

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1739

Short Title: Retirement/Charter Schs.

(Public)

Sponsors: Representatives Daughtry; Cansler, Davis, Sexton, Sherrill, and Shubert.

Referred to: Education, if favorable, Pensions and Retirement.

June 1, 1998

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE
3 NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM, IN THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES'
5 COMPREHENSIVE MAJOR MEDICAL PLAN, OR BOTH, TO GIVE CHARTER
6 SCHOOLS THE SAME MOTOR FUEL TAX EXEMPTION AS PUBLIC
7 SCHOOLS, TO ALLOW CHARTER SCHOOLS TO OBTAIN THE SAME
8 PERMANENT LICENSE PLATES AS PUBLIC SCHOOLS, TO MAKE CHANGES
9 IN THE CHARTER SCHOOL LAW, AND TO REQUIRE RULES GOVERNING
10 CHARTER SCHOOLS TO BE SUBJECT TO REVIEW.

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 115C-238.29B(b) is amended by adding the following new
13 subdivision to read:

14 "(15) A statement as to whether the school will elect to join the North
15 Carolina Teachers' and State Employees' Retirement System under G.S.
16 138-5.3, the Teachers' and State Employees' Comprehensive Major
17 Medical Plan under G.S. 40.3A, or both."

18 Section 2. G.S. 115C-238.29F(e)(4) reads as rewritten:

19 "(4) The employees of the charter school shall be deemed employees of the
20 local school administrative unit for purposes of providing certain State-

1 funded employee benefits, including membership in the Teachers' and
2 State Employees' Retirement System and the Teachers' and State
3 Employees' Comprehensive Major Medical Plan. The State Board of
4 Education provides funds to charter schools, approves the original
5 members of the boards of directors of the charter schools, has the
6 authority to grant, supervise, and revoke charters, and demands full
7 accountability from charter schools for school finances and student
8 performance. Accordingly, it is the determination of the General
9 Assembly that charter schools are public schools and that the employees
10 of charter schools are public school ~~employees and are 'teachers' for~~
11 ~~purposes of membership in the North Carolina Teachers' and State Employees'~~
12 ~~Retirement System and State Employees' Comprehensive Major Medical~~
13 ~~Plan.~~ employees. Employees of a charter school whose board of
14 directors elects to join under G.S. 138-5.3 are 'teachers' for the purpose
15 of membership in the North Carolina Teachers' and State Employees'
16 Retirement System. Employees of a charter school whose board of
17 directors elects to join under G.S. 135-40.3A are 'teachers' for the
18 purpose of membership in the North Carolina Teachers' and State
19 Employees' Comprehensive Major Medical Plan. In no event shall
20 anything contained in this Part require the North Carolina Teachers' and
21 State Employees' Retirement System to accept employees of a private
22 employer as members or participants of the System."

23 Section 3. Article 1 of Chapter 135 of the General Statutes is amended by
24 adding the following new section:

25 **"§ 135-5.3. Optional participation for charter schools.**

26 (a) The board of directors of each charter school shall elect to join the Retirement
27 System in accordance with the laws applicable to that System. This election shall be in
28 writing, shall be made no later than September 1, 1998, and shall be filed with the
29 Retirement System and with the State Board of Education. This election is effective as of
30 the date the board makes the election for each charter school employee who is employed
31 on or before the date the board makes the election. The election is effective as of the date
32 of entry into eligible service for each charter school employee who is employed after the
33 date the board makes the election. This subsection applies only to charter schools that
34 received State Board of Education approval under G.S. 115C-238.29D in 1997 or 1998.

35 (b) No later than 30 days after both parties have signed the written charter under
36 G.S. 115C-238.29E, the board of directors of a charter school shall elect to join the
37 Retirement System in accordance with the laws applicable to that System. This election
38 shall be in writing and filed with the Retirement System and with the State Board of
39 Education and is effective for each charter school employee as of the date of entry into
40 eligible service. This subsection applies to charter schools that receive State Board of
41 Education approval under G.S. 115C-238.29D after 1998.

42 (c) A board's election to join the Retirement System under this section is
43 irrevocable and shall require all employees of the charter school to participate.

1 (d) No retirement benefit, death benefit, or other benefit under the Retirement
2 System shall be paid by the State of North Carolina or the Board of Trustees of the
3 Teachers' and State Employees' Retirement System with respect to any employee of a
4 charter school whose board of directors does not elect to join the Retirement System
5 under this section or with respect to any beneficiary of that employee.

