

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1139\*  
Education/Higher Education Committee Substitute Adopted 5/21/96

Short Title: ABC's Plan (State Board of Ed.)

(Public)

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Sponsors:

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Referred to: Appropriations.

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May 14, 1996

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE JOINT  
2 LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO IMPLEMENT THE  
3 STATE BOARD OF EDUCATION'S ABC'S PLAN IN ORDER TO ESTABLISH  
4 AN ACCOUNTABILITY MODEL FOR THE PUBLIC SCHOOLS TO IMPROVE  
5 STUDENT PERFORMANCE AND INCREASE LOCAL FLEXIBILITY AND  
6 CONTROL, TO MAKE CONFORMING CHANGES, AND TO MAKE AN  
7 APPROPRIATION.  
8

9 The General Assembly of North Carolina enacts:

10 ~~—SCHOOL-BASED MANAGEMENT AND ACCOUNTABILITY PROGRAM~~

11 Section 1. G.S. 115C-12(9) reads as rewritten:

12 "(9) Miscellaneous Powers and Duties. – All the powers and duties exercised  
13 by the State Board of Education shall be in conformity with the  
14 Constitution and subject to such laws as may be enacted from time to  
15 time by the General Assembly. Among such duties are:

- 16 a. To certify and regulate the grade and salary of teachers and other  
17 school employees.
- 18 b. To adopt and supply textbooks.

- 1 c. To adopt rules requiring all local boards of education to  
2 implement the Basic Education Program on an incremental basis  
3 within funds appropriated for that purpose by the General  
4 Assembly and by units of local government. Beginning with the  
5 1991-92 school year, the rules shall require each local school  
6 administrative unit to implement fully the standard course of  
7 study in every school in the State in accordance with the Basic  
8 Education Program so that every student in the State shall have  
9 equal access to the curriculum as provided in the Basic Education  
10 Program and the standard course of study.

11 The Board shall establish benchmarks by which to measure  
12 the progress that each local board of education has made in  
13 implementing the Basic Education Program. The Board shall  
14 report to the Joint Legislative Education Oversight Committee  
15 and to the General Assembly by December 31, 1991, and by  
16 February 1 of each subsequent year on each local board's  
17 progress in implementing the Basic Education Program,  
18 including the use of State and local funds for the Basic Education  
19 Program.

20 The Board shall develop a State accreditation program that  
21 meets or exceeds the standards and requirements of the Basic  
22 Education Program. The Board shall require each local school  
23 administrative unit to comply with the State accreditation  
24 program to the extent that funds have been made available to the  
25 local school administrative unit for implementation of the Basic  
26 Education Program.

27 The Board shall use the State accreditation program to  
28 monitor the implementation of the Basic Education Program.

- 29 c1. To issue an annual 'report card' for the State and for each local  
30 school administrative unit, assessing each unit's efforts to  
31 improve student performance based on the growth in  
32 performance of the students in each school and taking into  
33 account progress over the previous years' level of performance  
34 and the State's performance in comparison with other states. This  
35 assessment shall take into account ~~demographic, economic, and~~  
36 ~~other~~ factors that have been shown to affect student ~~performance.~~  
37 performance and that the State Board considers relevant to assess  
38 the State's efforts to improve student performance.

- 39 ~~e2. To develop management accountability indicators to measure the~~  
40 ~~efficiency and appropriate use of staff in each school and at the~~  
41 ~~administrative office. Staff development for school~~  
42 ~~administrators shall be a high priority of the Department of~~  
43 ~~Public Instruction.~~

1           c3. To develop a system of school building improvement reports for  
2           each school building. The purpose of school building  
3           improvement reports is to measure improvement in the growth in  
4           student performance at each school building from year to year,  
5           not to compare school buildings. ~~The Board may consider for~~  
6           ~~inclusion in the building reports the following criteria: test scores, the~~  
7           ~~success of graduating students in postsecondary institutions,~~  
8           ~~attendance, graduation and dropout rates, the numbers of children~~  
9           ~~enrolled in free lunch or Chapter 1 programs, the education level of the~~  
10          ~~parents of children enrolled in the school, the teaching experience of~~  
11          ~~the school staff, and whether the building has been successful in~~  
12          ~~meeting the goals of the building and systemwide plans developed in~~  
13          ~~accordance with G.S. 115C-238.1 through G.S. 115C-238.6.~~ The  
14          Board shall include in the building reports any factors shown to  
15          affect student performance that the Board considers relevant to  
16          assess a school's efforts to improve student performance. Local  
17          school administrative units shall produce and make public their  
18          school building improvement reports by March 15, ~~1995-1997,~~  
19          for the 1995-96 school year, by October 15, 1997, for the 1996-  
20          97 school year, and annually thereafter. Each report shall be  
21          based on building-level data for the prior school year.

22          c4. To develop guidelines, procedures, and rules to establish,  
23          implement, and enforce the School-Based Management and  
24          Accountability Program under Article 8B of this Chapter in order  
25          to improve student performance, increase local flexibility and  
26          control, and promote economy and efficiency.

27          d. To formulate rules and regulations for the enforcement of the  
28          compulsory attendance law.

29          e. To manage and operate a system of insurance for public school  
30          property, as provided in Article 38 of this Chapter.

31                 In making substantial policy changes in administration,  
32                 curriculum, or programs the Board should conduct hearings  
33                 throughout the regions of the State, whenever feasible, in order  
34                 that the public may be heard regarding these matters."

35                 Sec. 2. Part 4 of Article 16 of Chapter 115C of the General Statutes, G.S.  
36                 115C-238.1 through G.S. 115C-238.8, is recodified as Article 8B of Chapter 115C of the  
37                 General Statutes, G.S. 115C-105.20 through G.S. 115C-105.27.

38                 Sec. 3. Article 8B of Chapter 115C of the General Statutes, as recodified by  
39                 Section 2 of this act, reads as rewritten:

40                                 **"ARTICLE 8B.**  
41                                 **"PERFORMANCE-BASED SCHOOL-BASED MANAGEMENT AND**  
42                                 **ACCOUNTABILITY**  
43                                 **PROGRAM.**

**PART 1. IMPLEMENTATION OF PROGRAM.****"§ 115C-105.20. Performance-based School-Based Management and Accountability Program; development and implementation by State Board. Program.**

(a) The General Assembly believes that all children can learn. It is the intent of the General Assembly that the mission of the public school community is to challenge with high expectations each child to learn, to achieve, and to fulfill his or her potential. With that mission as its guide, the State Board of Education shall develop and implement a ~~Performance-based Accountability Program.~~ a School-Based Management and Accountability Program. The primary goal of the Program shall be to improve student performance. ~~The State Board of Education, after consultation with the Task Force on Site-Based Management, shall adopt:~~

~~(1) Procedures and guidelines through which local school administrative units may participate in the program; and~~

~~(2) Guidelines for developing local school improvement plans with three-year school and student performance goals and strategies to achieve the standards adopted by the State Board. The guidelines shall require each participating local school administrative unit to submit plans for each school in the unit for achieving those goals. The guidelines shall also require each local school administrative unit to report on an annual basis on progress made in achieving those goals at each school in the unit.~~

~~The school performance goals may, in the discretion of the State Board, but are not required to include factors such as community involvement, parent involvement, professional development of teachers, and the school climate with regard to the safety of students and employees and the use of positive discipline.~~

~~(3), (4) Repealed by Session Laws 1995, c. 272, s. 1.~~

(b) In order to support local boards of education and schools in the implementation of this Program, the State Board of Education shall adopt guidelines, including guidelines to:

(1) Assist local boards and schools in the development and implementation of school-based management under Part 2 of this Article.

(2) Recognize the schools that meet or exceed their goals.

(3) Identify low-performing schools under G.S. 115C-105.30, and create assistance teams that the Board may assign to these schools. The assistance teams should consist of currently practicing teachers and staff, representatives of institutions of higher education, school administrators, and others the State Board considers appropriate.

(4) Enable assistance teams to make appropriate recommendations under G.S. 115C-105.31.

(5) Establish a process to resolve disputes between local boards and schools in the development and implementation of school improvement plans under G.S. 115C-105.22(b1). This process shall provide for final resolution of the disputes.

1 **"§ 115C-105.21. Local participation in the Program ~~voluntary; the benefits of local~~**  
2 **~~participation. Program.~~**

3 (a) Local school administrative units ~~may, but are not required to, participate in the~~  
4 ~~Performance-based~~ shall participate in the School-Based Management and Accountability  
5 Program.

6 (b) Local school administrative units that participate in the Performance-based  
7 Accountability Program:

8 (1) ~~Are exempt from State requirements to submit reports and plans, other~~  
9 ~~than local school improvement plans, to the State Board of Education~~  
10 ~~and the Department of Public Instruction. They are not exempt from~~  
11 ~~federal requirements to submit reports and plans to the Department.~~

12 (2) ~~Are subject to the performance standards but not the opportunity~~  
13 ~~standards or the staffing ratios of the State Accreditation Program.~~

14 (3) ~~Repealed by Session Laws 1995, c. 272, s. 2.~~

15 (4) ~~May be allowed increased flexibility in the expenditure of State funds,~~  
16 ~~in accordance with G.S. 115C 238.6.~~

17 (5) ~~May be granted waivers of certain State laws, regulations, and policies~~  
18 ~~that inhibit their ability to reach local accountability goals, in~~  
19 ~~accordance with G.S. 115C 238.6(a).~~

20 (5a) ~~May use State funds allocated for teacher assistants to reduce class size~~  
21 ~~or the student teacher ratio in kindergarten through third grade, in~~  
22 ~~accordance with a local school improvement plan so long as the affected~~  
23 ~~teacher assistant positions are not filled when the plan is amended or~~  
24 ~~adopted by the building level staff entitled to vote on the building level~~  
25 ~~plan or the affected teacher assistant positions are not expected to be~~  
26 ~~filled on the date the plan is to be implemented. Any State funds~~  
27 ~~appropriated for teacher assistants that were converted to certificated~~  
28 ~~teachers before July 1, 1995, in accordance with Section 1 of Chapter~~  
29 ~~986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993~~  
30 ~~Session Laws, may continue to be used for certificated teachers.~~

31 (5b) ~~In accordance with a local school improvement plan, may use (i) funds~~  
32 ~~from the funding allotment for Classroom Materials/Instructional~~  
33 ~~Supplies/Equipment for the purchase of textbooks, (ii) funds from the~~  
34 ~~funding allotment for Textbooks for the purchase of instructional~~  
35 ~~supplies, instructional equipment, or other classroom materials, and (iii)~~  
36 ~~funds from the allotment for Noninstructional Support Personnel for~~  
37 ~~teacher positions to reduce class size in kindergarten through third~~  
38 ~~grade.~~

