

NORTH CAROLINA GENERAL ASSEMBLY  
1981 SESSION

CHAPTER 423  
HOUSE BILL 336

AN ACT TO RECODIFY CHAPTER 115 OF THE GENERAL STATUTES, ELEMENTARY  
AND SECONDARY EDUCATION.

The General Assembly of North Carolina enacts:

**Section 1.** Chapter 115 of the General Statutes is repealed and replaced with the following:

**"Chapter 115C.**

**"Elementary and Secondary Education.**

**"SUBCHAPTER I.**

**"GENERAL PROVISIONS.**

**"ARTICLE 1.**

**"Definitions and Preliminary Provisions.**

**"§ 115C-1. General and uniform system of schools.** — A general and uniform system of free public schools shall be provided throughout the State, wherein equal opportunities shall be provided for all students, in accordance with the provisions of Article IX of the Constitution of North Carolina. Tuition shall be free of charge to all children of the State, and to every person 18 years of age, or over, who has not completed a standard high school course of study. There shall be operated in every local school administrative unit a uniform school term of nine months, without the levy of a State ad valorem tax therefor.

**"§ 115C-2. Administrative procedure.** — All action of agencies taken pursuant to this Chapter, as agency is defined in G.S. 150A-2, is subject to the requirements of the Administrative Procedure Act, Chapter 150A of the General Statutes.

**"§ 115C-3. Access to information and public records.** — Except as otherwise provided in this Chapter, access to information gathered and public records made pursuant to the provisions of this Chapter must be in conformity with the requirements of Chapter 132 of the General Statutes.

**"§ 115C-4. Open meetings law.** — Meetings of governmental bodies held pursuant to the provisions of this Chapter must be in conformity with the requirements of Article 33C of Chapter 143 of the General Statutes.

**"§ 115C-5. Definitions.** — As used in this Chapter unless the context requires otherwise:

(a) The State Board of Education may be referred to as the 'Board' or as the 'State Board.'

(b) The governing board of a city administrative unit is 'the \_\_\_\_\_ city board of education.'

(c) The governing board of a county administrative unit is 'the \_\_\_\_\_ county board of education.'

(d) The governing board of the school district is 'the \_\_\_\_\_ district committee.'

(e) 'Local board' or 'board' means a city board of education, county board of education, or a city-county board of education.

(f) 'Local school administrative unit' means a subdivision of the public school system which is governed by a local board of education. It may be a city school administrative unit, a county school administrative unit, or a city-county school administrative unit.

(g) he executive head of a school shall be called 'principal.'

(h) The executive officer of a local school administrative unit shall be called 'superintendent.' 'Superintendent' means the superintendent of schools of a public school system or, in his absence, the person designated to fulfill his functions.

(i) 'Supervisor' means a person paid on the supervisor salary schedule who supervises the instructional program in one or more schools and is under the immediate supervision of the superintendent or his designee.

(j) The term 'tax-levying authority' means the board of county commissioners of the county or counties in which an administrative unit is located or such other unit of local government as may be granted by local act authority to levy taxes on behalf of a local school administrative unit.

"§§ 115C-6 to 115C-9: Reserved for future codification purposes.

## "SUBCHAPTER II.

### "ADMINISTRATIVE ORGANIZATION OF STATE AND LOCAL EDUCATION AGENCIES.

#### "ARTICLE 2.

##### "State Board of Education.

"§ 115C-10. **Appointment of Board.** — The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by him and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments.

"§ 115C-11. **Organization and internal procedures of Board.** — (a) **Presiding Officer.**— The State Board of Education shall elect from its membership a chairman and vice-chairman. A majority of the Board shall constitute a quorum for the transaction of business. Per diem and expenses of the appointive members of the Board shall be provided by the General Assembly. The chairman of the Board shall preside at all meetings of the Board. In the absence of the chairman, the vice-chairman shall preside; in the absence of both the chairman and the vice-chairman, the Board shall name one of its own members as chairman pro tempore.

(b) **Regular meetings of Board.** — The regular meetings of the Board shall be held each month on a day certain, as determined by the Board. The Board shall determine the hour of the meeting, which may be adjourned from day to day, or to a day certain, until the business before the Board has been completed.

(c) **Special Meetings.** — Special meetings of the Board may be set at any regular meeting or may be called by the chairman or by the secretary upon the approval of the chairman: Provided, a special meeting shall be called by the chairman upon the request of any five members of the Board. In case of regular meetings and special meetings, the secretary shall give notice to each member, in writing, of the time and purpose of the meeting, by letter directed to each member at his home post-office address. Such notice must be deposited in the Raleigh Post Office at least three days prior to the date of meeting.

