be required by contract to obtain. In addition, this change would exempt charter schools from the State Tort Claims Act and would provide that the State will not defend the charter schools in the defense of any civil or criminal action or proceeding. For any charter school that possibly could have any sovereign immunity, this immunity is waived to the extent of indemnification by insurance.
- In addition, Section 5 requires local boards to allow teachers, during the first year of a charter school’s operation, to make a request for a leave of absence up to 45 days before the teacher would otherwise have to report for duty. In subsequent years, teachers can be required to make this request up to 90 days before they would otherwise have to report for duty. Under current law, there is no distinction between the initial and subsequent years of the charter school’s operation, and boards can require 90 days’ notice.
- Section 5 also removes the requirement that students who reside in a local school administrative unit other than the one where the charter school is located must have the approval of both local boards. This requirement also allowed the local board of the unit in which the school is located to charge the student tuition.

- In addition, Section 5 amends G.S. 115C.29F(h) to direct the charter school to develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The school is not required to provide transportation to any student who lives within 1-1/2 miles of the school. The bill also allows the local board of the unit in which the school is located to contract with the school, upon the school's request, for the provision of transportation in accordance with the transportation plan for students who reside at least 1-1/2 miles of the school in that school unit. The local board may refuse to provide the transportation if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible. The board may charge a reasonable charge sufficient to cover the cost of providing this transportation. Currently, charter schools receive the State funds for transportation for each student. In addition, the charter schools are required to provide transportation for students who reside in the local school administrative unit in which the school is located. Also, local boards are not required to provide transportation for students who live within 1-1/2 miles of the public school to which they are assigned.
- Finally, Section 5 amends G.S. 115C-238.29F(i) to limit the assets to "net assets" that are considered property of the local school administrative unit upon dissolution of the school or upon nonrenewal of the charter. Net assets are obtained by subtracting the liabilities from the total assets.
- Section 6 would create a new G.S. 115C-238.29F1 to enumerate the powers of a board of directors that operates a charter school and whose members are approved by the State Board. These powers do not include the power to levy taxes, issue bonds, or acquire property by eminent domain. The enumerated powers include: (i) sue and be sued; (ii) make contracts; (iii) adopt, alter, and use a seal; (iv) purchase, lease, rent, dispose of, own, mortgage, or encumber real or personal property; (v) establish, construct, purchase, maintain, equip, and operate facilities necessary for the operation of the school; (vi) pay costs and expenses in the formation, organization, administration, and operation of the school; (vii) apply for, accept, and administer loans and grants, to expend the money in accordance with the lender's or donor's requirements, and give any required evidences of indebtedness; (viii) execute financing agreements, security documents, and other instruments; (ix) employ, elect, or appoint personnel, define their duties, and fix their compensation; (x) receive and use allocations from the State Board and local board; and (xi) pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for current and former directors, officers, employees, and agents. This section provides that

any indebtedness incurred or created by the board of directors is not an indebtedness of the State or its political subdivisions and shall not involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

- Section 7 amends G.S. 115C-238.29G, which currently directs the State Board to develop and implement a process to resolve grievances between a charter school and its chartering entity. The amendment requires the process also to address disputes between charter schools and local boards or the State Board.
- Section 8 amends G.S. 115C-238.29H(a) to allow funds allocated by the State Board to be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. This law currently prohibits using these funds “to purchase land or buildings”. Legally, the word “purchase” means any type of acquisition of property, which includes leasing. Using State funds to obtain any other interest in real property will still be prohibited.
- Section 9 allows the State Board to establish an alternative timeline for the application, approval, and appeals process. Currently, the law gives specific dates for specific steps in the process. The Board’s alternative timeline must still provide for final approval by March 15 of each calendar year.
- Section 13 allows the State Board to use a streamlined procedure for adopting rules directly related to the implementation of this legislation. The Board may publish the text of any proposed rule as the first step in the rule making procedure, and a rule may take effect without waiting for submission to the General Assembly.¹

ASSUMPTIONS AND METHODOLOGY:

1. Assume 150 – 500 full record checks and FBI and State fingerprint checks at \$38.00 each. No increase over four years, in the absence of experience on personnel turnover and projections on the increased numbers of charter schools.
2. Assume an additional ½ position in FY1997-98 in the Department of Public Instruction to process and secure the record checks and fingerprint records. This would increase to a full time position by year two. The estimate of salary cost is adjusted for inflation for years two through five. These funds are in addition to the estimated \$220,000 in costs incurred by the agency in FY1997-98 to implement charter schools.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: James D. Johnson

APPROVED BY: Tom Covington

DATE: May 19, 1997



¹ Summary provided by General Research Division of the N.C. General Assembly.

CHARTER SCHOOLS: SB 297 COMPARISONS

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
ORGANIZATION	All charter schools are operated by private, nonprofit corporations.	Charter schools that wish to remain independent may opt to be operated by private, nonprofit corporations.	Same as current law.
STATE RETIREMENT ELIGIBILITY	In order for its employees to be eligible for participation in State Retirement System, the charter school application must include a statement as to whether the school agrees to be subject to some supervision and control of its administrative operations by the local board of the school unit where the school is located. The Board of Trustees of the Retirement System and the State Board must determine the degree of supervision and control that is necessary to qualify the employees as members or participants of the State Retirement System.	Otherwise, charter schools that wish their employees to be covered in the State Retirement System must state in their application that they agree to be operated by a board of directors whose members are approved by the State Board.	Same as current law. Directs the Board of Trustees of the State Retirement System to request a ruling from the IRS. Since a charter school is operated by a private, nonprofit corporation, the ruling would determine whether charter school employees can participate in the State Retirement System without jeopardizing the System's status as a governmental plan. The request is subject to prior approval of the Speaker and President Pro Tempore or their designees. Receipt of a favorable IRS ruling will allow the employees to participate in the System. If the ruling is

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
			unfavorable, then charter school teachers who are on a leave of absence from a public school may make contributions to the State Retirement System for up to six years as if they are on an educational leave.
CHARTER SCHOOL OPTION TO BE OPERATED BY A BOARD OF DIRECTORS WHOSE MEMBERS ARE APPROVED BY THE STATE BOARD OF EDUCATION IN ORDER TO OBTAIN STATUS AS A PUBLIC EMPLOYER FOR PURPOSE OF PARTICIPATION IN STATE RETIREMENT SYSTEM	N/A	In the case of a board of directors whose members are approved by the State Board, there can be no more than 25 members. The terms for the initial members can be no longer than the term of the charter that the State Board grants (i.e., no more than 5 years); subsequent members' terms can be no more than 5 years. No member may serve more than two full terms. Appointments, including those to fill vacancies, shall be recommended by the current board of directors and approved by the State Board.	N/A

	CURRENT LAW	SB 297- 4 TH Ed. SENATE	SB 297 - 7 TH Ed. HOUSE
BOARD OF DIRECTORS APPROVED BY STATE BOARD OF EDUCATION (CONTINUED)		<p>Nonrenewal of a charter operated by this board of directors shall constitute a termination of that body.</p> <p>Enumerates specific powers of the board of directors whose members are approved by the State Board. These include the power to rent, purchase, acquire, and mortgage property; to establish, construct, purchase, maintain, and operate necessary structures or facilities; to apply for and accept loans and grants; to execute financing agreements; to employ or appoint officers, employees and agents; to receive and use State and local allocations; and to pay pensions and establish pension or other benefit plans. Specifies that powers do not include eminent domain,</p>	