39 (6) ~~Shall continue to use the Teacher Performance Appraisal Instrument~~  
40 ~~(TPAI) for evaluating beginning teachers during the first three years of~~  
41 ~~their employment; they may, however, develop other evaluation~~  
42 ~~approaches for teachers who have attained career status.~~

1           ~~The Department of Public Instruction shall provide technical~~  
2           ~~assistance, including the provision of model evaluation processes and~~  
3           ~~instruments, to local school administrative units that elect to develop~~  
4           ~~dual personnel evaluation processes. A dual personnel evaluation~~  
5           ~~process includes (i) an evaluation designed to provide information to~~  
6           ~~guide teachers in their professional growth and development, and (ii) an~~  
7           ~~evaluation to provide information to make personnel decisions~~  
8           ~~pertaining to hiring, termination, promotion, and reassignment.~~

9           **(b1) The School-Based Management and Accountability Program shall provide**  
10 **increased local control of schools with the goal of improving student performance. Local**  
11 **boards of education:**

12           **(1) Are allowed increased flexibility in the expenditure of State funds, in**  
13 **accordance with G.S. 115C-105.21A; and**

14           **(2) May be granted waivers of certain State laws, regulations, and policies**  
15 **that inhibit their ability to reach local accountability goals, in**  
16 **accordance with G.S. 115C-105.21B.**

17           **(c) The School-Based Management and Accountability Program shall be based**  
18 **upon an accountability, recognition, assistance, and intervention process in order to hold**  
19 **each school and the school's personnel accountable for improved student performance in**  
20 **the school.**

## 21           **"PART 2. SCHOOL-BASED MANAGEMENT.**

### 22           **"§ 115C-105.21A. Budget flexibility.**

23           **(a) Consistent with improving student performance, a local board shall provide**  
24 **maximum flexibility to schools in the use of funds to enable the schools to accomplish**  
25 **their goals.**

26           **(b) Subject to the following limitations, local boards of education may transfer and**  
27 **may approve transfers of funds between funding allotment categories:**

28           **(1) In accordance with a school improvement plan accepted under G.S.**  
29 **115C-105.22, State funds allocated for teacher assistants may be**  
30 **transferred only for personnel (i) to serve students only in kindergarten**  
31 **through third grade, or (ii) to serve students primarily in kindergarten**  
32 **through third grade when the personnel are assigned to an elementary**  
33 **school to serve the whole school. Funds allocated for teacher assistants**  
34 **may be transferred to reduce class size or to reduce the student-teacher**  
35 **ratio in kindergarten through third grade so long as the affected teacher**  
36 **assistant positions are not filled when the plan is amended or approved**  
37 **by the building-level staff entitled to vote on the plan or the affected**  
38 **teacher assistant positions are not expected to be filled on the date the**  
39 **plan is to be implemented. Any State funds appropriated for teacher**  
40 **assistants that were converted to certificated teachers before July 1,**  
41 **1995, in accordance with Section 1 of Chapter 986 of the 1991 Session**  
42 **Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may**  
43 **continue to be used for certificated teachers.**

- 1           (2) In accordance with a school improvement plan accepted under G.S.  
2 115C-105.22, (i) State funds allocated for classroom  
3 materials/instructional supplies/equipment may be transferred only for  
4 the purchase of textbooks; (ii) State funds allocated for textbooks may  
5 be transferred only for the purchase of instructional supplies,  
6 instructional equipment, or other classroom materials; and (iii) State  
7 funds allocated for noninstructional support personnel may be  
8 transferred only for teacher positions.
- 9           (3) No funds shall be transferred into the central office allotment category.
- 10          (4) Funds allocated for exceptional children and funds allocated for driver's  
11 education shall not be transferred.
- 12          (5) Funds allocated for classroom teachers may be transferred only for  
13 teachers of exceptional children, for teachers of at-risk students, and for  
14 authorized purposes under the textbooks allotment category and the  
15 classroom materials/instructional supplies/equipment allotment  
16 category.
- 17          (6) Funds allocated for vocational education may be transferred only in  
18 accordance with any rules that the State Board of Education considers  
19 appropriate to ensure compliance with federal regulations.
- 20          (7) Funds allocated for career development shall be used in accordance with  
21 Section 17.3 of Chapter 324 of the 1995 Session Laws.

22 **"§ 115C-105.21B. Waivers of State laws, rules, or policies.**

23          (a) When included as part of a school improvement plan accepted under G.S.  
24 115C-105.22, local boards of education shall submit requests for waivers of State laws,  
25 rules, or policies to the State Board of Education. A request for a waiver shall (i) identify  
26 the school making the request, (ii) identify the State laws, rules, or policies that inhibit  
27 the school's ability to improve student performance, (iii) set out with specificity the  
28 circumstances under which the waiver may be used, and (iv) explain how the requested  
29 waiver will permit the school to improve student performance. Except as provided in  
30 subsection (c) of this section, the State Board shall grant waivers only for the specific  
31 schools for which they are requested and shall be used only under the specific  
32 circumstances for which they are requested.

33          (b) When requested as part of a school improvement plan, the State Board of  
34 Education may grant waivers of:

- 35           (1) State laws pertaining to class size, teacher certification, and the duty-  
36 free period for classroom teachers under G.S. 115C-301.1; and
- 37           (2) State rules and policies, except those pertaining to public school State  
38 salary schedules and employee benefits for school employees, the  
39 instructional program that must be offered under the Basic Education  
40 Program, the system of employment for public school teachers and  
41 administrators set out in G.S. 115C-287.1 and G.S. 115C-325, health  
42 and safety codes, compulsory attendance, the minimum lengths of the  
43 school day and year, and the Uniform Education Reporting System.

1 (c) The State Board also may grant requests received from local boards for  
2 waivers of State laws, rules, or policies that affect the organization, duties, and  
3 assignment of central office staff only. However, none of the duties to be performed  
4 under G.S. 115C-436 may be waived.

5 (d) Notwithstanding subsections (b) and (c) of this section, the State Board shall  
6 not grant waivers of G.S. 115C-12(16)b. regarding the placement of State-allotted office  
7 support personnel, teacher assistants, and custodial personnel on the salary schedule  
8 adopted by the State Board.

9 (e) The State Board shall act promptly on requests for waivers under this section.

10 (f) The State Board shall, on a regular basis, review all waivers it has granted to  
11 determine whether any rules should be repealed or modified or whether the Board should  
12 recommend to the General Assembly the repeal or modification of any laws.

13 **"§ 115C-105.22. Development of local plans; elements of local and approval of school**  
14 **improvement plans.**

15 (a) ~~Development of systemwide plan by the local board of education.—The board~~  
16 ~~of education of a local school administrative unit that elects to participate in the Program~~  
17 ~~shall develop and submit a local school improvement plan for the entire local school~~  
18 ~~administrative unit to the State Superintendent of Public Instruction before April 15 of~~  
19 ~~the fiscal year preceding the fiscal year in which participation is sought.~~

20 ~~A systemwide improvement plan shall remain in effect for no more than three years.~~

21 (b) ~~Establishment of school and student performance goals and a systemwide staff~~  
22 ~~development plan by the local board of education for the systemwide plan.—The local~~  
23 ~~board of education shall establish school and student performance goals and a~~  
24 ~~systemwide staff development plan for the local school administrative unit for inclusion~~  
25 ~~in the systemwide plan.~~

26 (1) ~~School and student performance goals.—The performance goals for the~~  
27 ~~local school administrative unit shall address specific, measurable goals~~  
28 ~~for all standards adopted by the State Board. Factors that determine~~  
29 ~~gains in achievement vary from school to school; therefore,~~  
30 ~~socioeconomic factors and previous progress toward school and student~~  
31 ~~performance goals shall be used as the basis of the local school~~  
32 ~~improvement plan.~~

33 (2) ~~Systemwide staff development plan.—The systemwide staff~~  
34 ~~development plan shall be consistent with the systemwide goals and~~  
35 ~~shall include a component to accommodate the staff development needs~~  
36 ~~at the building level as expressed in each building's improvement plan.~~  
37 ~~In designing this component of the systemwide staff development plan,~~  
38 ~~direct allocation of a needed portion of the staff development funds to~~  
39 ~~the building level shall be given first priority. Each school building shall~~  
40 ~~have the flexibility to combine its staff development allocation with~~  
41 ~~other schools in the local school administrative unit when the staff~~  
42 ~~development needs of those schools are substantially similar as~~  
43 ~~expressed in their approved building level plans.~~



1           (3) ~~Advisory panel.—The local board of education shall actively involve an~~  
2 ~~advisory panel composed of a substantial number of teachers, school~~  
3 ~~administrators, other school staff, and parents of children enrolled in the~~  
4 ~~local school administrative unit, in developing and achieving the student~~  
5 ~~and school performance goals for the local school improvement plan.~~  
6 ~~Parents serving on an advisory panel shall not be employees of the~~  
7 ~~school unit and shall reflect the racial and socioeconomic composition~~  
8 ~~of the students enrolled in the local school administrative unit. The~~  
9 ~~advisory panel shall ensure substantial parent participation. It is the~~  
10 ~~intent of the General Assembly that teachers have a major role in~~  
11 ~~developing the school and student performance goals for the local~~  
12 ~~school improvement plan; therefore, at least half of the members~~  
13 ~~participating in this advisory panel shall be teachers. Every teacher in~~  
14 ~~the local school administrative unit shall have an opportunity to elect by~~  
15 ~~secret ballot the teachers who are involved in the advisory panel.~~