6 (e) The board of directors of each charter school shall notify each of its employees
7 as to whether the board elected to join the Retirement System under this section. This
8 notification shall be in writing and shall be provided within 30 days of the board's
9 election or at the time an initial offer for employment is made, whichever occurs last. If
10 the board did not elect to join the Retirement System, the notice shall include a statement
11 that the employee shall have no legal recourse against the board or the State for any
12 possible credit or reimbursement under the Retirement System. The employee shall
13 provide written acknowledgment of the employee's receipt of the notification under this
14 subsection."

15 Section 4. G.S. 135-4 is amended by adding the following new subsection to
16 read:

17 "(bb) Credit for Employment in Charter School. – Notwithstanding any other
18 provision of this Chapter, any member in service with five or more years of credited
19 membership service may purchase creditable service for periods of employment in a
20 charter school whose board of directors did not elect to participate in the Retirement
21 System under G.S. 135-5.3. The member shall purchase this service by making a lump-
22 sum payment together with interest and an administrative fee for that service, to the
23 Retirement System of an amount equal to what the member would have contributed had
24 the board of directors of the charter school elected under G.S. 135-5.3 to participate in the
25 Retirement System."

26 Section 5. G.S. 135-40.1(6) reads as rewritten:

27 "(6) Employing Unit. – A North Carolina School System; Community
28 College; State Department, Agency or Institution; Administrative Office
29 of the Courts; or Association or Examining Board whose employees are
30 eligible for membership in a State-Supported Retirement System. An
31 employing unit also shall mean a charter school in accordance with Part
32 6A of Chapter 115C of the General Statutes ~~whose employees are deemed~~
33 ~~to be public employees and members of a State-Supported Retirement~~
34 ~~System whose board of directors elects to join the Plan under G.S. 135-~~
35 ~~40.3A."~~

36 Section 6. Part 3 of Article 3 of Chapter 135 is amended by adding the
37 following new section:

38 "**§ 135-40.3A. Optional participation for charter schools.**

39 (a) The board of directors of each charter school shall elect to join the Plan in
40 accordance with the laws applicable to that Plan. This election shall be in writing, shall
41 be made no later than September 1, 1998, and shall be filed with the Executive
42 Administrator and Board of Trustees and with the State Board of Education. This
43 election is effective as of the date the board makes the election for each charter school

1 employee who is employed on or before the date the board makes the election. The
2 election is effective as of the date of entry into eligible service for each charter school
3 employee who is employed after the date the board makes the election. This subsection
4 applies only to charter schools that received State Board of Education approval under
5 G.S. 115C-238.29D in 1997 or 1998.

6 (b) No later than 30 days after both parties have signed the written charter under
7 G.S. 115C-238.29E, the board of directors of a charter school shall elect to join the Plan
8 in accordance with the laws applicable to that Plan. This election shall be in writing and
9 filed with the Executive Administrator and Board of Trustees and with the State Board of
10 Education and is effective for each charter school employee as of the date of entry into
11 eligible service. This subsection applies to charter schools that receive State Board of
12 Education approval under G.S. 115C-238.29D after 1998.

13 (c) A board's election to join the Plan under this section is irrevocable and shall
14 require all employees of the charter school to participate.

15 (d) If a charter school's board of directors does not elect to join the Plan under this
16 section, that school's employees and the dependents of those employees are not eligible
17 for any benefits under the Plan.

18 (e) The board of directors of each charter school shall notify each of its employees
19 as to whether the board elected to join the Plan under this section. This notification shall
20 be in writing and shall be provided within 30 days of the board's election or at the time an
21 initial offer for employment is made, whichever occurs last. If the board did not elect to
22 join the Plan, the notice shall include a statement that the employee shall have no legal
23 recourse against the board or the State for any possible benefit under the Plan. The
24 employee shall provide written acknowledgment of the employee's receipt of the
25 notification under this subsection."

26 Section 7. G.S. 105-228.90(b) reads as rewritten:

27 "(b) Definitions. – The following definitions apply in this Article:

28 (1) Reserved.

29 (2) Charter school board. – A nonprofit corporation that has a charter under
30 G.S. 115D-238.29D to operate a charter school.