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
BOARD OF DIRECTORS APPROVED BY STATE BOARD OF EDUCATION (CONTINUED)		authority to levy taxes or issue bonds, or authority to secure any debt with the full faith, credit, or taxing power of the State or any of its subdivisions.	
LEAVE OF ABSENCE FOR PUBLIC SCHOOL TEACHERS WHO MOVE TO CHARTER SCHOOLS	Public school teachers who want to work in a charter school can be given a leave of absence from their local board. The board can require the teacher to provide up to 90 days before the teacher would otherwise report for duty.	Board can require no more than 45 days notice if teacher wants to work in a charter school during its first year of operation.	Same as Senate.
EDUCATIONAL LEAVE OF ABSENCE FOR TEACHERS FOR PURPOSE OF CONTRIBUTING TO STATE RETIREMENT SYSTEM			Allows teachers who are granted a leave of absence to teach in a charter school to make monthly contributions to the State Retirement System for up to six years as if they are on an approved educational leave.
INSURANCE	Charter schools must obtain insurance as required in their contract.	Directs State Board to adopt rules to establish reasonable amounts and types of insurance that either type of operator must obtain.	Same as Senate.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
IMMUNITY FROM LIABILITY	Charter schools subject to some control and supervision are immune from liability to the extent of indemnification. Independent charter schools are not immune from liability.	Charter schools are not State agencies for purpose of sovereign immunity. State will not defend any civil or criminal action brought against school, directors, or employees.	Same as current law.
LOCAL BOARD INPUT DURING APPLICATION PROCESS	State Board policy requires applicants to include an "impact statement" from the local board as part of their applications.	As part of the application process, the local board of the local school administrative unit in which the charter school is proposed to be located may provide an impact statement, but the applicant cannot be required to provide it.	Same as Senate.
CRIMINAL RECORD CHECKS	No criminal record checks or fingerprinting.	Directs the State Board to adopt a uniform policy on whether and under what circumstances it will require operators, employees, and independent contractors of charter schools who have significant access to students or who have responsibility for the fiscal management of the schools to be subject to a criminal history check.	Same as Senate.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
CRIMINAL RECORD CHECKS (CONTINUED)		<p>The criminal history check must occur after preliminary approval is given. The check is to be done for purposes of deciding whether to grant final approval of a charter and for the State Board to make employment recommendations to charter schools. If the State Board recommends dismissal or nonemployment of a person, then the charter school shall dismiss or refuse to employ that person.</p> <p>Funds allocated or to be allocated to the charter school may be used to reimburse for criminal record checks and fingerprinting.</p>	<p>Same as Senate.</p> <p>The Board cannot require any of these persons to pay for the criminal history check or to be fingerprinted.</p>