16           (b1) ~~Development by each school of strategies for attaining local school and student~~  
17 ~~performance goals.—In order to improve student performance, each school shall develop a~~  
18 ~~school improvement plan that takes into consideration the annual performance goal for~~  
19 ~~that school that is set by the State Board under G.S. 115C-105.28. The principal of each~~  
20 ~~school, representatives of the assistant principals, instructional personnel, instructional~~  
21 ~~support personnel, and teacher assistants assigned to the school building, and parents of~~  
22 ~~children enrolled in the school shall constitute a school improvement team to develop a~~  
23 ~~building-level plan to address school and student performance goals appropriate to that school~~  
24 ~~from those established by the local board of education. school improvement plan to improve~~  
25 ~~student performance. Parents serving on school improvement teams shall reflect the racial~~  
26 ~~and socioeconomic composition of the students enrolled in that school and shall not be~~  
27 ~~members of the building-level staff. Parental involvement is a critical component of~~  
28 ~~school success and positive student outcomes; achievement; therefore, it is the intent of~~  
29 ~~the General Assembly that parents, along with teachers, have a substantial role in~~  
30 ~~developing school and student performance goals at the building level. improvement plans.~~  
31 ~~To this end, school improvement team meetings shall be held at a convenient time to~~  
32 ~~assure substantial parent participation. The strategies for attaining local school and~~  
33 ~~improving student performance goals shall include a plan for the use of staff development~~  
34 ~~funds that may be made available to the school by the local board of education to~~  
35 ~~implement the building-level school improvement plan. The strategies may include a~~  
36 ~~decision to use State funds allocated for teacher assistants to reduce class size or the student-~~  
37 ~~teacher ratio in kindergarten through the third grade in accordance with G.S. 115C-238.2(b)(5a)~~  
38 ~~or to use State funds in accordance with G.S. 115C-238.2(b)(5b). G.S. 115C-105.21A. The~~  
39 ~~strategies may also include requests for waivers of State laws, regulations, rules, or~~  
40 ~~policies for that school. A request for a waiver shall (i) identify the State laws, regulations,~~  
41 ~~or policies that inhibit the local unit's ability to reach its local accountability goals, (ii) set out~~  
42 ~~with specificity the circumstances under which the waiver may be used, and (iii) explain how a~~

1 ~~waiver of those laws, regulations, or policies will permit the local unit to reach its local goals.~~  
2 ~~meet the requirements of G.S. 115C-105.21B.~~

3 Support among affected staff members is essential to successful implementation of a  
4 ~~building-level plan to address school and student performance goals appropriate to a school;~~  
5 ~~therefore, the school improvement plan to address improved student performance at that~~  
6 ~~school. The principal of the school shall present the proposed building-level school~~  
7 ~~improvement plan to all of the principals, assistant principals, instructional personnel,~~  
8 ~~instructional support personnel, and teacher assistants assigned to the school building for~~  
9 ~~their review and vote. The vote shall be by secret ballot. The principal may shall submit~~  
10 ~~the building-level school improvement plan to the local board of education for inclusion in~~  
11 ~~the systemwide plan—only if the proposed building-level school improvement plan has the~~  
12 ~~approval of a majority of the staff who voted on the plan.~~

13 The local board of education shall accept or reject the ~~building-level school~~  
14 ~~improvement plan. The local board shall not make any substantive changes in any~~  
15 ~~building-level school improvement plan that it accepts; the local board shall set out any~~  
16 ~~building-level plan that it accepts in the systemwide plan. accepts.~~ If the local board rejects a  
17 ~~building-level school improvement plan, the local board shall state with specificity its~~  
18 ~~reasons for rejecting the plan; the school improvement team may then prepare another~~  
19 ~~plan, present it to the principals, assistant principals, instructional personnel, instructional~~  
20 ~~support personnel, and teacher assistants assigned to the school building for a vote, and~~  
21 ~~submit it to the local board for inclusion in the systemwide plan. to accept or reject. If no~~  
22 ~~building-level school improvement plan is accepted for a school before March 15 of the~~  
23 ~~fiscal year preceding the fiscal year in which participation is sought, within 60 days after its~~  
24 ~~initial submission to the local board, the school or the local board may ask to use the~~  
25 ~~process to resolve disagreements recommended in the guidelines developed by the State~~  
26 ~~Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and the~~  
27 ~~local board shall participate in the process to resolve disagreements. If there is no request~~  
28 ~~to use this process, then the local board may develop a school improvement plan for the~~  
29 ~~school for inclusion in the systemwide plan; the school. The General Assembly urges the~~  
30 ~~local board to utilize the school's proposed building-level school improvement plan to the~~  
31 ~~maximum extent possible when developing such a plan.~~

32 A school improvement plan shall remain in effect for no more than three years;  
33 however, the school improvement team may amend the plan as often as is necessary or  
34 appropriate. If, at any time, any part of a school improvement plan becomes unlawful or  
35 the local board finds that a school improvement plan is impeding student performance at  
36 a school, the local board may vacate the relevant portion of the plan and may direct the  
37 school to revise that portion. The procedures set out in this subsection shall apply to  
38 amendments and revisions to school improvement plans.

39 ~~(b2) Waivers concerning central office staff. A local board of education may~~  
40 ~~request waivers of State laws, regulations, or policies which are included in the building~~  
41 ~~plans described in subsection (b1) of this section, and it may also request waivers which~~  
42 ~~affect the organization, duties, and assignment of central office staff only. Provided, none~~  
43 ~~of the duties to be performed pursuant to G.S. 115C-436 may be waived. A request for a~~

1 waiver shall (i) identify the State laws, regulations, or policies that inhibit the local unit's  
2 ability to reach its local accountability goals, (ii) set out with specificity the  
3 circumstances under which the waiver may be used, and (iii) explain how a waiver of  
4 those laws, regulations, or policies will permit the local unit to reach its local goals.

5 (e) Repealed by Session Laws 1995, c. 272, s. 3.

6 (d) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 75.1(b).

7 **~~§ 115C-105.23. Differentiated pay.~~**

8 (a) ~~Local school administrative units may include, but are not required to include~~  
9 ~~as a part of their local school improvement plans, a systemwide differentiated pay plan~~  
10 ~~for all of the staff assigned to school buildings and all classes of staff assigned to the~~  
11 ~~central office that the local boards determine are participants in the development or~~  
12 ~~implementation of the local school improvement plans. Units electing to include~~  
13 ~~differentiated pay plans in their school improvement plans shall base their differentiated~~  
14 ~~pay plans on:~~

15 (1) ~~A career development pilot program;~~

16 (2) ~~A lead teacher pilot program;~~

17 (3) ~~A locally designed school based performance program, subject to~~  
18 ~~limitations and guidelines adopted by the State Board of Education;~~

19 (4) ~~A differentiated pay plan that the State Board of Education finds has~~  
20 ~~been successfully implemented in another state; or~~

21 (5) ~~A locally designed plan including any combination or modification of~~  
22 ~~the foregoing plans.~~

23 ~~A differentiated pay plan may also authorize the use of State differentiated pay funds~~  
24 ~~for staff development and planning activities and for paying substitute teachers as is~~  
25 ~~necessary to provide time for staff development and planning activities.~~

26 (a1) ~~All State differentiated pay funds shall become available for expenditure July 1~~  
27 ~~of each fiscal year. These funds shall remain available for expenditure for:~~

28 (1) ~~Bonuses and supplements to implement local differentiated pay plans~~  
29 ~~until November 30 of the subsequent fiscal year; and~~

30 (2) ~~Staff development to implement local differentiated pay plans until~~  
31 ~~August 31 of the subsequent fiscal year. Provided, however, if funds~~  
32 ~~allocated for bonuses and supplements under a local differentiated pay~~  
33 ~~plan are not spent for that purpose because of a failure to meet local~~  
34 ~~goals, these funds shall remain available until November 30 of the~~  
35 ~~subsequent fiscal year to provide for staff development in accordance~~  
36 ~~with that local plan.~~

37 (b) ~~Differentiated pay plans shall be developed and voted on in accordance with~~  
38 ~~G.S. 115C-238.3(c).~~

39 ~~Any differentiated pay plan developed in accordance with this section shall be~~  
40 ~~implemented within State, local and any other funds available for differentiated pay. State~~  
41 ~~funds shall be used to implement a differentiated pay plan for employees who derive~~  
42 ~~salary from State funds. State funds may be combined with any other differentiated pay~~  
43 ~~funds at the building level to implement a differentiated pay plan which includes~~

1 employees who derive salary from any other salary source so long as differentiated pay  
2 funds per employee are appropriated from the other salary source in an amount equal to  
3 the dollar amount appropriated by the State per State employee for differentiated pay. An  
4 employee who derives salary from only one salary source shall be paid differentiated pay  
5 monies from that source only; if an employee derives salary from more than one salary  
6 source, differentiated pay monies paid to that employee shall be paid proportionally  
7 based on the pro rata share of each salary source. Provided, however, a local board of  
8 education may provide additional local funds for differentiated pay for any of its  
9 employees without regard to the employee's salary source.

10 (e), (d) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 900, s. 75.1(e).

11 (e) Any additional compensation received by an employee as a result of the unit's  
12 participation in the Program shall be paid as a bonus or supplement to the employee's  
13 regular salary. If an employee in a participating unit does not receive additional  
14 compensation, such failure to receive additional compensation shall not be construed as a  
15 demotion, as that term is used in G.S. 115C-325.

16 Payments of bonuses or supplements shall be made no more frequently than once  
17 every calendar quarter. Provided, however, payments in the career development pilot  
18 units may be made on a monthly basis.

19 (f) If a local school administrative unit bases its differentiated pay plan on a  
20 locally designed school-based performance program, pursuant to subdivision (a)(3) of  
21 this section, the plan shall provide that following the attainment of the local school goals,  
22 the local board of education shall make a determination of which staff members  
23 contributed to the attainment of those goals. Differentiated pay bonuses shall then be  
24 distributed to those designated employees. The local board of education shall make the  
25 determination upon recommendation of (i) the superintendent and (ii) any other person or  
26 committee designated in the local differentiated pay plan. The other person or committee  
27 designated in the local differentiated pay plan may be the principal, a school-based  
28 committee, or any other person or local committee.

29 **~~§ 115C-105.24. Approval of local school administrative unit plans by the State~~**  
30 **~~Superintendent; conditions for continued participation.~~**

31 (a) Prior to June 30 each year, the State Superintendent shall review local school  
32 improvement plans submitted by the local school administrative units in accordance with  
33 policies and standards adopted by the State Board of Education and shall recommend to  
34 the State Board of Education whether the plan should be approved. If the State Board of  
35 Education approves the plan for a local school administrative unit, that unit shall  
36 participate in the Program for the next fiscal year.