(d) **Voting.**— No voting by proxy shall be permitted. Except in voting on textbook adoptions, all voting shall be viva voce unless a record vote or secret ballot is demanded by any member, and a majority of those present and voting shall be necessary to carry a motion.

(e) Voting on Adoption of Textbooks. — A majority vote of the whole membership of the Board shall be required to adopt textbooks, and a roll call vote shall be had on each motion for such adoption or adoptions. A record of all such votes shall be kept in the minute book.

(f) Committees. — The Board may create from its membership such committees as it deems necessary to facilitate its business. The chairman of the Board shall with approval of the majority of the Board appoint members to the several committees authorized by the Board and to any additional committees which the chairman may deem to be appropriate.

(g) Record of Proceedings. — All of the proceedings of the Board shall be recorded in a well-bound and suitable book, which shall be kept in the office of the Superintendent of Public Instruction, and open to public inspection.

(h) Rules and Regulations. — The Board shall adopt reasonable rules and regulations not inconsistent herewith, to govern its proceedings which the Board may amend from time to time, which rules and regulations shall become effective when filed as provided by law: Provided, however, a motion to suspend the rules so adopted shall require a consent of two-thirds of the members. The rules and regulations shall include, but not be limited to, clearly defined procedures for electing the officers of the State Board referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how the voting shall be carried out, and establishing a date when the first election shall be held.

**"§ 115C-12. Powers and duties of the Board generally.** — The general supervision and administration of the free public school system shall be vested in the State Board of Education. The powers and duties of the State Board of Education are defined as follows:

- (1) Financial Powers. — The financial powers of the Board are set forth in Article 30 of this Chapter.
- (2) Power to Divide the Administrative Units into Districts. — The Board shall have power to create in any county administrative units a convenient number of school districts, upon the recommendation of the county board of education. Such a school district may be entirely in one county or may consist of contiguous parts of two or more counties. The Board may modify the district organization in any administrative unit when it is deemed necessary for the economical and efficient administration and operation of the State school system, when requested to do so by the appropriate local board of education.
- (3) Divisions of Functions of Board. — The Board shall divide its duties into two separate functions, insofar as may be practicable, as follows:
  - a. All those matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board, shall be under the direction of the Superintendent in his capacity as the constitutional administrative head of the public school system.
  - b. All those matters relating to the supervision and administration of the fiscal affairs of the public school fund committed to the administration of the State Board of Education shall be under the supervision and management of the controller.
- (4) Appointment of Controller. — The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board and who, under the direction of the Board, shall have supervision and management of the fiscal affairs of the Board.
- (5) Apportionment of Funds. — The Board shall have authority to apportion and equalize over the State all State school funds and all federal funds granted to the State for assistance to educational programs administered within or sponsored by the public school system of the State.

- (6) Power to Demand Refund for Inaccurate Apportionment Due to False Attendance Records. — When it shall be found by the State Board of Education that inaccurate attendance records have been filed with the State Board of Education which resulted in an excess allotment of funds for teacher salaries in any school unit in any school year, the school unit concerned may be required to refund to the State Board the amount allotted to said unit in excess of the amount an accurate attendance record would have justified.
- (7) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreements for the Consolidation and Merger of School Administrative Units Located in the Same County. — The Board shall have authority, in its discretion, to alter the boundaries of city school administrative units and to approve agreements submitted by county and city boards of education requesting the merger of two or more contiguous city school administrative units and the merger of city school administrative units with county school administrative units and the consolidation of all the public schools in the respective units under the administration of one board of education: Provided, that such merger of units and reorganization of school units shall not have the effect of abolishing any special taxes that may have been voted in any such units.
- (8) Power to Make Provisions for Sick Leave. — The Board shall provide for a minimum of five days per school term of sick leave with pay for all public school employees and shall promulgate rules and regulations providing for necessary substitutes on account of said sick leave. The pay for a substitute shall be fixed by the Board. The Board may provide to each local school administrative unit not exceeding one percent (1%) of the cost of instructional services for the purpose of providing substitute teachers for those on sick leave as authorized by law or by regulations of the Board, but not exceeding the provisions made for other State employees.
- (9) Miscellaneous Powers and Duties. — All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:
  - a. To certify and regulate the grade and salary of teachers and other school employees.
  - b. To adopt and supply textbooks.
  - c. To adopt a standard course of study upon recommendation of the Superintendent of Public Instruction: Provided, however, that in the event the Superintendent does not recommend a standard course of study satisfactory to the Board, the Board may cause an independent professional study to be made, with such assistance as it may deem necessary, to the end that a standard course of study appropriate to the needs of the children of the State shall be recommended to the Board for adoption; whereupon the Board shall require a public hearing to be held on the question of the adoption of the standard course of study thus proposed and it shall thereafter adopt the recommendations with such changes as the Board may deem appropriate, which shall be required as the minimal program of every public school in the State. The standard course of study thus established shall be reviewed by the Board biennially.