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
LENGTH OF CHARTERS	Allows Board to grant initial charters and renew charters for periods up to five years.	Same as current law.	Authorizes the State Board to grant initial charters for periods up to 10 years, which can be renewed every five years thereafter. If the Board grants an initial charter for more than five years, the Board must review the school's status five years after it grants the initial charter.
CHARTER SCHOOL ACCOUNTABILITY	Schools are accountable to local board for purposes of compliance with charter and laws.	Current law, except charter schools denied preliminary approval by local board are accountable to State Board.	Schools are accountable to their chartering entity, or to the State Board if chartering entity denied preliminary approval.
CHARTER SCHOOL CONTRACT	State Board may sign on behalf of the local board the contract under which the school is to be operated.	Eliminates provision allowing State Board to sign the contract with the charter school on behalf of local board.	Same as Senate.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
ENROLLMENT GROWTH	Application, which is incorporated into charter, must state enrollment number. Material changes to the charter require prior State Board approval.	Same as current law.	Directs the State Board to adopt a policy to enable charter schools, without requiring the Board's prior approval, to increase the number of students to be served in years after the first year of a charter school's operation. In accordance with this policy, State Board must allow for adjustments in allocations to charter schools based on their enrollment growth after the first year of operation.
LEASING AVAILABLE BUILDINGS AND LAND FOR CHARTER SCHOOLS	Local boards are not required to lease any space to charter schools.	Requires local boards to lease any available building or land to a charter school, upon its request, unless they demonstrate that the lease is not economically or practically feasible or that they do not have adequate classroom space to meet their enrollment needs.	Same as Senate.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7th Ed. HOUSE
LEASING AVAILABLE BUILDINGS AND LAND FOR CHARTER SCHOOLS (CONTINUED)			<p>In the event of a public school conversion, the local board is directed to lease the facilities currently used by that school unless the board demonstrates that the lease is not economically or practically feasible or that it does not have adequate classroom space to meet its enrollment needs.</p> <p>Allows local boards to provide school facility to charter school free of charge; school must maintain and insure facility.</p>
LEASING FROM SECTARIAN ORGANIZATIONS	Charter schools may lease from local boards, private nonsectarian organizations, or as is otherwise lawful in the local school administrative unit.	Same as current law.	Removes the prohibition on leasing space from sectarian organizations.
TUITION AND FEES	Charter schools cannot charge tuition.	Adds prohibition on charging fees.	Same as Senate.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
TUITION AND FEES (CONTINUED)	Local board where school is located may require parents to pay tuition when student lives in a different school unit. Both local boards must agree annually to student's attendance at charter school.	Repeals current law.	Same as Senate.
NUMBER OF CHARTER SCHOOLS	State Board may approve up to 5 charter schools per school unit per year, with a total of 100 in the State.	Same as current law.	Same as current law. In addition, the State Board may authorize an unlimited number of charter schools that primarily serve students with special needs, students who are at risk of academic failure, or drop outs, so long as at least 75% of the projected and actual student enrollment is comprised of these students.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
ENROLLMENT ISSUES: PRIORITY AND LOTTERY	Anticipated enrollment must be stated in application. If applications for enrollment exceed number of available spaces, then a lottery must be held. Admission preference not permitted, other than public school that converts to charter school must give preference to students who live in the school's former attendance area.	Same as current law.	So long as their combined enrollment is no more than 50% of the total enrollment, enrollment priority may be given to (i) siblings of students currently enrolled in the charter school; (ii) children of employees, members of the board of directors, and applicants; and (iii) former students of a private school during its first year of operation as a charter school. Once enrolled, students are not required to reapply in subsequent enrollment periods.
TRANSPORTATION	Charter schools receive the State funds for transportation for each student and must provide transportation for students who reside in the local school administrative unit in which the school is located. (Local boards are not required to provide transportation for students	Charter schools receive State funds for transportation for each student. Charter school must develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The school is not be required to	Charter schools receive State funds for transportation for each student and may provide transportation. The charter school must develop a transportation plan so that transportation is not a barrier to any student who lives in the local school unit where the school is located. The

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
TRANSPORTATION (CONTINUED)	<p>who live within 1-1/2 miles of the public school to which they are assigned.)</p> <p>Encourages local board to contract with schools to provide student transportation.</p>	<p>provide transportation to any student who lives within 1-1/2 miles of the school.</p> <p>Local board where the charter school is located may contract with the school, upon the school's request, to provide transportation for students who live at least 1-1/2 miles of the school in that school unit. The board may refuse if there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible. The board may charge a reasonable charge.</p>	<p>school is not required to provide transportation to any student who lives within 1-1/2 miles of the school.</p> <p>Same as current law.</p>
CHARTER SCHOOL'S ASSETS	<p>All assets are to become property of the local school unit where the school is located upon the dissolution of the school or upon the nonrenewal of the charter.</p>	<p>Requires the charter school's <u>net assets</u> to become the property of the local school administrative unit under those circumstances.</p>	<p>Requires the charter school's <u>net assets purchased with public funds</u> to become the property of the local school administrative unit under those circumstances.</p>