37 If a local plan contains a request for a waiver of State laws, regulations, or policies, in  
38 accordance with G.S. 115C-238.3(b1) or (b2), the State Superintendent shall consider  
39 and recommend to the State Board whether and to what extent the identified laws,  
40 regulations, or policies should be waived. If the State Board of Education deems it  
41 necessary to do so to enable a local unit to reach its local accountability goals, the State  
42 Board may grant waivers of:

- 1           (1)    ~~State laws pertaining to class size, teacher certification, the use of State-~~  
2           ~~adopted textbooks, and the purposes for which State funds for the public~~  
3           ~~schools may be used;~~
- 4           (2)    ~~All State regulations and policies, except those pertaining to public~~  
5           ~~school State salary schedules and employee benefits for school~~  
6           ~~employees, the instructional program that must be offered under the~~  
7           ~~Basic Education Program, the system of employment for public school~~  
8           ~~teachers and administrators set out in G.S. 115C-325, health and safety~~  
9           ~~codes, compulsory school attendance, the minimum lengths of the~~  
10          ~~school day and year, and the Uniform Education Reporting System.~~

11          ~~The State Board shall act promptly on requests for waivers under this section.~~

12          ~~(a1) Notwithstanding subsection (a) of this section, the following limitations apply~~  
13          ~~to the granting of waivers:~~

- 14           (1)    ~~The provisions of G.S. 115C-12(16)b. regarding the placement of State-~~  
15           ~~allotted office support personnel, teacher assistants, and custodial~~  
16           ~~personnel on the salary schedule adopted by the State Board shall not be~~  
17           ~~waived.~~
- 18           (2)    ~~Except for waivers requested by the local board in accordance with G.S.~~  
19           ~~115C-238.3(b2) for central office staff, waivers shall be granted only for~~  
20           ~~the specific schools for which they are requested in building level plans~~  
21           ~~and shall be used only under the specific circumstances for which they~~  
22           ~~are requested.~~
- 23           (3)    ~~The State Board shall not permit funds under any funding allotment~~  
24           ~~category other than Central Office Administration to be used for central~~  
25           ~~office administrators.~~
- 26           (4)    ~~The State Board shall not permit funds under the Classroom Teachers~~  
27           ~~allotment category to be used for any additional purpose other than for~~  
28           ~~teachers of exceptional children, for teachers of at risk students, and for~~  
29           ~~authorized purposes under the Textbooks allotment category and the~~  
30           ~~Classroom Materials/Instructional Supplies/Equipment allotment~~  
31           ~~category.~~
- 32           (5)    ~~The State Board shall not grant waivers to permit funds under the~~  
33           ~~Teacher Assistant allotment category to be used for any purpose other~~  
34           ~~than for personnel (i) to serve students only in kindergarten through~~  
35           ~~third grade, or (ii) to serve students primarily in kindergarten through~~  
36           ~~third grade when the personnel are assigned to an elementary school to~~  
37           ~~serve the whole school.~~

38          ~~(a2) The State Board of Education shall, on a regular basis, review all waivers it has~~  
39          ~~granted to determine whether any rules should be repealed or whether it should~~  
40          ~~recommend to the General Assembly the repeal of any laws.~~

41          ~~(a3) Local boards of education shall provide maximum flexibility in the use of~~  
42          ~~funds to individual schools to enable them to accomplish their individual schools' goals.~~

1 (b) ~~Local school administrative units shall continue to participate in the Program~~  
2 ~~so long as (i) they demonstrate satisfactory progress toward school and student~~  
3 ~~performance goals set out in their local school improvement plans; or (ii) once their local~~  
4 ~~goals are met, they continue to achieve their local goals and they otherwise demonstrate~~  
5 ~~satisfactory performance, as determined by the State Superintendent in accordance with~~  
6 ~~guidelines set by the State Board of Education.~~

7 **"§ 115C-105.25. Distribution of Use of funds available to schools; staff development**  
8 **funds.**

9 (a) Any funds the local board of education makes available to an individual school  
10 building to implement the local school improvement plan at that school shall be used in  
11 accordance with the building-level plan set out in the systemwide plan. ~~that plan.~~

12 (b) Each local board shall distribute seventy-five percent (75%) of the funds in the  
13 staff development funding allotment to the schools to be used in accordance with that  
14 school's school improvement plan. By October 1 of each year, the principal shall  
15 disclose to all affected personnel the total allocation of all funds available to the school  
16 for staff development and the superintendent shall disclose to all affected personnel the  
17 total allocation of all funds available at the system level for staff development. At the  
18 end of the fiscal year, the principal shall make available to all affected personnel a report  
19 of all disbursements from the building-level staff development funds, and the  
20 superintendent shall make available to all affected personnel a report of all disbursements  
21 at the system level of staff development funds.

22 **"§ 115C-105.26. Creation of the Task Force on Site-Based-School-Based**  
23 **Management.**

24 (a) There is created the Task Force on Site-Based-School-Based Management  
25 under the State Board of Education.

26 The Task Force shall be composed of 20 members appointed as follows:

- 27 (1) The Superintendent of Public Instruction;
- 28 (2) One member of the State Board of ~~Education~~ Education, one parent of a  
29 public school child, and two at-large members appointed by the State  
30 Board of Education;
- 31 (3) Two members of the Senate appointed by the President Pro Tempore of  
32 the Senate;
- 33 (4) Two members of the House of Representatives appointed by the  
34 Speaker of the House of Representatives;
- 35 (5) One member of a local board of education appointed by the President  
36 Pro Tempore of the Senate after receiving recommendations from The  
37 North Carolina State School Boards Association, Inc.;
- 38 (6) One member of a local board of education appointed by the Speaker of  
39 the House of Representatives after receiving recommendations from  
40 The North Carolina State School Boards Association, Inc.;
- 41 (7) One local school superintendent appointed by the President Pro  
42 Tempore of the Senate after receiving recommendations from the North  
43 Carolina Association of School Administrators;

- 1 (8) One local school superintendent appointed by the Speaker of the House  
2 of Representatives after receiving recommendations from the North  
3 Carolina Association of School Administrators;
- 4 (9) One school principal appointed by the President Pro Tempore of the  
5 Senate after receiving recommendations from the Tar Heel Association  
6 of Principals/Assistant Principals and the Division of Administrators of  
7 the North Carolina Association of Educators;
- 8 (10) One school principal appointed by the Speaker of the House of  
9 Representatives after receiving recommendations from the Tar Heel  
10 Association of Principals/Assistant Principals and the Division of  
11 Administrators of the North Carolina Association of Educators;
- 12 (11) One school teacher appointed by the President Pro Tempore of the  
13 Senate after receiving recommendations from the North Carolina  
14 Association of Educators, Inc., the North Carolina Federation of  
15 Teachers, and the Professional Educators of North Carolina, Inc.;
- 16 (12) One school teacher appointed by the Speaker of the House of  
17 Representatives after receiving recommendations from the North  
18 Carolina Association of Educators, Inc., the North Carolina Federation  
19 of Teachers, and the Professional Educators of North Carolina, Inc.;
- 20 (13) Repealed by Session Laws 1995, c. 324, s. 17.
- 21 ~~(14) One parent of a public school child appointed by the Superintendent of~~  
22 ~~Public Instruction;~~
- 23 ~~(15) Two at large members appointed by the Superintendent of Public~~  
24 ~~Instruction;~~
- 25 (16) One representative of business and industry appointed by the Governor;
- 26 (17) One representative of institutions of higher education appointed by the  
27 Board of Governors of The University of North Carolina; and
- 28 (18) One county commissioner appointed by the ~~Superintendent of Public~~  
29 ~~Instruction~~ State Board of Education after receiving recommendations  
30 from the North Carolina Association of County Commissioners.

31 Members of the Task Force shall serve for two-year terms.

32 All members of the Task Force shall be voting members. Vacancies in the appointed  
33 membership shall be filled by the officer who made the initial appointment. The Task  
34 Force on ~~Site-Based-School-Based~~ Management shall select a member of the Task Force  
35 to serve as chair of the Task Force.

36 Members of the Task Force shall receive travel and subsistence expenses in  
37 accordance with the provisions of G.S. 120-3.1, G.S. 138-5, and G.S. 138-6.

38 (b) The Task Force shall:

- 39 (1) Advise the State Board of Education on the ~~implementation of the~~  
40 ~~School Improvement and Accountability Act of 1989, as amended,~~  
41 ~~especially the development and implementation of building level plans;~~  
42 development of guidelines for local boards of education and schools to

1 implement school-based management as part of the School-Based  
2 Management and Accountability Program;

3 (2) ~~Advise the State Board of Education on how to provide training and~~  
4 ~~assistance to assist~~ the public schools so as to facilitate the  
5 implementation of site-based school-based management;

6 (3) ~~Review~~ Advise the State Board of Education about publications to be  
7 produced by the Department of Public Instruction on the development  
8 and implementation of building-level school improvement plans;

9 (4) Report annually to the State Board of Education on the implementation  
10 of site-based school-based management in the public schools on the first  
11 Friday in December. This report may contain a summary of  
12 recommendations for changes to any law, rule, and policy that would  
13 improve site-based school-based management.

14 (c) The Department of Public Instruction shall, with the approval of the State  
15 Board of Education, provide staff to the Task Force at the request of the Task Force.

16 (d) The State Board of Education shall appoint a Director of the Task Force on  
17 Site-Based School-Based Management.

18 **"§ 115C-105.27. Parent involvement programs and conflict resolution programs as**  
19 **part of building-level school improvement plans.**

20 ~~Beginning with the 1994-95 school year, a~~ A school is encouraged to include a  
21 comprehensive parent involvement program as part of its building-level school  
22 improvement plan under G.S. ~~115C-238.3.~~ 115C-105.22. The State Board of Education  
23 shall develop a list of recommended strategies that it determines to be effective, which  
24 building level committees may use to establish parent involvement programs designed to  
25 meet the specific needs of their schools. The Board shall make the list available to local  
26 school administrative units and school buildings by the beginning of the 1994-95 school  
27 year.

28 ~~Beginning with the 1994-95 school year, a~~ A school is encouraged to review its need for  
29 a comprehensive conflict resolution program as part of the development of its building-  
30 level school improvement plan under G.S. ~~115C-238.3.~~ 115C-105.22. If a school  
31 determines that this program is needed, it may select from the list developed by the State  
32 Board of Education under G.S. 115C-81(a4) or may develop its own materials and  
33 curricula to be approved by the local board of education.

### 34 **"PART 3. SCHOOL-BASED ACCOUNTABILITY.**

35 **"§ 115C-105.28. Annual performance goals.**

36 The School-Based Management and Accountability Program shall (i) focus on  
37 student performance in the basics of reading, mathematics, and communications skills in  
38 elementary and middle schools, (ii) focus on student performance in courses required for  
39 graduation and on other measures required by the State Board in the high schools, and  
40 (iii) hold schools accountable for the educational growth of their students. To those ends,  
41 the State Board shall design and implement an accountability system that sets annual  
42 performance standards for each school in the State in order to measure the growth in  
43 performance of the students in each individual school.