- d. To formulate rules and regulations for the enforcement of the compulsory attendance law.
- e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

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

- (10) Power to Provide for Programs or Projects in the Cultural and Fine Arts Areas. — The Board is authorized and empowered, in its discretion, to make provisions for special programs or projects of a cultural and fine arts nature for the enrichment and strengthening of educational opportunities for the children of the State.

For this purpose, the Board may use funds received from gifts or grants and, with the approval of the Director of the Budget, may use State funds which the Board may find available in any budget administered by the Board.

- (11) Power to Conduct Education Research. — The Board is authorized to sponsor or conduct education research and special school projects considered important by the Board for improving the public schools of the State. Such research or projects may be conducted during the summer months and involve one or more local school units as the Board may determine. The Board may use any available funds for such purposes.

- (12) Duty to Provide for Sports Medicine and Emergency Paramedical Program.— The State Board of Education is authorized and directed to develop a comprehensive plan to train and make available to the public schools personnel who shall have major responsibility for exercising preventive measures against sports related deaths and injuries and for providing sports medicine and emergency paramedical services for injuries that occur in school related activities. The plan shall include, but is not limited to, the training, assignment of responsibilities, and appropriate additional reimbursement for individuals participating in the program.

The State Board of Education is authorized and directed to develop an implementation schedule and a program funding formula that will enable each high school to have a qualified sports medicine and emergency paramedical program by July 1, 1984.

The State Board of Education is authorized and directed to establish minimum educational standards necessary to enable individuals serving as sports medicine and emergency paramedical staff to provide such services, including first aid and emergency life saving skills, to students participating in school activities.

- (13) Power to Purchase Liability Insurance. — The Board is authorized to purchase insurance to protect board members from liability incurred in the exercise of their duty as members of the Board.
- (14) Duty to Provide Personnel Information to Local Boards. — Upon request, the State Board of Education and the Department of Public Instruction shall furnish to any county or city board of education any and all available personnel information relating to certification, evaluation and qualification including, but not limited to, semester hours or quarterly hours completed, graduate work, grades, scores, etc., that are on that date in the files of the State Board of Education or Department of Public Instruction.

- (15) Duty to Develop Noncertified Personnel Position Evaluation Descriptions. — The Board is authorized and directed to develop position evaluation descriptions covering those positions in local school administrative units for which certification by the State Board of Education is not normally a prerequisite. The position evaluation descriptions required in this subdivision are to be used by local boards of education as the basis for assignment of noncertified employees to an appropriate pay grade in accordance with salary grades and ranges adopted by the State Board of Education. No appropriations are required by this subdivision.
- (16) Power with Regard to Salary Schedules.
- a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of Education is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.
  - b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, property and cost clerks, aides, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.
  - c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of Education. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission. These schedules shall apply if the local board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations.

"§§ 115C-13 to 115C-17: Reserved for future codification purposes.

"ARTICLE 3.

"Department of Public Instruction.

**"§ 115C-18. Election of Superintendent of Public Instruction.** — The Superintendent of Public Instruction shall be elected by the qualified voters of the State in 1972 and every four years thereafter at the same time and places as members of the General Assembly are elected. His term of office shall be four years and shall commence on the first day of January next after election and continue until his successor is elected and qualified.

If the office of the Superintendent of Public Instruction is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in Article III, Section 7 of the Constitution of North Carolina. When a vacancy occurs in the office and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the occurrence of a vacancy in the office for any of the causes stated herein, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to Article III, Section 7 of the Constitution of North Carolina to fill the vacancy and is qualified.

The time of the election of the Superintendent of Public Instruction shall be in accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the General Statutes.

The election, term and induction into office of the Superintendent of Public Instruction shall be in accordance with the provisions of G.S. 147-4.

**"§ 115C-19. Chief administrative officer of the State Board of Education.** — As provided in Article IX, Section 4(2) of the North Carolina Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

**"§ 115C-20. Office and salary.** — The Superintendent of Public Instruction shall keep his office in The Education Building in Raleigh, and his salary shall be the same as for Court of Appeals Judges as set by the General Assembly in the Budget Appropriation Act.