31 ~~(3)~~(3) City. – A city as defined by G.S. 160A-1(2). The term also includes an
32 urban service district defined by the governing board of a consolidated
33 city-county, as defined by G.S. 160B-2(1).

34 ~~(4a)~~(4) Code. – The Internal Revenue Code as enacted as of January 1, 1997,
35 including any provisions enacted as of that date which become effective
36 either before or after that date.

37 ~~(4b)~~(5) County. – Any one of the counties listed in G.S. 153A-10. The term also
38 includes a consolidated city-county as defined by G.S. 160B-2(1).

39 ~~(6)~~(6) Reserved.

40 ~~(7)~~(7) Electronic Funds Transfer. – A transfer of funds initiated by using an
41 electronic terminal, a telephone, a computer, or magnetic tape to instruct
42 or authorize a financial institution or its agent to credit or debit an
43 account.

1 ~~(4)~~(8) Reserved.

2 ~~(5)~~(9) Person. – An individual, a fiduciary, a firm, an association, a
3 partnership, a limited liability company, a corporation, a unit of
4 government, or another group acting as a unit. The term includes an
5 officer or employee of a corporation, a member, a manager, or an
6 employee of a limited liability company, and a member or employee of
7 a partnership who, as officer, employee, member, or manager, is under a
8 duty to perform an act in meeting the requirements of Subchapter I, V,
9 or VIII of this Chapter or of Article 3 of Chapter 119 of the General
10 Statutes.

11 ~~(6)~~(10) Secretary. – The Secretary of Revenue.

12 ~~(7)~~(11) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter or an
13 inspection tax levied under Article 3 of Chapter 119 of the General
14 Statutes. Unless the context clearly requires otherwise, the terms
15 "tax" and "additional tax" include penalties and interest as well as the
16 principal amount.

17 ~~(8)~~(12) Taxpayer. – A person subject to the tax or reporting requirements of
18 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of
19 the General Statutes."

20 Section 8. G.S. 105-449.88 reads as rewritten:

21 **"§ 105-449.88. Exemptions from the excise tax.**

22 The excise tax on motor fuel does not apply to the following:

23 (1) Motor fuel removed, by transport truck or another means of transfer
24 outside the terminal transfer system, from a terminal for export, if the
25 supplier of the motor fuel collects tax on it at the rate of the motor fuel's
26 destination state.

27 (2) Motor fuel sold to the federal government.

28 (3) Motor fuel sold to the State for its use.

29 (4) Motor fuel sold to a local board of education for use in the public school
30 system.

31 (5) Motor fuel sold to a charter school board for use for charter school
32 purposes."

33 Section 9. G.S. 20-84 reads as rewritten:

34 **"§ 20-84. Vehicles owned by State, municipalities or orphanages, etc.; certain**
35 **vehicles operated by the local chapters of American National Red Cross.**

36 The Division upon proper proof being filed with it that any motor vehicle for which
37 registration is herein required is owned by the State or any department thereof, or by any
38 county, township, city or town, or by any board of education, or by any nonprofit
39 corporation that has a charter under G.S. 115C-238.29D to operate a charter school, or by
40 any orphanage or civil air patrol, or incorporated emergency rescue squad, or
41 incorporated REACT ("Radio Emergency Association of Citizen Teams") Team, or for
42 any motor vehicle involved exclusively in the support of a disaster relief effort, shall
43 collect six dollars (\$6.00) for the registration of such motor vehicles, but shall not collect

1 any fee for application for certificate of title in the name of the State or any department
2 thereof, or by any county, township, city or town, or by any board of education or
3 orphanage: Provided, that the term "owned" shall be construed to mean that such motor
4 vehicle is the actual property of the State or some department thereof or of the county,
5 township, city or town, or of the board of education, and no motor vehicle which is the
6 property of any officer or employee of any department named herein shall be construed
7 as being "owned" by such department. Provided, that the above exemptions from
8 registration fees shall also apply to any church-owned bus used exclusively for
9 transporting children and parents to Sunday school and church services and for no other
10 purpose.

11 In lieu of the annual six dollars (\$6.00) registration provided for in this section, the
12 Division may for the license year 1950 and thereafter provide for a permanent
13 registration of the vehicles described in this section and issue permanent registration
14 plates for such vehicles. The permanent registration plates issued pursuant to this
15 paragraph shall be of a distinctive color and shall bear thereon the word "permanent."
16 Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the
17 same classification. For the permanent registration and issuance of permanent registration
18 plates provided for in this paragraph, the Division shall collect a fee of six dollars (\$6.00)
19 for each vehicle so registered and licensed.