1 **"§ 115C-105.29. Performance recognition.**

2 (a) The personnel in schools that achieve a level of expected growth greater than  
3 one hundred percent (100%) at a level to be determined by the State Board of Education  
4 are eligible for financial awards in amounts set by the State Board. Schools and  
5 personnel shall not be required to apply for these awards. For the purpose of this section,  
6 'personnel' includes the principal, assistant principal, instructional personnel, instructional  
7 support personnel, and teacher assistants assigned to that school.

8 (b) The State Board shall establish a procedure to allocate the funds for these  
9 awards to the local school administrative units in which the eligible schools are located.  
10 Funds shall become available for expenditure July 1 of each fiscal year. Funds shall  
11 remain available until November 30 of the subsequent fiscal year for expenditure for:

12 (1) Awards to the personnel; or

13 (2) The purposes authorized in a plan that has been:

14 a. Developed and voted on by the personnel in the same manner  
15 that a school improvement plan is approved under G.S. 115C-  
16 105.22(b1);

17 b. Approved by a majority of the personnel who vote on the plan;  
18 and

19 c. Submitted to and approved by the local board of education.

20 The local board shall approve this plan unless the plan involves expenditures of funds  
21 that are not for a public purpose or that are otherwise unlawful.

22 **"§ 115C-105.30. Identification of low-performing schools.**

23 (a) The State Board of Education shall design and implement a procedure to  
24 identify low-performing schools on an annual basis. Low-performing schools are those  
25 in which there is a failure to meet the minimum growth standards, as defined by the State  
26 Board, and a majority of students are performing below grade level.

27 (b) Each identified low-performing school shall notify the parents of students  
28 attending that school that the State Board of Education has found that the school has  
29 failed to meet the minimum growth standards, as defined by the State Board, and a  
30 majority of students in that school are performing below grade level. This notification  
31 also shall include a description of the steps the school is taking to improve student  
32 performance.

33 **"§ 115C-105.31. Assistance teams.**

34 (a) The State Board of Education may assign an assistance team to any school  
35 identified as low-performing under this Article or to any other school that requests an  
36 assistance team and that the State Board determines would benefit from an assistance  
37 team. The State Board shall give priority to low-performing schools in which the  
38 educational performance of the students is declining. The Department of Public  
39 Instruction shall, with the approval of the State Board, provide staff as needed and  
40 requested by an assistance team.

41 (b) When assigned to an identified low-performing school, an assistance team  
42 shall:

- 1           (1) Review and investigate all facets of school operations and assist in  
2 developing recommendations for improving student performance at that  
3 school.
- 4           (2) Collaborate with school staff, central offices, and local boards of  
5 education in the design, implementation, and monitoring of a plan that,  
6 if fully implemented, can reasonably be expected to alleviate problems  
7 and improve student performance at that school.
- 8           (3) Make recommendations as the school develops and implements this  
9 plan.
- 10          (4) Review the school's progress.
- 11          (5) Report, as appropriate, to the local board of education, the community,  
12 and the State Board on the school's progress.

13           If an assistance team determines that an accepted school improvement plan developed  
14 under G.S. 115C-105.22 is impeding student performance at a school, the team may  
15 recommend to the local board that it vacate the relevant portions of that plan and direct  
16 the school to revise those portions.

17           (c) If a school fails to improve student performance after assistance is provided  
18 under this section, the assistance team may recommend that the assistance continues or  
19 that the State Board take further action under G.S. 115C-105.32.

20 **"§ 115C-105.32. Review by the State Board; dismissal or removal of personnel;**  
21 **appointment of interim superintendent.**

22           (a) The State Board shall annually review the progress made in identified low-  
23 performing schools. Notwithstanding G.S. 115C-287.1, G.S. 115C-325, or any other law,  
24 the State Board may dismiss personnel assigned to that school and may terminate the  
25 contract entered into on or after July 1, 1996, of any school administrator assigned to that  
26 school when:

- 27           (1) The Board identifies that school as low-performing under G.S. 115C-  
28 105.30;
- 29           (2) The Board determines that school has failed to make satisfactory  
30 improvement after the Board assigned an assistance team to it under  
31 G.S. 115C-105.31; and
- 32           (3) That assistance team makes the recommendation to dismiss or to  
33 terminate the contract for one or more grounds established in G.S.  
34 115C-325(e)(1) for dismissal or demotion of a career teacher.

35           The State Board shall adopt procedures to ensure that due process rights are afforded  
36 to persons recommended for dismissal under this subsection. At a minimum, these  
37 procedures shall provide for the following:

- 38           (1) Written notice of the assistance team's recommendations and of the  
39 grounds for dismissal.
- 40           (2) A hearing before a panel of three members of the State Board.
- 41           (3) The right to be represented by counsel.
- 42           (4) The opportunity to subpoena witnesses and documents.
- 43           (5) The opportunity to examine and cross-examine witnesses under oath.

1           (6) The opportunity to present relevant evidence using witnesses and  
2           documents.

3           (7) The right to an appeal on the record to the State Board, with further  
4           right of judicial review under Chapter 150B of the General Statutes.

5           The State Board also shall have the right to subpoena witnesses and documents under  
6 this subsection. Neither party to a school administrator contract is entitled to damages  
7 under this subsection.

8           (b) The State Board may appoint an interim superintendent in a local school  
9 administrative unit:

10           (1) Upon the identification of more than half the schools in that unit as low-  
11 performing under G.S. 115C-105.30; or

12           (2) Upon the recommendation from an assistance team assigned to a school  
13 located in that unit that has been identified as low-performing under  
14 G.S. 115C-105.30. This recommendation shall be based upon a finding  
15 that the superintendent has failed to cooperate with the assistance team  
16 or has otherwise hindered that school's ability to improve.

17           The State Board may assign any of the powers and duties of the local superintendent  
18 and the local finance officer to the interim superintendent that the Board considers are  
19 necessary or appropriate to improve student performance in the local school  
20 administrative unit. The interim superintendent shall perform all of these assigned  
21 powers and duties. The State Board of Education may terminate the contract of any local  
22 superintendent entered into on or after July 1, 1996, when it appoints an interim  
23 superintendent. The Administrative Procedure Act shall apply to that decision. Neither  
24 party to that contract is entitled to damages.

25           (c) In the event the State Board has appointed an interim superintendent and the  
26 State Board determines that the local board of education has failed to cooperate with the  
27 interim superintendent or has otherwise hindered the ability to improve student  
28 performance in that local school administrative unit or in a school in that unit, the State  
29 Board may suspend any of the powers and duties of the local board of education that the  
30 State Board considers are necessary or appropriate to improve student performance in the  
31 local school administrative unit. The State Board shall perform all of these assigned  
32 powers and duties for a period of time to be specified by the State Board.

33           (d) If the State Board suspends any of the powers and duties of the local board of  
34 education under subsection (c) of this section and subsequently determines it is necessary  
35 to change the governance of the local school administrative unit in order to improve  
36 student performance, the State Board may recommend this change to the General  
37 Assembly, which shall consider, at its next session, the future governance of the  
38 identified local school administrative unit."

39           Sec. 4. Article 6A of Chapter 115C of the General Statutes is repealed.

40           Sec. 5. G.S. 115C-39 reads as rewritten:

41 **"§ 115C-39. Removal of board members; suspension of duties by State**  
42 **Board.**

1 (a) In case the ~~Superintendent of Public Instruction shall have~~ State Board of  
2 Education has sufficient evidence that any member of a local board of education is not  
3 capable of discharging, or is not discharging, the duties of his office as required by law,  
4 or is guilty of immoral or disreputable conduct, he shall notify the chairman of such  
5 board of education, unless such chairman is the offending member, in which case all  
6 other members of such board shall be notified. Upon receipt of such notice there shall be  
7 a meeting of said board of education for the purpose of investigating the charges, and if  
8 the charges are found to be true, such board shall declare the office vacant: Provided, that  
9 the offending member shall be given proper notice of the hearing and that record of the  
10 findings of the other members shall be recorded in the minutes of such board of  
11 education.

12 (b) In the event the State Board of Education has appointed an interim  
13 superintendent under G.S. 115C-105.32 and the State Board determines that the local  
14 board of education has failed to cooperate with the interim superintendent, the State  
15 Board shall have the authority to suspend any of the powers and duties of the local board  
16 and to act on its behalf under G.S. 115C-105.32."

17 Sec. 6. G.S. 115C-274 reads as rewritten:

18 "**§ 115C-274. ~~Removal for cause.~~ Removal.**

19 (a) Local boards of education are authorized to remove a superintendent who is  
20 guilty of immoral or disreputable conduct or who shall fail or refuse to perform the duties  
21 required of him by law. In case the ~~Superintendent of Public Instruction shall have~~ State  
22 Board of Education has sufficient evidence at any time that any superintendent of schools  
23 is not capable of discharging, or is not discharging, the duties of his office as required by  
24 law or is guilty of immoral or disreputable conduct, he shall report this matter to the  
25 board of education employing said superintendent of schools. It shall then be the duty of  
26 ~~said that~~ board of education to hear the evidence in ~~such the~~ case and, if after careful  
27 investigation it shall find the charges true, it shall declare the office vacant at once and  
28 proceed to elect a successor: Provided, that such superintendent shall have the right to try  
29 his title to office in the courts of the State.

30 (b) If the superintendent shall fail in the duties enumerated in ~~G.S. 115C-276(g)~~  
31 ~~through (i) or such~~ G.S. 115C-276(g), 115C-276(h), 115C-276(i), or any other duties as  
32 may be assigned him, he shall be subject, after notice, to an investigation by the  
33 ~~Superintendent of Public Instruction~~ State Board of Education or by his board of education  
34 for failure to perform his duties. For persistent failure to perform these duties, ~~his~~  
35 ~~certificate may be revoked by the Superintendent of Public Instruction, or he~~ the State Board of  
36 Education may revoke the superintendent's certificate and the superintendent may be  
37 dismissed by his board of education.

38 (c) The identification by the State Board of Education of more than half the  
39 schools in a local school administrative unit as low-performing under G.S. 115C-105.30  
40 is evidence that the superintendent is unable to fulfill the duties of the office, and the  
41 State Board may appoint an interim superintendent to carry out the duties of the  
42 superintendent under G.S. 115C-105.32, may revoke the superintendent's certificate

1 under this section, may dismiss the superintendent under G.S. 115C-105.32, or may take  
2 any combination of these actions."