**"§ 115C-21. Powers and duties generally.** — (a) Administrative Duties. — It shall be the duty of the Superintendent of Public Instruction:

- (1) To organize and establish, subject to the approval of the State Board of Education, a Department of Public Instruction which shall include such divisions and departments as are necessary for supervision and administration of the public school system. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction shall be subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with Chapter 126 of the General Statutes, the State Personnel System.
- (2) To keep the public informed as to the problems and needs of the public schools by constant contact with all school administrators and teachers, by his personal appearance at public gatherings, and by information furnished to the press of the State.
- (3) To report biennially to the Governor 30 days prior to each regular session of the General Assembly, such report to include information and statistics of the public schools, with recommendations for their improvement and for such changes in the school law as shall occur to him.
- (4) To have printed and distributed such educational bulletins as he shall deem necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and to have printed all forms necessary and proper for the administration of the Department of Public Instruction.
- (5) To have under his direction, in his capacity as the constitutional administrative head of the public school system, all those matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board.

(b) Duties as Secretary to the State Board of Education. — As secretary, under the direction of the Board, it shall be the duty of the Superintendent of Public Instruction:

- (1) To administer through the Department of Public Instruction the instructional policies established by the Board.
- (2) To keep the Board informed regarding developments in the field of public education.
- (3) To make recommendations to the Board with regard to the problems and needs of education in North Carolina.
- (4) To make available to the public schools a continuous program of comprehensive supervisory services.

- (5) To collect and organize information regarding the public schools, on the basis of which he shall furnish the Board such tabulations and reports as may be required by the Board.
- (6) To communicate to the public school administrators all information and instructions regarding instructional policies and procedures adopted by the Board.
- (7) To have custody of the official seal of the Board and to attest all deeds, leases, or written contracts executed in the name of the Board. All deeds of conveyance, leases, and contracts affecting real estate, title to which is held by the Board, and all contracts of the Board required to be in writing and under seal, shall be executed in the name of the Board by the chairman and attested by the secretary; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.
- (8) To attend all meetings of the Board and to keep the minutes of the proceedings of the Board in a well-bound and suitable book, which minutes shall be approved by the Board prior to its adjournment; and, as soon thereafter as possible, to furnish to each member of the Board and the controller a copy of said minutes.
- (9) To perform such other duties as the Board may assign to him from time to time.

"§§ 115C-22 to 115C-26: Reserved for future codification purposes.

"ARTICLE 4.

"Office of the Controller.

"§ 115C-27. **Appointment of controller, salary.** — The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board. The salary of the controller shall be fixed by the Governor subject to the approval of the Advisory Budget Commission and shall be paid from Board appropriations.

"§ 115C-28. **Fiscal affairs of the Board defined.** — All matters pertaining to the budgeting, allocation, accounting, auditing, certification, and disbursing of public school funds, now or hereafter committed to the administration of the State Board of Education, are included within the meaning of the term 'fiscal affairs of the Board' and, under the direction of the Board, shall be supervised and managed by the controller. The fiscal affairs of the Board shall also include:

- (1) The preparation and administration of the State school budget, including all funds appropriated for the maintenance of the public school term.
- (2) The allotment of teachers.
- (3) The protection of State funds by appropriate bonds.
- (4) Workers' compensation as applicable to school employees.
- (5) Sick leave.
- (6) The administration of such federal funds as may be made available by acts of Congress for the use of public schools.
- (7) Administration of all State funds derived from the sale and rental of textbooks in the public schools.
- (8) The operation of plant, and other auxiliary agencies under the administration of the Board.
- (9) Administration of the Public School Insurance Fund.
- (10) All fiscal matters embraced in the objects of expenditure referred to in current acts of the General Assembly appropriating funds for the system of free public schools.

"§ 115C-29. **Controller's powers and duties generally.** — (a) The controller is constituted the executive administrator of the Board in the supervision and management of the fiscal affairs of the Board. In this capacity it shall be his duty, under the direction of the Board, to administer



the funds provided for the operation of the schools of the State on such standards as may be determined by the Board and always within the total funds appropriated therefor.