20 The provisions of this section are hereby made applicable to vehicles owned by a rural
21 fire department, agency or association.

22 The Division of Motor Vehicles shall issue to the North Carolina Tuberculosis
23 Association, Incorporated, or any local chapter or association of said corporation, for a
24 fee of six dollars (\$6.00) for each plate a permanent registration plate which need not be
25 thereafter renewed for each motor vehicle in the form of a mobile X-ray unit which is
26 owned by said North Carolina Tuberculosis Association, Incorporated, or any local
27 chapter or local association thereof and operated exclusively in this State for the purpose
28 of diagnosis, treatment and discovery of tuberculosis. The initial six dollars (\$6.00) fee
29 required by this section and for this purpose shall be in full payment of the permanent
30 registration plates issued for such vehicle operated as a mobile X-ray unit, and such
31 plates need not thereafter be renewed, and such plates may be transferred as provided in
32 G.S. 20-78 to replacement vehicles to be used for the purposes above described and for
33 which the plates were originally issued.

34 The Division of Motor Vehicles shall issue to the American National Red Cross, upon
35 application of any local chapter thereof and payment of a fee of six dollars (\$6.00) for
36 each plate, a permanent registration plate, which need not be thereafter renewed, for all
37 disaster vans, bloodmobiles, handivans, and such sedans and station wagons as are used
38 for emergency or disaster work, and operated by a local chapter in this State in the
39 business of the American National Red Cross. Such plates may be transferred as provided
40 in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and
41 for which the plates were originally issued. In the event of transfer of ownership to any
42 other person, firm or corporation, or transfer or reassignment of any vehicle bearing such
43 registration plate to any chapter or association of the American National Red Cross in any

1 other state, territory or country, the registration plate assigned to such vehicle shall be
2 surrendered to the Division of Motor Vehicles.

3 In lieu of all other registration requirements, the Commissioner shall each year assign
4 to the State Highway Patrol, upon payment of six dollars (\$6.00) per registration plate, a
5 sufficient number of regular registration plates of the same letter prefix and in numerical
6 sequence beginning with number 100 to meet the requirements of the State Highway
7 Patrol for use on Division vehicles assigned to the State Highway Patrol. The commander
8 of the Patrol shall, when such plates are assigned, issue to each member of the State
9 Highway Patrol a registration plate for use upon the Division vehicle assigned to him
10 pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle
11 operated by the Patrol. An index of such assignments of registration plates shall be kept
12 at each State Highway Patrol radio station and a copy thereof shall be furnished to the
13 registration division of the Division. Information as to the individual assignments of such
14 registration plates shall be made available to the public upon request to the same extent
15 and in the same manner as regular registration information. The commander, when
16 necessary, may reassign registration plates provided that such reassignment shall be made
17 to appear upon the index required herein within 20 days after such reassignment.

18 The Division of Motor Vehicles shall, upon appropriate certification of financial
19 responsibility, issue to sheltered workshops recognized or approved by the Division of
20 Vocational Rehabilitation Services and to public and nonprofit agencies or organizations
21 which provide transportation for or operate programs subject to and approved in
22 accordance with standards adopted by the Commission for Mental Health,
23 Developmental Disabilities, and Substance Abuse Services of the Department of Health
24 and Human Services upon application and payment of a fee of six dollars (\$6.00) for each
25 plate, a permanent registration plate for vehicles registered to and operated by such
26 agencies. The initial six dollars (\$6.00) fee required by this section and for this purpose
27 shall be in full payment of the permanent registration plate issued for such vehicle
28 operated by a sheltered workshop and such plates need not thereafter be renewed, and
29 such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be
30 used by the sheltered workshop designated on the registration card.

31 On and after January 1, 1972, permanent registration plates used on all vehicles
32 owned by the State of North Carolina or a department thereof shall be of a distinctive
33 color and design which shall be readily distinguishable from all other permanent
34 registration plates issued pursuant to this section or G.S. 20-84.1. For the purpose of
35 carrying out the intent of this paragraph, all vehicles owned by the State of North
36 Carolina or a department thereof in operation as of October 1, 1971, and bearing a
37 permanent registration shall be reregistered during the months of October, November and
38 December, 1971, and upon reregistration, registration plates issued for such vehicles shall
39 be of a distinctive color and design as provided for hereinabove."