3 Sec. 7. G.S. 115C-325(e)(3) reads as rewritten:

4 "(3) In determining whether the professional performance of a career teacher  
5 is adequate, consideration shall be given to regular and special  
6 evaluation reports prepared in accordance with the published policy of  
7 the employing local school administrative unit and to any published  
8 standards of performance which shall have been adopted by the board.  
9 Failure to notify a career teacher of an inadequacy in his performance  
10 shall be conclusive evidence of satisfactory performance. An assistance  
11 team assigned under G.S. 115C-105.30 to a low-performing school shall  
12 provide written notice to a career teacher employed in that school if the  
13 team determines that teacher's performance is inadequate. This notice  
14 shall contain findings and recommendations regarding the teacher's  
15 inadequate performance. These findings and recommendations shall be  
16 substantial evidence of that teacher's inadequate performance."

#### 17 --- LOCAL FLEXIBILITY

18 Sec. 8. G.S. 115C-84(d) is repealed.

19 Sec. 9. G.S. 115C-302(a)(1) reads as rewritten:

20 "(1) Academic Teachers. – Regular state-allotted teachers shall be employed  
21 for a period of 10 calendar months. Each local board of education shall  
22 establish a set date on which monthly salary payments to regular State-  
23 allotted teachers shall be made. This set pay date may differ from the  
24 end of the calendar month of service. Teachers shall only be paid for the  
25 days employed as of the set pay date. Payment for a full month when  
26 days employed are less than a full month is prohibited as this constitutes  
27 prepayment. Teachers employed for a period of 10 calendar months in  
28 year-round schools shall be paid in 12 equal installments. Any  
29 individual teacher who is not employed in a year-round school may be  
30 paid in 12 monthly installments if the teacher so requests on or before  
31 the first day of the school year. Such request shall be filed in the local  
32 school administrative unit which employs the teacher. The payment of  
33 the annual salary in 12 installments instead of 10 shall not increase or  
34 decrease said annual salary nor in any other way alter the contract made  
35 between the teacher and the said local school administrative unit; nor  
36 shall such payment apply to any teacher who is employed for a period of  
37 less than 10 months. Included within the 10 calendar months  
38 employment shall be annual vacation leave at the same rate provided for  
39 State employees, computed at one twelfth (1/12) of the annual rate for  
40 State employees for each calendar month of employment; which shall  
41 be provided by each local board of education at a time when students  
42 are not scheduled to be in regular attendance. However, vacation leave  
43 for instructional personnel who do not require a substitute shall not be

1 restricted to days that students are not in attendance. Included within the  
2 10 calendar months employment each local board of education shall  
3 designate the same or an equivalent number of legal holidays occurring  
4 within the period of employment for academic teachers as those  
5 designated by the State Personnel Commission for State employees; on  
6 a day that employees are required to report for a workday but pupils are  
7 not required to attend school due to inclement weather, a teacher may  
8 elect not to report due to hazardous travel conditions and to take an  
9 annual vacation day or to make up the day at a time agreed upon by the  
10 employee and the employee's immediate supervisor or principal. Within  
11 policy adopted by the State Board of Education, each local board of  
12 education shall develop rules designating what additional portion of the  
13 10 calendar months not devoted to classroom teaching, holidays, or  
14 annual leave shall apply to service rendered before the opening of the  
15 school term, during the school term, and after the school term and to fix  
16 and regulate the duties of state-allotted teachers during said period, but  
17 in no event shall the total number of workdays exceed 200 days. If one  
18 or more scheduled teacher workdays are displaced due to hazardous  
19 weather conditions, a local board may select dates, including dates  
20 beyond the 10 calendar months during which teachers and their  
21 supervisors may agree to make up the displaced days provided the  
22 workdays fall within the fiscal year. Local boards may approve school  
23 improvement plans that include teacher workdays outside the 10  
24 calendar months provided the workdays fall within the fiscal year. A  
25 teacher and the teacher's supervisor may agree to schedule workdays  
26 outside the 10 calendar months provided the workdays fall within the  
27 fiscal year. Teachers may be paid on the tenth calendar month pay date  
28 for workdays scheduled to occur after the tenth calendar month but  
29 before the end of the fiscal year. A teacher who resigns, is dismissed, or  
30 whose contract is not renewed and who fails to make up previously  
31 agreed upon workdays scheduled after the 10 calendar months shall  
32 repay to the local board any salary payments owed due to the failure to  
33 make up the workdays. A teacher who continues to be employed by a  
34 local board but fails to make up previously agreed upon workdays  
35 scheduled after the 10 calendar months may be subject to dismissal  
36 under G.S. 115C-325. Local boards of education shall consult with the  
37 employed public school personnel in the development of the 10-  
38 calendar-months schedule."

39 Sec. 10. G.S. 115C-47(28) reads as rewritten:

40 "(28) To Enter Lease Purchase ~~Contracts for Automobiles and Installment~~  
41 Purchase Contracts. – Local boards may ~~purchase automobiles by~~  
42 ~~installment contracts that create in the property purchased a security~~  
43 ~~interest to secure payment of the purchase money. A contract entered~~

1           ~~into under this subdivision is subject to the provisions of Article 8 of~~  
2           ~~Chapter 159 of the General Statutes, except for G.S. 159-148(a)(4)~~  
3           ~~and (b)(2). The lease purchase contract shall provide that there be no~~  
4           ~~recourse for default in payments under the contract other than return~~  
5           ~~of the automobile. The taxing power of any tax levying authority is~~  
6           ~~not and may not be pledged directly or indirectly to secure any~~  
7           ~~moneys due the seller. enter into lease purchase and installment~~  
8           ~~purchase contracts as provided in G.S. 115C-528.~~"

9           Sec. 11. G.S. 115C-522(a) reads as rewritten:

10          "(a) It shall be the duty of local boards of education to purchase or exchange all  
11 supplies, equipment and materials in accordance with contracts made by or with the  
12 approval of the Department of Administration. Title to instructional supplies, office  
13 supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and  
14 purchased out of State funds, shall be taken in the name of the local board of education  
15 which shall be responsible for the custody and replacement: Provided, that no contracts  
16 shall be made by any local school administrative unit for purchases unless provision has  
17 been made in the budget of the unit to pay for the purchases, unless surplus funds are on  
18 hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-  
19 47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal  
20 year the sums obligated for the current fiscal year, and in order to protect the State  
21 purchase contractor, it is made the duty of the governing authorities of the local units to  
22 pay for these purchases promptly and in accordance with the terms of the contract of  
23 purchase."

24          Sec. 12. Article 37 of Chapter 115C is amended by adding a new section to  
25 read:

26          "**§ 115C-528. Lease purchase and installment purchase contracts for certain**  
27                 **equipment.**

28          (a) Local boards of education may purchase or finance the purchase of  
29 automobiles, school buses, mobile classroom units, photocopiers, and computers by lease  
30 purchase contracts or installment purchase contracts as provided in this section.  
31 Computers purchased under this section shall meet the technical standards specified in  
32 the North Carolina Instructional Technology Plan as developed and approved under G.S.  
33 115C-102.6A and G.S. 115C-102.6B.

34          (b) A lease purchase contract under this section creates in the local board the right  
35 to possess and use the property for a specified period of time in exchange for periodic  
36 payments and shall include either an obligation or an option to purchase the property  
37 during the term of the contract. The contract may include an option to upgrade the  
38 property during the term. A local board may exercise an option to upgrade without  
39 rebidding the contract.

40          (c) An installment purchase contract under this section creates in the property  
41 purchased a security interest to secure payment of the purchase price to the seller or to an  
42 individual or entity advancing moneys or supplying financing for the purchase  
43 transaction.

1       (d) The term of a contract entered into under this section shall not exceed the  
2 useful life of the property purchased. The term of the contract may be extended to reflect  
3 a new useful life in the event the board exercises an option to upgrade.

4       (e) A contract entered into under this section shall be considered a continuing  
5 contract for capital outlay and subject to G.S. 115C-441(c1).

6       (f) A contract entered into under this section is subject to Article 8 of Chapter 159  
7 of the General Statutes, except for G.S. 159-148(a)(4) and (b)(2).

8       (g) No contract entered into under this section may contain a nonsubstitution  
9 clause that restricts the right of a local board to:

10           (1) Continue to provide a service or activity; or

11           (2) Replace or provide a substitute for any property financed or purchased  
12 by the contract.

13       (h) No deficiency judgment may be rendered against any local board of education  
14 or any unit of local government, as defined in G.S. 160A-20(h), in any action for breach  
15 of a contractual obligation authorized by this section, and the taxing power of a unit of  
16 local government is not and may not be pledged directly or indirectly to secure any  
17 moneys due under a contract authorized by this section."

18       Sec. 13. The Information Resource Management Commission shall develop  
19 and annually revise guidelines for determining the useful life of computers purchased  
20 under G.S. 115C-528. The Division of Purchase and Contract shall develop and  
21 periodically revise guidelines for determining the useful life of automobiles, school  
22 buses, and photocopiers purchased under G.S. 115C-528. The Local Government  
23 Commission shall develop and periodically revise guidelines for determining the useful  
24 life of mobile classroom units purchased under G.S. 115C-528. Guidelines for computers  
25 and photocopiers shall include provisions for upgrades during the term of the contract.  
26 The Information Resource Management Commission, the Division of Purchase and  
27 Contract, and the Local Government Commission shall provide their respective  
28 guidelines to the State Board of Education by November 1, 1996. The State Board of  
29 Education shall provide the guidelines to local boards of education by January 1, 1997.

30       Sec. 14. (a) The State Board of Education shall develop and implement a two-  
31 year pilot program allowing selected local school administrative units to purchase  
32 supplies, equipment, and materials from noncertified sources. In developing the  
33 program, the State Board shall collaborate with the Department of Administration on  
34 establishing standards, specifications, and any other measures necessary to implement  
35 and evaluate the pilot program. The State Board shall select six local school  
36 administrative units that are diverse in geography and size to participate in the pilot  
37 program.

38       (b) Local school administrative units participating in the pilot program shall  
39 have the authority to purchase the same supplies, equipment, and materials from  
40 noncertified sources as are available under State term contracts, subject to the following  
41 conditions:

42           (1) The purchase price, including the cost of delivery, is less than the cost  
43           under the State term contract;



1 (2) The cost of the purchase shall not exceed the bid value benchmark  
2 established under G.S. 143-53.1;

3 (3) The local school administrative unit documents in writing the cost  
4 savings; and

5 (4) The local school administrative unit shall provide annually by July 1 an  
6 itemized report of the cost savings to the State Board of Education.

