

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 529  
HOUSE BILL 493

AN ACT TO AUTHORIZE STATE ASSISTANCE AND INTERVENTION IN LOW  
PERFORMING SCHOOL UNITS.

The General Assembly of North Carolina enacts:

Section 1. Subchapter II of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6A.

"State Assistance and Intervention in Low  
Performing School Units.

**"§ 115C-64.1. Identification of low performing school units.**

The State Board of Education shall annually identify low performing local school administrative units. Low performing local school administrative units are units in which (i) student performance measures are substantially below, as defined by the State Board, those reported by other units in the State, and (ii) student dropout rates are substantially higher than, as defined by the State Board, the average statewide rate.

**"§ 115C-64.2. Development of plans to improve student performance and decrease dropout rates.**

(a) Each identified local school administrative unit shall submit to the State Board of Education a plan for improving student performance and decreasing dropout rates. The plan may include requests for the State Board to waive State laws and regulations so as to grant the unit the fiscal and programmatic flexibility necessary to implement the plan. The State Board may grant such waivers if it finds that the waivers are necessary and appropriate for the unit to improve student performance and decrease dropout rates.

(b) It is the goal of the General Assembly to provide significant assistance to an identified unit and to enable the unit to implement successfully its improvement plan. To accomplish these goals the Department of Public Instruction shall contact each identified unit, notify it of the services available through the Department to assist the unit in developing its plan and in improving student performance and decreasing dropout rates, and assist the unit in developing and implementing its plan. Department services shall include monitoring the unit's progress, tutoring and counseling unit personnel in strategies to reach the unit's goals, and providing additional funds to the unit to accomplish approved portions of the plan.

**"§ 115C-64.3. Notification of parents and the general public.**

(a) Each identified unit shall notify the parents of students attending schools in the unit that the State Board of Education has found that (i) student performance

measures in the unit are substantially below those reported by other units in the State, or (ii) student performance measures in the unit are substantially below those reported for other units in the State with similar demographic characteristics, and (iii) student dropout rates are substantially higher than the average statewide rate.

(b) The Department of Public Instruction shall prepare and release a report for each identified unit. The report shall include the identified unit's description of the steps it is taking to improve student performance measures and reduce student dropout rates.

**"§ 115C-64.4. Review of plans by the State Board; appointment of caretakers.**

(a) The State Board shall annually review the progress made in identified units. If the State Board finds that a unit has not made satisfactory progress, as defined by the State Board, the State Board shall appoint a caretaker administrator, a caretaker board, or both. No caretaker administrator or board shall be appointed in less than two years following the submission of an identified unit's plan, or prior to January 1, 1994.

(b) The State Board may assign any of the powers and duties of the local superintendent and the local finance officer to the caretaker administrator as it deems necessary and appropriate to improve student performance measures and reduce student dropout rates in the unit. The caretaker administrator shall perform all of such powers and duties. The State Board of Education may terminate the contract of any local superintendent entered into on or after July 1, 1991, when it appoints a caretaker administrator. The Administrative Procedure Act shall apply to any such decision. Neither party to any such contract shall be entitled to damages.

(c) The State Board may assign any of the powers and duties of the local board of education to a caretaker board as it deems necessary and appropriate to improve student performance measures and reduce student dropout rates in the unit. The caretaker board shall perform all of such powers and duties.

(d) After a caretaker board has been appointed, the General Assembly shall consider, at its next session, the future governance of the identified school administrative unit.

**"§ 115C-64.5. Adoption of rules.**

Prior to December 1, 1991, the State Board of Education shall adopt rules, policies, and procedures to implement this Article, including rules, policies, and procedures for (i) providing identified districts with assistance in developing and implementing improvement plans, (ii) approving waivers of State laws and regulations as necessary and appropriate to implement improvement plans, (iii) determining when caretaker administrators and boards shall be appointed, (iv) appointing caretaker administrators and boards, and (v) determining the term of caretaker administrators and boards."

Sec. 2. G.S. 120-30.9G reads as rewritten:

**"§ 120-30.9G. School Administrative Units; State Board of Education; Local Boards of Education Attorney.**

(a) The State Board of Education shall submit to the Attorney General of the United States within 30 days any rules, policies, procedures, or actions taken pursuant to G.S. 115C-64.4 which could result in the appointment of a caretaker administrator or board to perform any of the powers and duties of a local board of education where that school administrative unit is covered by the Voting Rights Act of 1965.

(b) The attorney for any local board of education where that school administrative unit is covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days of ratification any local acts of the General Assembly, or actions of the local boards of education which constitutes a 'change affecting voting' under Section 5 of the Voting Rights Act of 1965 in that school administrative unit. If the change affecting voting is a merger of two or more school administrative units, the change shall be submitted jointly by the attorneys of the school administrative units involved, or by one of them by agreement of the attorneys involved."

Sec. 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(20) Duty to Report Appointment of Caretaker Administrators and Boards. – Pursuant to G.S. 120-30.9G the State Board of Education shall submit to the Attorney General of the United States within 30 days any rules, policies, procedures, or actions taken pursuant to G.S. 115C-64.4 which could result in the appointment of a caretaker administrator or board to perform any of the powers and duties of a local board of education where that school administrative unit is covered by the Voting Rights Act of 1965."

Sec. 4. Upon ratification of this act, the State Board of Education shall submit, to the Attorney General of the United States for preclearance under the Voting Rights Act of 1965, Article 6A of Chapter 115C as it is created by this act.

Sec. 5. G.S. 115C-451 reads as rewritten:

"§ **115C-451. Reports to State Board of ~~Education.~~ Education; failure to comply with School Budget Act.**

(a) The State Board of Education shall have authority to require local school administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

(b) The State Board of Education shall be responsible for assuring that local boards of education comply with State laws and regulations regarding the budgeting, management, and expenditure of funds. When a local board of education willfully or negligently fails or refuses to comply with these laws and regulations, the State Board of Education shall issue a warning to the local board of education and direct it to take remedial action.

(c) If the local board of education, after warning, persists in willfully or negligently failing or refusing to comply with these laws and regulations, the State Board of Education shall by resolution assume control of the financial affairs of the local board of education and shall appoint an administrator to exercise the powers assumed. The adoption of a resolution shall have the effect of divesting the local board of education of its powers as to the adoption of budgets, expenditure of money, and all other financial powers conferred upon the local board of education by law."

Sec. 6. If any section or provision of this act is declared invalid under section 5 of the Voting Rights Act of 1965, or unconstitutional by the courts, it does not affect the validity of this act as a whole, or any part other than the part declared to be unconstitutional or invalid.

Sec. 7. This act is effective upon ratification.  
In the General Assembly read three times and ratified this the 3rd day of July,

1991.

---

James C. Gardner  
President of the Senate

---

Daniel Blue, Jr.  
Speaker of the House of Representatives