40 Section 10. G.S. 115C-238.29B(d) is repealed.

41 Section 11. G.S. 115C-238.29D(b) is repealed.

42 Section 12. G.S. 115C-238.29F(b) reads as rewritten:

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 charge
3 ~~tuition or~~ tuition, application fees, or admission fees. A charter school shall not be
4 affiliated with a nonpublic sectarian school or a religious institution."

5 Section 13. G.S. 115C-238.29G(c) reads as rewritten:

6 "(c) The State Board and the charter school are encouraged to make a good-faith
7 attempt to resolve the differences that may arise between them. ~~They~~ Furthermore, the
8 local board of the local school administrative unit in which the charter school is located
9 and the charter school are encouraged to make a good-faith attempt to resolve any
10 differences that may arise between them. The parties in dispute may agree to jointly
11 select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual
12 information, statements of positions and contentions, and efforts to negotiate an
13 agreement settling the differences. The mediator shall, at the request of either ~~the State~~
14 ~~Board or a charter school,~~ party, commence a mediation immediately or within a reasonable
15 period of time. The mediation shall be held in accordance with rules and standards of
16 conduct adopted under Chapter 7A of the General Statutes governing mediated settlement
17 conferences but modified as appropriate and suitable to the resolution of the particular
18 issues in disagreement.

19 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation
20 proceedings shall be conducted in private. Evidence of statements made and conduct
21 occurring in a mediation are not subject to discovery and are inadmissible in any court
22 action. However, no evidence otherwise discoverable is inadmissible merely because it is
23 presented or discussed in a mediation. The mediator shall not be compelled to testify or
24 produce evidence concerning statements made and conduct occurring in a mediation in
25 any civil proceeding for any purpose, except disciplinary hearings before the State Bar or
26 any agency established to enforce standards of conduct for mediators. The mediator may
27 determine that an impasse exists and discontinue the mediation at any time. The mediator
28 shall not make any recommendations or public statement of findings or conclusions. The
29 ~~State Board and the charter school parties in dispute~~ shall share equally the mediator's
30 compensation and expenses. The mediator's compensation shall be determined according
31 to rules adopted under Chapter 7A of the General Statutes."

32 Section 14. G.S. 115C-238.29H(b) reads as rewritten:

33 "(b) If a student attends a charter school, ~~the local school administrative unit board of~~
34 county commissioners of the county in which the child resides shall transfer allocate
35 to the charter school an amount equal to the per pupil local current expense appropriation to
36 the local school administrative unit in which the child resides for the fiscal year. The per
37 pupil local current expense appropriation shall be calculated by dividing the total county
38 appropriation to the local school administrative unit's local current expense fund,
39 including appropriations funded by supplemental taxes, by the unit's average daily
40 membership for the budget year to be determined by and certified to the unit and the
41 board of county commissioners by the State Board."

42 Section 15. G.S. 115C-234.29H is amended by adding the following new
43 subsection:

1 "(c) The board of county commissioners of the county in which the charter school
2 is located may allocate to the charter school funds that may be used for capital outlay
3 purposes."

4 Section 16. G.S. 115C-452 reads as rewritten:

5 **"§ 115C-452. Fines and forfeitures.**

6 The clear proceeds of all penalties and forfeitures and of all fines collected in the
7 General Court of Justice in each county shall be remitted by the clerk of the superior
8 court to the county finance officer, who shall forthwith determine what portion of the
9 total is due to each local school administrative unit and to each charter school in the
10 county and remit the appropriate portion of the amount to the finance officer of each local
11 school administrative unit—unit and each charter school. Fines and forfeitures shall be
12 apportioned according to the projected average daily membership of each local school
13 administrative unit and each charter school as determined by and certified to the local
14 school administrative ~~units—~~units, the charter schools, and the board of county
15 commissioners by the State Board of Education pursuant to ~~G.S. 115C-430.~~ G.S. 115C-
16 430 or G.S. 115C-238.29H(b)."