7 (c) The requirements listed in subsection (b) of this section shall not apply to  
8 purchases from noncertified sources that fall below the economic ordering quantity of a  
9 State term contract.

10 (d) The State Board of Education shall provide to the Department of  
11 Administration copies of the itemized annual reports produced by the local school  
12 administrative units participating in the pilot programs. The State Board of Education  
13 shall evaluate the information provided by the participating units and make an interim  
14 report of its findings and recommendations to the Joint Legislative Education Oversight  
15 Committee by September 1, 1997, and a final report by September 1, 1998.

16 Sec. 15. G.S. 115C-521(d) reads as rewritten:

17 "(d) Local boards of education shall make no contract for the erection ~~or repair~~ of  
18 any school building unless the site upon which it is located is owned in fee simple by the  
19 board; ~~Provided, that the board of education of a local school administrative unit, with the~~  
20 ~~approval of the board of county commissioners, may board.~~

21 Notwithstanding G.S. 115C-40 and subject to the approval of the board of county  
22 commissioners, local boards of education may:

23 (1) Enter into contracts for the repair or renovation of school buildings not  
24 owned in fee simple by the board; and

25 (2) ~~appropriate~~ Appropriate funds to aid in the establishment of a school  
26 facility and the operation thereof in an adjoining local school  
27 administrative unit when a written agreement between the boards of  
28 education of the administrative units involved has been reached and the  
29 same recorded in the minutes of the boards, whereby children from the  
30 administrative unit making the appropriations shall be entitled to attend  
31 the school so established. ♦

32 In all cases where title to property has been vested in the trustees of a special charter  
33 district which has been abolished and has not been reorganized, title to the property shall  
34 be vested in the local board of education of the county embracing the former special  
35 charter district."

36 Sec. 16. G.S. 153A-158.1(d) reads as rewritten:

37 "(d) Board of Education May Contract for Construction. – Notwithstanding the  
38 provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into  
39 contracts for the erection ~~or repair~~ of school buildings upon sites owned in fee simple by  
40 one or more counties in which the local school administrative unit is located."

41 Sec. 17. G.S. 115C-326 reads as rewritten:

42 "**§ 115C-326. Performance standards and criteria for professional employees; law**  
43 **suits arising out of this section.**

1 (a) The State Board of Education, in consultation with local boards of education,  
2 shall develop uniform performance standards and criteria to be used in evaluating  
3 professional public school employees. It shall develop rules ~~and regulations~~ to recommend  
4 the use of these standards and criteria in the employee evaluation process. The  
5 performance standards and criteria ~~shall be adopted by the Board by July 1, 1982,~~ and may be  
6 modified in the discretion of the Board.

7 Local boards of education shall adopt rules ~~and regulations~~ by July 1, 1982 to provide  
8 for ~~the annual~~ evaluation of all professional employees defined as teachers by ~~G.S. 115C-~~  
9 ~~325(a)(6),~~ in G.S. 115C-325(a)(6). All teachers shall be evaluated annually unless a local  
10 board adopts rules that allow specified categories of teachers with career status to be  
11 evaluated less frequently. Local boards may also adopt rules ~~and regulations~~ requiring the  
12 annual evaluation of other school employees not specifically covered in this section.  
13 Local boards may develop and use alternative evaluation approaches for teachers  
14 provided the evaluations are properly validated. Local boards that do not develop  
15 alternative evaluations ~~Rules and regulations adopted by local boards shall utilize the~~  
16 performance standards and criteria adopted by the State Board of Education, but are not  
17 limited to those standards and criteria. ~~Education pursuant to the first paragraph of this~~  
18 ~~section; however, the standards and criteria used by local boards are not to be limited by those~~  
19 ~~adopted by the State Board of Education.~~

20 (b) If any claim is made or any legal action is instituted against an employee of a  
21 local school administrative unit on account of an act done or an omission made in the  
22 course of the employee's duties in evaluating employees pursuant to this section, the local  
23 board of education, if the employee is held not liable, shall reimburse the employee for  
24 reasonable attorney's fees.

25 ~~(c) The State Board of Education shall recommend to the General Assembly by~~  
26 ~~December 1, 1986, a program to remedy deficiencies and difficulties revealed through the~~  
27 ~~evaluation process required by this section and to develop new skills on the part of~~  
28 ~~classroom teachers."~~

29 Sec. 18. G.S. 115C-47 is amended by adding a new subsection to read:

30 "(33a) To Approve and Use Textbooks Not Adopted by State Board of  
31 Education. – Local boards of education shall have the authority to  
32 select, procure, and use textbooks not adopted by the State Board  
33 of Education as provided in G.S. 115C-98(b1)."

34 Sec. 19. G.S. 115C-85 reads as rewritten:

35 "**§ 115C-85. Textbook needs are determined by course of study.**

36 When the State Board of Education has adopted, upon the recommendation of the  
37 Superintendent of Public Instruction, a standard course of study at each instructional level  
38 in the elementary school and the secondary school, setting forth what subjects shall be  
39 taught at each level, it shall proceed to select and adopt textbooks.

40 As used in this part, 'textbook' means systematically organized material  
41 comprehensive enough to cover the primary objectives outlined in the standard course of  
42 study for a grade or course. Formats for textbooks may be print or nonprint, including  
43 hardbound books, softbound books, activity-oriented programs, classroom kits, and

1 technology-based programs that require the use of electronic equipment in order to be  
2 used in the learning process.

3 Textbooks adopted in accordance with the provisions of this Part shall be used by the  
4 public schools of the ~~State~~ State except as provided in G.S. 115C-98(b1)."

5 Sec. 20. G.S. 115C-98 reads as rewritten:

6 "**§ 115C-98. Local boards of education to provide for local operation of the textbook**  
7 **~~program and program, the selection and procurement of other~~**  
8 **~~instructional materials, materials, and the use of nonadopted textbooks.~~**

9 (a) Local boards of education shall adopt rules ~~and regulations~~ not inconsistent with  
10 the policies of the State Board of Education concerning the local operation of the  
11 textbook program.

12 (b) Local boards of education shall adopt written policies concerning the  
13 procedures to be followed in their local school administrative units for the selection and  
14 procurement of supplementary textbooks, library books, periodicals, ~~audio-visual~~  
15 audiovisual materials, and other supplementary instructional materials needed for  
16 instructional purposes in the public schools of their units.

17 Local boards of education shall have sole authority to select and procure  
18 supplementary instructional materials, whether or not the materials contain commercial  
19 advertising, to determine if the materials are related to and within the limits of the  
20 prescribed curriculum, and to determine when the materials may be presented to students  
21 during the school day. Supplementary materials and contracts for supplementary  
22 materials are not subject to approval by the State Board of Education.

23 Supplementary books and other instructional materials shall neither displace nor be  
24 used to the exclusion of basic textbooks.

25 (b1) Local boards of education may:

26 (1) Select, procure, and use textbooks that have not been adopted by the  
27 State Board of Education for use throughout the local school  
28 administrative unit for selected grade levels and courses; and

29 (2) Approve school improvement plans developed under G.S. 115C-105.22  
30 that include provisions for using textbooks that have not been adopted  
31 by the State Board of Education for selected grade levels and courses.

32 All textbook contracts made under this subsection shall include a clause granting to  
33 the local board of education the license to produce braille, large print, and audiocassette  
34 tape copies of the textbooks for use in the local school administrative unit.

35 (c) Funds allocated by the State Board of Education or appropriated in the current  
36 expense or capital outlay budgets of the local school administrative units, may be used  
37 for the above-stated purposes."

38 Sec. 21. G.S. 115C-112 is repealed.

39 Sec. 22. G.S. 115C-391 is amended by adding a new subsection to read:

40 "(g) Notwithstanding the provisions of this section, the policies and procedures for  
41 the discipline of students with disabilities shall be consistent with federal laws and  
42 regulations."

43 — CONFORMING CHANGES

1           Sec. 23. G.S. 115C-105.3 reads as rewritten:

2 **"§ 115C-105.3. Purpose.**

3           The purpose of the Commission is to develop high and clearly defined education  
4 standards for the public schools of North Carolina. These standards shall specify the  
5 skills and the knowledge that high school graduates should possess in order to be  
6 competitive in the modern economy. The purpose of the Commission is also to develop  
7 fair and valid assessments to assure that high school graduates in North Carolina meet  
8 these standards. No later than the Spring semester of the year 2000 or as soon as the State  
9 Board of Education adopts the standards and system of assessments, every graduating  
10 high school senior shall be required to achieve these standards as a condition for  
11 receiving a diploma.

12           These high standards and assessments shall focus on the key skills needed by students  
13 as they strive to be successful after high school and shall reflect the high expectations for  
14 every student demanded by the State's education mission in G.S. ~~115C-81(a), 115C-238.1,~~  
15 ~~and 115C-238.13(a).~~ 115C-81(a) and G.S. 115C-105.20. Once these key skills are  
16 identified, parents, teachers, and the entire school community should be encouraged to  
17 help each student meet the student's fullest potential."

18           Sec. 24. G.S. 115C-238.23 reads as rewritten:

19 **"§ 115C-238.23. Implementation by local school boards.**

20           If a school administrative unit decides to proceed with the project the following  
21 procedures shall be followed:

22           (a)    The local board in a participating local school administrative unit shall select a  
23 school building that is under construction as its first school under the project.

24           (b)    The local board shall issue a request for proposals for leadership teams to bid  
25 to operate the selected school. A team shall mean three or more individuals. To reflect the  
26 diversity required to implement the purpose of the project defined in G.S. 115C-238.22,  
27 the abilities and experience of team members may include: administrative and  
28 educational policy and planning skills; familiarity with technology for schools;  
29 management and classroom experience; and familiarity with the needs of diverse and  
30 special populations. One member shall be designated as the principal or leader of the  
31 team. At least twenty-five percent (25%) of the team members shall be certificated in  
32 accordance with the regulations of the State Board of ~~Education or G.S. 115C-238.6.~~  
33 Education.

34           Team members awarded the contract shall, if not already, become employees of the  
35 local board and become subject to local personnel policies.