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
SPECIAL NEEDS ALLOCATION	State Board must allocate to a charter school an amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments where the school is located PLUS an additional amount for each child with special needs. If a child, with or without special needs, enrolls in a charter school, and then withdraws and enrolls in a public school, the funds allocated will remain with the charter school.	Same as current law.	Directs charter schools to return the additional amount of State funds allocated for any child with special needs who returns to the public schools within the first 60 school days of the school year.
GRIEVANCE PROCEDURE	State Board must develop and implement a process to resolve grievances between a charter school and its chartering entity.	Process also must address grievances between the school and the local board and between the school and the State Board.	Same as current law.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
USE OF STATE FUNDS	State funds cannot be used “to purchase land or buildings”. “Purchase” means any acquisition of property, which includes leasing. School may own land and buildings obtained through non-State sources.	Allow funds allocated by the State Board to be used to enter into <u>operational leases</u> for real property or mobile classroom units for use as school facilities for charter schools. Using State funds to obtain any other interest in real property will still be prohibited.	Allow funds allocated by the State Board to be used to enter into <u>leases</u> (operational and financing leases) for real property or mobile classroom units for use as school facilities for charter schools <u>and for payments on loans</u> to the charter school for facilities or equipment. Using State funds to obtain any other interest in real property will still be prohibited. Specifically provides that indebtedness of the charter school is not an indebtedness of the State or its political subdivisions and does not involve or is not secured by the faith, credit, or taxing power of the State.
TIMELINES FOR APPLICATIONS, ETC.	Statutory timelines for submission of applications, preliminary approvals, appeals, and final approvals.	Allows State Board to set alternative timelines so long as final approval of charters is made by March 15 each year.	Same as current law.

	CURRENT LAW	SB 297- 4TH Ed. SENATE	SB 297 - 7TH Ed. HOUSE
RULEMAKING	Law governing rulemaking applies to State Board.	Allows the Board to use a streamlined procedure for adopting rules directly related to the implementation of this legislation. The Board may publish the text of any proposed rule as the first step of the rulemaking procedure, and a rule may take effect without waiting for submission to the General Assembly.	Same as current law.

SB 297 Conferees' Comparisons - R. Johnson 7/7/97

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION

July 22, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Aileen W. Ford	FCDC & Retired
Melissa Kay	Office of the Governor
Glenn A. News	Public Sch. Forum of NC
Jan Cratts	NCASH (re. Assoc. of School Adm.)
John Rustin	NCFPC
Joyce Rodus	EERBE
Sarah Gabe	Gov.'s Office
Downy Hunt	NCCCS
Hal Miller	DEACCT
Marv Monte	Poyner & Smith

MINUTES

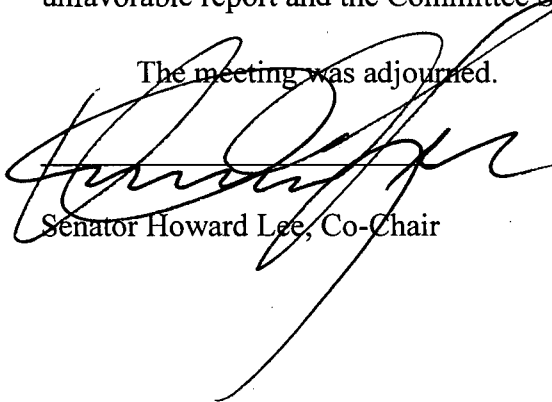
EDUCATION/HIGHER EDUCATION COMMITTEE MEETING

AUGUST 7, 1997

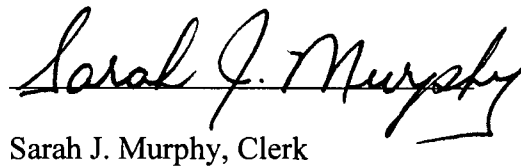
The Senate Committee on Education/Higher Education met at Senator Lee's desk in the Senate Chambers immediately after session at 10:55 a.m., August 7, 1997. Twelve members were present.

Senator Lee offered a Senate Committee Substitute for HB 87, Centennial Campus/Umstead Act Exemption. The title of the Senate Committee Substitute changed to *An Act to Exempt the Centennial Campus of North Carolina State University at Raleigh from The Umstead Act, which Prohibits State Government from Engaging in the Sale of Goods in Competition with Citizens of the State*. Senator Lee explained the Committee Substitute and by motion of Senator Hoyle the original bill was given an unfavorable report and the Committee Substitute was given a favorable report.

The meeting was adjourned.