- (b) The controller, under the direction of the Board, shall perform the following duties:
- (1) He shall maintain a record or system of bookkeeping which shall reflect at all times the status of all educational funds committed to the administration of the Board and particularly the following:
    - a. State appropriation for maintenance of the public school term, which shall include all the objects of expenditure enumerated in G.S. 115C-426.
    - b. State appropriation and any other funds provided for the purchase and rental of public school textbooks.
    - c. State literary and building funds and such other building funds as may be hereafter provided by the General Assembly for loans, or grants, to local boards of education for school building purposes.
    - d. State and federal funds for vocational education and other funds as may be provided by act of Congress for assistance to the educational program.
    - e. State appropriation for the maintenance of the Board and its office personnel and including all employees serving under the Board.
    - f. Any miscellaneous funds within the jurisdiction of the Board not included in the above.
  - (2) He shall prepare all forms and questionnaires necessary to furnish information and data for the consideration of the Board in preparing the State budget estimates required to be determined by the Board as to each local school administrative unit.
  - (3) He shall certify to each local school administrative unit the teacher allotment as determined by the Board under G.S. 115C-301. The superintendent of the administrative units shall then certify to the Superintendent the names of the persons employed as teachers and principals by districts. The Superintendent shall then determine the certificate ratings of the teachers and principals, shall certify such ratings to the controller, who shall then determine in accordance with the State standard salary schedule for teachers and principals, the salary rating of each person so certified. The controller shall then determine, in accordance with the schedule of salaries established, the total cost of salaries in each local school administrative unit for teachers and principals to be included in the State budget for the current fiscal year.
  - (4) He shall satisfy himself before issuing any requisition upon the Department of Administration for payment out of the State Treasury of any funds placed to the credit of any local school administrative unit, under the provisions of G.S. 115C-438:
    - a. That funds are lawfully available for the payment of such requisition; and
    - b. Where the order covers salary payment to any employee that the amount thereof is within the salary schedule or salary rating of the particular employee.
  - (5) He shall procure, through the Department of Administration, contracts for the purchase of the estimated needs and requirements of the several local school administrative units, covering the items of janitor supplies, instructional supplies, supplies used by the State Board of Education, and all other supplies, the payment for which is made from funds committed to the administration of the Board.

- (6) He shall purchase from the various publishers the textbooks needed and required in the public schools in accordance with contracts made by the State Board of Education.
- (7) He shall, in cooperation with the State Auditor, cause to be made an annual audit of the State school funds disbursed by local school administrative units and all other funds which by law are committed to the administration of the Board.
- (8) He shall attend all meetings of the Board and shall furnish all such information and data concerning the fiscal affairs of the Board as the Board may require.
- (9) He shall employ all necessary administrative and supervisory employees who work under his direction in the administration of the fiscal affairs of the Board, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with Chapter 126 of the General Statutes, the State Personnel System.
- (10) He shall report directly to the Board upon all matters coming within his supervision and management.
- (11) He shall furnish to the Superintendent such information relating to fiscal affairs as may be necessary in the administration of his official duties.
- (12) He shall perform such other duties as may be assigned to him by the Board from time to time.

"§§ 115C-30 to 115C-34: Reserved for future codification purposes.

"ARTICLE 5.

"Local Boards of Education.

**"§ 115C-35. How constituted.** — (a) The county board of education in each county shall consist of five members elected by the voters of the county at large for terms of four years: Provided, that where there are multiple local school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education.

The terms of office of the members of boards of education of all school administrative units in this State, who serve on June 25, 1975, shall continue until members are elected and qualified as provided in this section unless modified by local legislation.

(b) No person residing in a local school administrative unit shall be eligible for election to the board of education of that local school administrative unit unless such person resides within the boundary lines of that local school administrative unit.

**"§ 115C-36. Designation of Board.** — All powers and duties conferred and imposed by law respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon local boards of education. Said boards of education shall have general control and supervision of all matters pertaining to the public schools in their respective administrative units and they shall enforce the school law in their respective units.

**"§ 115C-37. Election of board members.** — (a) Method of Election.— The county boards of education shall be elected on a nonpartisan basis at the time of the primary election in 1970 and biennially thereafter. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted

according to the provisions of Chapter 163 of the General Statutes then governing primary elections.

The terms of office of the members shall be staggered so as nearly equal to one half as possible shall expire every two years.

(b) County Board of Elections to Provide for Elections. — The county board of elections under the direction of the State Board of Elections, shall make all necessary provisions for elections of county boards of education as are herein provided for. The county board of elections of each county shall file with the State Board of Elections a statement specifying the size and method of election of members of its county board of education.

(c) City Board of Education. — The board of education for any city administrative unit shall be appointed or elected as now provided by law. If no provision is now made by the law for the filling of vacancies in the membership of any city board of education, such vacancy may be filled by the governing body of the city or town embraced by said administrative unit. In the event that any such vacancy is not filled in this manner within 30 days, the State Board of Education may fill such vacancy.

(d) Members to Qualify. — Those persons who shall be elected members of the county boards of education must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as set out in subsection (f) of this section. Those persons appointed to fill a vacancy must qualify within 30 days after notification. A failure to qualify within that time shall constitute a vacancy.

This subsection shall not have the effect of repealing any local or special acts relating to boards of education of any particular counties whose membership to said boards is chosen by a vote of the people.