36           (c)    The request for proposals shall include the following minimum requirements:

37           (1)    A statement of principles that the local board wants the bidding teams to  
38           address;

39           (2)    A specified amount of money available for the operation of the building,  
40           which amount shall be within the limits of funds available for the size of  
41           school being opened for bid;

42           (3)    A framework for accountability plans by which the success of the  
43           project site can be measured, which accountability plans shall include

1 the student performance indicators adopted by the State Board of  
2 Education pursuant to ~~G.S. 115C-238.1(3)~~, the School Improvement and  
3 Accountability Act of 1989, and shall include factors such as student,  
4 parent, and employee satisfaction, parental involvement, community  
5 service, and evidence of a focus on developing thinking and reasoning  
6 skills;

7 (4) The student population of a Genesis school shall be representative of its  
8 local school administrative unit, shall be racially balanced, and students  
9 shall be assigned on a geographic basis;

10 (5) The mission of the school shall not establish religion nor prohibit the  
11 free exercise thereof insofar as that is permitted in a public school by the  
12 North Carolina and United States Constitutions; and

13 (6) Bidding teams shall address how the criteria listed in G.S. 115C-81(b)  
14 will be met or varied by the Genesis program.

15 The local board may include other requirements in the request for proposals.

16 (d) The local board shall secure private funding for any additional non-State and  
17 nonlocal funds required for the project before awarding a contract to a team to operate the  
18 selected school.

19 (e) The local board shall appoint an advisory committee composed of educators,  
20 elected officials, parents of children enrolled in the local school administrative unit, and  
21 community leaders from within and without the local school administrative unit to screen  
22 proposals for the school building and to make recommendations to the local board of  
23 education on the proposals.

24 The local board shall consider the recommendations of the advisory committee and  
25 shall award the contract. All contract negotiations and the award of the contract shall be  
26 conducted in open session notwithstanding G.S. 143-318.11(a)(9). The contract shall be  
27 for a term not to exceed four years. It may be terminated by the local board at any time  
28 for any reason it deems sufficient; it may be terminated by the team for any reason it  
29 deems sufficient, but only at the end of a school year and only with 60 days' written  
30 notice to the local board of education.

31 (f) The team that receives the contract shall interview and select all personnel for  
32 the building. The team may select personnel from the current employees of the local  
33 board. All teachers employed in a Genesis school shall hold or be qualified to hold a  
34 certificate in accordance with the regulations of the State Board of Education or ~~G.S.~~  
35 ~~115C-238.6~~ the School Improvement and Accountability Act of 1989. The local board  
36 shall hire those persons selected by the team so long as those positions are within State,  
37 local, and other funds approved for this project by the local board. In no event shall a  
38 local board dismiss or demote any employee pursuant to G.S. 115C-325(e)(1)l. as a result  
39 of a Genesis project.

40 Hiring shall take place no later than July 1, prior to the opening of the new building.  
41 The team shall begin conducting training and planning sessions as staff is hired.

42 The local board or the management team may employ noncertificated persons on a  
43 temporary basis or for special projects.

1 (g) The participating school building team shall initiate a comprehensive  
2 accountability program immediately. The results shall be published annually and  
3 compared to those of traditional schools.

4 (h) After the third and fourth years of the project, the local board shall review  
5 student ~~outcome~~ achievement results of the existing project site. After the fourth year of  
6 the project the local board may decide whether to continue the project in the first school  
7 and whether an additional building within the school system shall be added to the project.  
8 If the board decides to expand the project to a second school the procedures outlined in  
9 this section shall be followed.

10 The second school chosen for the project shall be an existing school that is producing  
11 below average results in student achievement as compared to other schools in the unit.  
12 Criteria which may be considered to evaluate student achievement may include: test  
13 scores, the success of graduating students, attendance, graduation and dropout rates, the  
14 numbers of children enrolled in free lunch or Chapter 1 programs, the education level of  
15 the parents of children enrolled in the school, the teaching experience of the school staff,  
16 and whether the building has been successful in meeting the goals of the systemwide plan  
17 developed in accordance with ~~G.S. 115C-238.1 through G.S. 115C-238.6.~~ the School  
18 Improvement and Accountability Act of 1989."

19 Sec. 25. G.S. 115C-238.31(a) reads as rewritten:

20 "(a) Local school administrative units are encouraged to implement extended  
21 services programs that will expand students' opportunities for educational success  
22 through high-quality, integrated access to instructional programming during nonschool  
23 hours. Extended services programs may be incorporated into ~~building-level school~~  
24 improvement plans developed in accordance with ~~G.S. 115C-238.3-115C-105.22.~~ To  
25 implement extended services programs, local school administrative units may request waivers of  
26 State laws, regulations, and policies in accordance with Part 4 of this Article. Calendar  
27 alternatives include, but are not limited to, after-school hours, before-school hours,  
28 evening school, Saturday school, summer school, and year-round school. Instructional  
29 programming may include, but is not limited to, tutoring, direct instruction, enrichment  
30 activities, study skills, and reinforcement projects."

31 Sec. 26. G.S. 115C-276(q) reads as rewritten:

32 "(q) To Assign School Principals. – Subject to local board policy, the  
33 superintendent shall have the authority to assign principals to school buildings. When  
34 making an assignment, the superintendent shall consider (i) whether a principal has  
35 demonstrated the leadership ability to increase student achievement at a school where  
36 conditions indicated a significant risk of low student performance; and (ii) how to  
37 maintain stability at a school where, during the time the principal has been at a school,  
38 there has been significant improvement on end-of-course or end-of-grade tests and other  
39 accountability ~~indicators~~ measures developed by the State Board ~~in accordance with G.S.~~  
40 ~~115C-238.1.~~ of Education."

41 Sec. 27. G.S. 115C-302(e) reads as rewritten:

42 "(e) It is the policy of the State of North Carolina to enhance the teaching  
43 profession by providing teachers with career opportunities that do not remove them from

1 the classroom; to encourage the development and implementation of a professional salary  
2 schedule that complements the system of differentiation; to have salaries of professional  
3 educators in elementary and secondary schools based upon performance, degree attained,  
4 differentiation and the needs of the local school administrative unit; and to begin, in the  
5 school year beginning in 1986, a differential salary system based upon performance,  
6 differentiation, local availability of classroom teachers, geographical location of the  
7 employing local school administrative unit and such other factors as the local board of  
8 education shall deem necessary.

9 Performance shall be measured by ~~standardized~~ evaluations which are ~~routinely~~  
10 administered pursuant to ~~G.S. 115C-326~~ by ~~competent and trained administrators who~~  
11 ~~have themselves demonstrated meritorious performance in the classroom.~~ G.S. 115C-326.  
12 Differentiation shall be based upon superior performance over a period of time plus other  
13 responsibilities. Needs of the local school administrative unit over and above the standard  
14 course of study shall be defined by the local board of education exclusively funded from  
15 revenues provided at the discretion of the board of county commissioners or from other  
16 local funds under the control of the local board of education.

17 Each salary may include a local variable component, determined locally and based  
18 upon the needs and condition of the local school administrative unit. This local variable  
19 component shall be paid from local revenue."

20 Sec. 28. Notwithstanding G.S. 115C-105.21A(1), the State Board of Education  
21 shall authorize pilot projects in the Mecklenburg County School Administrative Unit and  
22 in the Burke County School Administrative Unit so that the boards of education in those  
23 units may use State funds from the allotment for teacher assistants for certificated  
24 teachers in order to reduce class size or the student-teacher ratio in kindergarten through  
25 third grade, in accordance with school improvement plans developed under G.S. 115C-  
26 105.22. No waivers from the State Board of Education are required for this use of funds.

27 **—STREAMLINE APA FOR ABC PLAN**

28 Sec. 29. (a) G.S. 150B-21.2(a)(1) shall not apply to proposed rules adopted by  
29 the State Board of Education if the proposed rules are directly related to the  
30 implementation of this act.

31 (b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the  
32 State Board of Education, is approved by the Rules Review Commission, and is directly  
33 related to the implementation of this act, shall become effective five business days after  
34 the Commission delivers the rule to the Codifier of Rules, unless the rule specifies a later  
35 effective date. If the State Board of Education specifies a later effective date, the rule  
36 becomes effective upon that date. A permanent rule that is adopted by the State Board of  
37 Education that is directly related to the implementation of this act, but is not approved by  
38 the Rules Review Commission, shall not become effective.

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

42 (d) The State Board of Education shall determine whether a proposed rule is  
43 directly related to this act based upon a finding that there is a rational relationship

1 between the proposed rule and specific provisions of this act. A proposed rule may  
2 create, amend, or repeal a rule. The State Board shall indicate in the notice of proposed  
3 text that the rule is directly related to the implementation of this act and that the Board is  
4 proceeding under the authority granted by this act.

5 (e) The State Board of Education shall provide written notice to all boards of  
6 county commissioners and all local boards of education of proposed rules that are directly  
7 related to the implementation of this act and that would affect the expenditures or  
8 revenues of a unit of local government under G.S. 150B-21.4(b). The notice shall state  
9 that a copy of the fiscal note may be obtained from the State Board.

10 (f) This section shall not apply to Sections 10-16 of this act.

#### 11 **—APPROPRIATION**

12 Sec. 30. There is appropriated from the General Fund to State Aid to Local  
13 School Administrative Units the sum of twenty-four million five hundred thirty-two  
14 thousand five hundred fifty dollars (\$24,532,550) for the 1996-97 fiscal year. The State  
15 Board of Education shall allocate these funds to local school administrative units for  
16 personnel who are identified as eligible for performance recognition awards under G.S.  
17 115C-105.29 as follows:

18 (1) \$21,000,000 to be distributed on a per capita basis of no less than  
19 \$500.00 and no more than \$1,000 for personnel other than teacher  
20 assistants.

21 (2) \$3,532,550 to be distributed on a per capita basis to teacher assistants in  
22 the amount of one-half the amount under subdivision (1) of this section.

#### 23 **—EFFECTIVE DATES**

24 Sec. 31. (a) Section 14 of this act becomes effective July 1, 1996, and applies to  
25 State term contracts for which bids or offers are solicited on or after that date.

26 (b) Section 30 of this act becomes effective July 1, 1996, and the remainder of the  
27 act is effective upon ratification.

28 (c) Part 3 of Article 8B of Chapter 115C of the General Statutes, as rewritten in  
29 Section 3 of this act, applies to any school that has any grades of kindergarten through  
30 eighth grade beginning with the 1996-97 school year, and to the remaining schools  
31 beginning with the 1997-98 school year. The State Board shall establish appropriate  
32 deadlines for the development of school improvement plans after July 1, 1996.