17 Section 17. G.S. 115C-457.3 reads as rewritten:

18 **"§ 115C-457.3. Transfer of funds to the State School Technology Fund.**

19 The Office of State Budget and Management shall transfer funds accruing to the Civil
20 Penalty and Forfeiture Fund to the State School Technology Fund. These funds shall be
21 allocated to local school administrative units and to charter schools on the basis of
22 average daily membership. Notwithstanding any other law, the funds allocated to charter
23 schools under this section shall be used for school technology; however, in accordance
24 with G.S. 115C-238.29E(f), the charter school is not required to develop or submit a
25 school technology plan under Part 3A of Article 8 of this Chapter."

26 Section 18. (a) G.S. 115C-238.29E(c) reads as rewritten:

27 "~~(c) A charter school shall operate under the written charter signed by the entity to~~
28 ~~which it is accountable under subsection (a) of this section and the applicant. A charter~~
29 ~~school is not required to enter into any other contract. The charter shall incorporate the~~
30 ~~information provided in the application, as modified during the charter approval process,~~
31 ~~and any terms and conditions imposed on the charter school by the State Board of~~
32 ~~Education. No other terms may be imposed on the charter school as a condition for~~
33 ~~receipt of local funds.~~ The State Board shall issue the written charter no later than 30
34 days after the date on which the State Board grants final approval for the charter. The
35 written charter shall incorporate the information provided in the application, as modified
36 during the charter approval process, and any terms and conditions applicable to all charter
37 schools under the rules of the State Board. The charter school is not required to agree to
38 any additional terms, whether requested by the State Board, the local board where the
39 charter school is located, or the entity to which the charter school is accountable. No
40 additional terms may be imposed on the charter school as a condition for receipt of local
41 funds. The charter school shall operate under the written charter signed by the entity to
42 which it is accountable and the applicant."

43 (b) G.S. 115C-238.29E(f) reads as rewritten:

1 "(f) Except as provided in this Part and pursuant to the provisions of its charter, a
2 charter school is exempt from statutes and rules applicable to a local board of education
3 or local school administrative unit. The State Board shall not adopt any rules, policies,
4 procedures, requirements, standards, terms, conditions, or regulations governing charter
5 schools unless they are authorized specifically under this Part, they are applicable
6 uniformly to all charter schools, and the Board proceeds under Chapter 150B of the
7 General Statutes. Only those rules, policies, procedures, requirements, standards, terms,
8 conditions, and regulations that are adopted by the Board shall apply to charter schools
9 and may be included in the written charter and amendments to that charter. The Board
10 may adopt guidelines to assist charter schools. These guidelines are not binding on
11 charter schools and shall not be included in any written charter unless the charter school
12 agrees to the inclusion."

13 (c) G.S. 150B-2(8a) reads as rewritten:

14 "(8a) 'Rule' means any agency regulation, standard, or statement of general
15 applicability that implements or interprets an enactment of the General
16 Assembly or Congress or a regulation adopted by a federal agency or
17 that describes the procedure or practice requirements of an agency. The
18 term includes the establishment of a fee and the amendment or repeal of
19 a prior rule. The term also includes any State Board of Education or
20 Department of Public Instruction rule, policy, procedure, requirement,
21 standard, term, condition, or regulation that is authorized specifically
22 under Part 6A of Article 16 of Chapter 115C of the General Statutes.

23 The term does not include the following:

- 24 a. Statements concerning only the internal management of an
25 agency or group of agencies within the same principal office or
26 department enumerated in G.S. 143A-11 or 143B-6, including
27 policies and procedures manuals, if the statement does not
28 directly or substantially affect the procedural or substantive
29 rights or duties of a person not employed by the agency or group
30 of agencies.
- 31 b. Budgets and budget policies and procedures issued by the
32 Director of the Budget, by the head of a department, as defined
33 by G.S. 143A-2 or G.S. 143B-3, by an occupational licensing
34 board, as defined by G.S. 93B-1, or by the State Board of
35 Elections.
- 36 c. Nonbinding interpretative statements within the delegated
37 authority of an agency that merely define, interpret, or explain
38 the meaning of a statute or rule.
- 39 d. A form, the contents or substantive requirements of which are
40 prescribed by rule or statute.
- 41 e. Statements of agency policy made in the context of another
42 proceeding, including:
 - 43 1. Declaratory rulings under G.S. 150B-4.