(e) Vacancies in Nominations for Membership on County Boards. — If any candidate nominated on a partisan basis shall die, resign, or for any reason become ineligible or disqualified between the date of his nomination and the time for the election, such vacancy caused thereby may be filled by the actions of the county executive committee of the political party of such candidate.

(f) Vacancies in Office. — All vacancies in the membership of the boards of education whose members are elected pursuant to the provisions of subsection (a) of this section by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

(g) Eligibility for Board Membership; Holding Other Offices. — Any person possessing the qualifications for election to public office set forth in Article VI, Section 6 of the Constitution of North Carolina shall be eligible to serve as a member of a local board of education: Provided, however, that any person elected or appointed to a local board of education, and also employed by that board of education or appointed to a district committee by that board of education, shall resign his employment before taking office as a member of that board of education.

Membership on a board of education is hereby declared to be an office that, with the exceptions provided above, may be held concurrently with any appointive office, pursuant to Article VI, Section 9 of the Constitution, but any person holding an elective office shall not be eligible to serve as a member of a local board of education.

**"§ 115C-38. Compensation of board members.** — The tax-levying authority for a local school administrative unit may, under the procedures of G.S. 153A-92, fix the compensation and expense allowances paid members of the board of education of that local school administrative unit.

Funds for the per diem, subsistence, and mileage for all meetings of county and city boards of education shall be provided from the current expense fund budget of the particular county or city.

The compensation and expense allowances of members of boards of education shall continue at the same levels as paid on July 1, 1975, until changed by or pursuant to local act or pursuant to this section.

**"§ 115C-39. Removal of board members.** — In case the Superintendent of Public Instruction shall have sufficient evidence that any member of a local board of education is not capable of discharging, or is not discharging, the duties of his office as required by law, or is guilty of immoral or disreputable conduct, he shall notify the chairman of such board of education, unless such chairman is the offending member, in which case all other members of such board shall be notified. Upon receipt of such notice there shall be a meeting of said board of education for the purpose of investigating the charges, and if the charges are found to be true, such board shall declare the office vacant: Provided, that the offending member shall be given proper notice of the hearing and that record of the findings of the other members shall be recorded in the minutes of such board of education.

**"§ 115C-40. Board a body corporate.** — The board of education of each county in the State shall be a body corporate by the name and style of 'The \_\_\_\_\_ County Board of Education', and the board of education of each city administrative school unit in the State shall be a body corporate by the name and style of 'The \_\_\_\_\_ City Board of Education'. The several boards of education, both county and city, shall hold all school property and be capable of purchasing and holding real and personal property, of building and repairing schoolhouses, of selling and transferring the same for school purposes, and of prosecuting and defending suits for or against the corporation.

Where there is public school property now in the possession of school committees who were bodies corporate prior to January 1, 1900, or who became bodies corporate by special act of the General Assembly but who have since ceased to be bodies corporate; and where land was conveyed by deed bearing date prior to January 1, 1900, to local trustees for school purposes, and such deed makes no provision for successor trustees to those named in said deed, and all of such trustees are dead; and where such land is not now being used for educational purposes by the board of the local school administrative unit wherein such land is located, the clerk of the superior court of the county wherein such property or such land is located shall convey said property or land to the board of education of the local school administrative unit in which the land is located.

Local boards of education, subject to any paramount powers vested by law in the State Board of Education or any other authorized agency shall have general control and supervision of all matters pertaining to the public schools in their respective local school administrative units; they shall execute the school laws in their units; and shall have authority to make agreements with other boards of education to transfer pupils from one local school administrative unit to another unit when the administration of the schools can be thereby more efficiently and more economically accomplished.

**"§ 115C-41. Organization of board.** — (a) At the first meeting of the new county board in April, the members of all boards shall organize by electing one of their members as chairman for a period of one year, or until his successor is elected and qualified. The chairman of the county board of education shall preside at the meetings of the board, and in the event of his absence or sickness, the board may appoint one of its members temporary chairman. The superintendent of schools, whether a county or city superintendent, shall be ex officio secretary to his respective board. He shall keep the minutes of the meetings of the board but shall have no vote: Provided, that in the event of a vacancy in the superintendency, the board may elect one of its members to serve temporarily as secretary to the board.

(b) All local boards of education shall meet on the first Monday in January, April, July, and October of each year, or as soon thereafter as practicable. A board may elect to hold regular monthly meetings, and to meet in special session upon the call of the chairman or of the secretary as often as the school business of the local school administrative unit may require.

**"§ 115C-42. Liability insurance and immunity.** — Any local board of education, by securing liability insurance as hereinafter provided, is hereby authorized and empowered to waive its governmental immunity from liability for damage by reason of death or injury to person or property caused by the negligence or tort of any agent or employee of such board of education when acting within the scope of his authority or within the course of his employment. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but such immunity is waived only to the extent that said board of education is indemnified by insurance for such negligence or tort.