Senator Howard Lee, Co-Chair



Sarah J. Murphy, Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Senator Howard Lee, Co-Chair
Senator Leslie Winner, Co-Chair

Monday, August 11, 1997

SENATOR LEE,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.	87	At-Risk Students Task Force.	
		Draft Number:	PCS6311
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

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HOUSE BILL 87
Second Edition Engrossed 3/10/97

Short Title: At-Risk Students Task Force.

(Public)

Sponsors: Representatives Preston, Grady, Black, McMahan, Rogers; Aldridge, Culp, Dockham, Moore, Morris, Mosley, Shubert, Smith, Warner, Watson, and Yongue.

Referred to: Education.

February 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT VARIOUS STATE OFFICERS AND OTHERS TO
3 DEVELOP A PLAN TO ESTABLISH LOCAL INTERAGENCY AGREEMENTS
4 TO ADDRESS THE NEEDS OF AT-RISK STUDENTS.
5 The General Assembly of North Carolina enacts:
6 Section 1. (a) There is created the At-Risk Students Task Force under
7 the State Board of Education. The Task Force shall consist of the Chair of the State
8 Board of Education, the Superintendent of Public Instruction, the Secretary of
9 Human Resources, the State Health Director, the Director of the Administrative
10 Office of the Courts, and a teacher who works with students who are at risk. Each
11 officer may designate one representative from that officer's department or office to
12 represent that officer on the Task Force. These officers also may appoint additional
13 members who represent other State and local public agencies to the Task Force. The
14 Chair of the State Board of Education, or the Chair's designee, shall serve as the
15 Chair of the Task Force. The Department of Public Instruction and the Department
16 of Human Resources shall provide staff and clerical support to the Task Force. The
17 State Board of Education shall fund the Task Force within funds available to it.
18 (b) The Task Force shall develop a plan to develop interagency
19 agreements between local school administrative units and other local public agencies,
20 including, among others, health departments, departments of social services, mental

1 health agencies, and courts, in order to provide cooperative services to students who
2 are at risk of school failure, at risk of participation in juvenile crime, or both.

3 (c) The Task Force shall report its plan, along with any suggested
4 statutory revisions, to the Joint Legislative Education Oversight Committee by
5 October 15, 1997, at which time the Task Force shall terminate.

6 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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3

HOUSE BILL 87

Second Edition Engrossed 3/10/97

Senate Education/Higher Education Committee Substitute Adopted 8/11/97

Short Title: Centennial Campus/Umstead Act Exemption.

(Public)

Sponsors:

Referred to:

February 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT THE CENTENNIAL CAMPUS OF NORTH CAROLINA
3 STATE UNIVERSITY AT RALEIGH FROM THE UMSTEAD ACT, WHICH
4 PROHIBITS STATE GOVERNMENT FROM ENGAGING IN THE SALE OF
5 GOODS IN COMPETITION WITH CITIZENS OF THE STATE.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 66-58(b)(8) reads as rewritten:
8 "(8) The Greater University of North Carolina with regard to its
9 utilities and other services now operated by it nor to the sale of
10 articles produced incident to the operation of instructional
11 departments, articles incident to educational research, articles of
12 merchandise incident to classroom work, meals, books, or to
13 articles of merchandise not exceeding twenty-five cents (25¢) in
14 value when sold to members of the educational staff or staff
15 auxiliary to education or to duly enrolled students or occasionally
16 to immediate members of the families of members of the
17 educational staff or of duly enrolled students nor to the sale of
18 meals or merchandise to persons attending meetings or conventions
19 as invited guests nor to the operation by the University of North
20 Carolina of an inn or hotel and dining and other facilities usually
21 connected with a hotel or inn, nor to the hospital and Medical
22 School of the University of North Carolina, nor to the Coliseum of
23 North Carolina State ~~College~~, University at Raleigh, nor to the

1 Centennial Campus of North Carolina State University at Raleigh,
2 and the other schools and colleges for higher education maintained
3 or supported by the State, nor to the comprehensive student health
4 services or the comprehensive student infirmaries maintained by
5 the constituent institutions of the University of North Carolina."

6 Section 2. This act is effective when it becomes law.