- 1 2. Orders of establishing or fixing rates or tariffs.
2 f. Requirements, communicated to the public by the use of signs or
3 symbols, concerning the use of public roads, bridges, ferries,
4 buildings, or facilities.
5 g. Statements that set forth criteria or guidelines to be used by the
6 staff of an agency in performing audits, investigations, or
7 inspections; in settling financial disputes or negotiating financial
8 arrangements; or in the defense, prosecution, or settlement of
9 cases.
10 h. Scientific, architectural, or engineering standards, forms, or
11 procedures, including design criteria and construction standards
12 used to construct or maintain highways, bridges, or ferries.
13 i. Job classification standards, job qualifications, and salaries
14 established for positions under the jurisdiction of the State
15 Personnel Commission.
16 j. Establishment of the interest rate that applies to tax assessments
17 under G.S. 105-241.1 and the variable component of the excise
18 tax on motor fuel under G.S. 105-449.80."

19 (d) Article 2A of Chapter 150B of the General Statutes is amended by adding the
20 following new Part:

21 "Part 6. Rules Affecting Charter Schools.

22 **"§ 150B-21.30. Procedures applicable to rules affecting charter schools.**

23 (a) G.S. 150B-21.2(a)(1) shall not apply to proposed rules adopted by the State
24 Board of Education if the proposed rules are authorized specifically under Part 6A of
25 Article 16 of Chapter 115C of the General Statutes.

26 (b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the
27 State Board of Education, is approved by the Rules Review Commission, and is
28 authorized specifically under Part 6A of Article 16 of Chapter 115C of the General
29 Statutes, becomes effective five business days after the Commission delivers the rule to
30 the Codifier of Rules, unless the rule specifies a later effective date. If the State Board of
31 Education specifies a later effective date, the rule becomes effective upon that date. A
32 permanent rule that is adopted by the State Board of Education to implement Part 6A of
33 Article 16 of Chapter 115C of the General Statutes, but is not approved by the Rules
34 Review Commission, shall not become effective.

35 (c) G.S. 150B-21.4(b1) shall not apply to permanent rules the State Board of
36 Education proposes to adopt if those rules are authorized specifically under Part 6A of
37 Article 16 of Chapter 115C of the General Statutes.

38 (d) The rule proposed by the State Board of Education may create, amend, or
39 repeal a rule. The State Board of Education shall indicate in the notice of proposed text
40 that the rule is authorized specifically under Part 6A of Article 16 of Chapter 115C of the
41 General Statutes and that the State Board of Education is proceeding under that authority.

42 **"§ 150B-21.31. Procedures applicable to charters.**

1 The State Board of Education shall submit to the Commission the standard written
2 charter agreement that the State Board of Education approved and issued under Part 6A
3 of Article 16 of Chapter 115C of the General Statutes to charter schools that received
4 State Board approval under G.S. 115C-238.29D in 1997 or 1998. The State Board of
5 Education also shall submit to the Commission any modifications to that written charter
6 agreement that the State Board approves after July 1, 1998, for issuance to charter
7 schools approved in subsequent years. The Commission shall review each portion of the
8 charter and each modification to that charter as if it is a rule and shall follow the
9 procedure established in Part 3 of this Article. The Commission shall determine whether
10 each portion or modification is authorized specifically under Part 6A of Article 16 of
11 Chapter 115C of the General Statutes. The Commission may approve only portions and
12 modifications of the charter that are so authorized. All approved portions and
13 modifications of the charter are binding on the charter school. Each portion or
14 modification of the charter that is not approved is void and shall not apply to any charter
15 school unless the charter school's board of directors agrees to its applicability. The board
16 of directors is not required to agree to any portion or modification of the charter that the
17 Commission does not approve. This section shall not apply to information in a charter
18 school's application, as modified during the approval process, that is incorporated in each
19 charter school's charter agreement."

20 Section 19. (a) The State Board of Education, in collaboration with the Charter
21 School Professional Association, shall evaluate the Uniform Education Reporting System
22 to determine whether this is the best way for charter schools to report information to the
23 State Board or whether there is a mutually functional alternative that could be
24 implemented. The State Board shall report the results of this evaluation and its
25 recommendations, including any proposed legislative changes, to the Joint Legislative
26 Commission on Governmental Operations by December 1, 1998.

27 (b) If, at any time, a majority of charter schools present to the State Board of
28 Education an alternative reporting system that is the functional equivalent of the Uniform
29 Education Reporting System and the alternative system has been benchmarked, the State
30 Board shall consider the adoption of that system for charter schools.

31 Section 20. This act becomes effective July 1, 1998.