Any contract of insurance purchased pursuant to this section must be issued by a company or corporation duly licensed and authorized to execute insurance contracts in this State and must by its terms adequately insure the local board of education against any and all liability for any damages by reason of death or injury to person or property proximately caused by the negligent acts or torts of the agents and employees of said board of education or the agents and employees of a particular school in a local administrative unit when acting within the scope of their authority or within the course of their employment. Any company or corporation which enters into a contract of insurance as above described with a local board of education, by such act waives any defense based upon the governmental immunity of such local board of education.

Every local board of education in this State is authorized and empowered to pay as a necessary expense the lawful premiums for such insurance.

Any person sustaining damages, or in case of death, his personal representative may sue a local board of education insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in the county of such board of education; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of governmental, municipal or discretionary function of such local board of education if, and to the extent, such local board of education has insurance coverage as provided by this section.

Except as hereinbefore expressly provided, nothing in this section shall be construed to deprive any local board of education of any defense whatsoever to any such action for damages or to restrict, limit, or otherwise affect any such defense which said board of education may have at common law or by virtue of any statute; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to said local board of education or to commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by statute.

A local board of education may incur liability pursuant to this section only with respect to a claim arising after such board of education has procured liability insurance pursuant to this section and during the time when such insurance is in force.

No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Such liability shall not attach unless the plaintiff shall waive the right to have all issues of law or fact relating to insurance in such an action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury and the jury shall be absent during any motions, arguments, testimony or announcement of findings of fact or conclusions of law with respect thereto unless the defendant shall request a jury trial thereon: Provided, that this section shall not apply to claims for damages caused by the negligent acts or torts of public school bus, or school transportation service vehicle drivers, while driving school

buses and school transportation service vehicles when the operation of such school buses and service vehicles is paid from the State Public School Fund.

**"§ 115C-43. Defense of board of education members and employees.** — (a) Upon request made by or in behalf of any member or employee or former member or employee, any local board of education may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of or employee of the local board of education. The defense may be provided by the local board of education by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any local board of education to provide for the defense of any action or proceeding of any nature.

(b) Any local board of education may budget funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or employees or former members and employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of the local board of education or as an employee. Nothing in this section shall authorize any local board of education to budget funds for the purpose of paying any claim made or civil judgment entered against any of its members or employees or former members and employees if the local board of education finds that such member or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any local board of education may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any local board of education to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) of this section shall not authorize any local board of education to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (i) notice of the claim or litigation is given to the local board of education prior to the time that the claim is settled or civil judgment is entered and (ii) the local board of education shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against members or employees or former members and employees shall be defended or paid.

**"§ 115C-44. Suits and actions.** — (a) A local board of education shall institute all actions, suits, or proceedings against officers, persons, or corporations, or their sureties, for the recovery, preservation, and application of all money or property which may be due to or should be applied to the support and maintenance of the schools, except in case of a breach of his bond by the treasurer of the county school fund, in which case action shall be brought by the board of county commissioners.

(b) In all actions brought in any court against a local board of education, the order or action of the board shall be presumed to be correct and the burden of proof shall be on the complaining party to show the contrary.

**"§ 115C-45. Judicial functions of board.** — (a) Power to Subpoena and to Punish for Contempt. — Local boards of education shall have power to issue subpoenas for the attendance of witnesses. Subpoenas may be issued in any and all matters which may lawfully come within the powers of a board and which, in the discretion of the board, require investigation; and it shall be the duty of the sheriff or any process serving officer to serve such subpoena upon payment of their lawful fees.

Local boards of education shall have power to punish for contempt for any disorderly conduct or disturbance tending to disrupt them in the transaction of official business.

(b) **Witness Failing to Appear; Misdemeanor.** — Any witness who shall willfully and without legal excuse fail to appear before a local board of education to testify in any matter under investigation by the board shall be guilty of a misdemeanor, and shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than 30 days.

(c) **Appeals to Board of Education and to Superior Court.** — An appeal shall lie from the decision of all school personnel to the appropriate local board of education. In all such appeals it shall be the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one's character or right to teach.

**"§ 115C-46. Powers of local boards to regulate parking of motor vehicles.** — (a) Any local board of education may adopt reasonable rules and regulations with respect to the parking of motor vehicles and other modes of conveyance on public school grounds and may enforce such rules and regulations. Any person who violates a rule or regulation concerning parking on public school grounds is guilty of a misdemeanor and, upon conviction, may be punished by a fine of not more than ten dollars (\$10.00). Provided, however, that any rule or regulation adopted hereunder may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor. Rules and regulations adopted hereunder shall be made available for inspection by any person upon request.

(b) Any local board of education may adopt written guidelines governing the individual assignment of parking spaces on school grounds. Such guidelines shall give first priority treatment to the physically handicapped.

(c) Any local board of education, by rules and regulations adopted hereunder, may provide for the registration of motor vehicles and other modes of conveyance maintained, operated or parked on school grounds. Any local board of education, by rules and regulations adopted hereunder, may provide for the issuance of stickers, decals, permits or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on school grounds and may prohibit the forgery, counterfeiting, unauthorized transfer or unauthorized use of them.

(d) Any motor vehicle parked in a parking lot on school grounds, when such lot is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at each entrance thereto, in violation of the rules and regulations adopted by the local board of education, or any motor vehicle otherwise parked on school grounds in violation of the rules and regulations adopted by the county or city local board of education, may be removed from school grounds to a place of storage and the registered owner of such vehicle shall become liable for removal and storage charges. No person shall be held to answer in any civil or criminal action to any owner, lienholder, or other person legally entitled to the possession of any motor vehicle removed pursuant to this section except where such motor vehicle is willfully, maliciously or negligently damaged in the removal from school grounds to place of storage.

**"§ 115C-47. Powers and duties generally.** — In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(a) To Provide an Adequate School System. — It shall be the duty of local boards of education to provide adequate school systems within their respective local school administrative units, as directed by law.

(b) To Exercise Certain Judicial Functions and to Participate in Certain Suits and Actions. — Local boards of education shall have the power and authority to exercise certain judicial functions pursuant to the provisions of G.S. 115C-45 and to participate in certain suits and actions pursuant to the provisions of G.S. 115C-44.

(c) To Divide Local School Administrative Units into Attendance Areas. — Local boards of education shall have authority to divide their various units into attendance areas without regard to district lines.

(d) To Regulate Extracurricular Activities. — Local boards of education shall make all rules and regulations necessary for the conducting of extracurricular activities in the schools under their supervision, including a program of athletics, where desired, without assuming liability therefor; provided, that all interscholastic athletic activities shall be conducted in accordance with rules and regulations prescribed by the State Board of Education.

(e) To Fix Time of Opening and Closing Schools. — The time of opening and closing the public schools shall be fixed pursuant to the provisions of G.S. 115C-84(e).

(f) To Regulate Fees, Charges and Solicitations. — Local boards of education shall adopt rules and regulations governing solicitations of, sales to, and fund-raising activities conducted by, the students and faculty members in schools under their jurisdiction, and no fees, charges, or costs shall be collected from students and school personnel without approval of the board of education as recorded in the minutes of said board; provided, this subsection shall not apply to such textbook fees as are determined and established by the State Board of Education. All schedules of fees, charges and solicitations approved by local boards of education shall be reported to the Superintendent of Public Instruction.

(g) To Accept and Administer Federal or Private Funds. — Local boards of education shall have power and authority to accept, receive and administer any funds or financial assistance given, granted or provided under the provisions of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362) and under the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, 88th Congress, S. 2642), or other federal acts or funds from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds. In the administration of such funds, local boards of education shall have authority to enter into contracts with and to cooperate with and to carry out projects with nonpublic elementary and secondary schools, community groups and nonprofit corporations, and to enter into joint agreements for these purposes with other local boards of education. Local boards of education shall furnish such information as shall be requested by the State Board of Education, from time to time, relating to any programs related or conducted pursuant to this subsection.

(h) To Sponsor or Conduct Educational Research. — Local boards of education are authorized to sponsor or conduct educational research and special projects approved by the Department of Public Instruction and the State Board of Education that may improve the school system under their jurisdictions. Such research or projects may be conducted during the summer months and the board may use any available funds for such purposes.

(i) To Assure Accurate Attendance Records. — When the governing board of any local school administrative unit shall have information that inaccurate school attendance records are being kept, the board concerned shall immediately investigate such inaccuracies and take necessary action to establish and maintain correct records and report its findings and action to the State Board of Education.

(j) To Assure Appropriate Class Size. — It shall be the responsibility of local boards of education to determine if any exceptions occur during the school year in the allowed maximums. If additional pupils are enrolled so as to cause assignment of pupils in excess of the



allowed maximums, except for an emergency or act of God, it shall be the duty of any affected teacher and of the principal to notify the superintendent, who shall immediately report the deviation to the local board of education. Upon notification of excess deviations in the maximum class size, local boards shall take correctional steps and shall transfer teaching positions between schools, if necessary, to correct the excess deviation. If the local board cannot remedy the situation, it shall immediately apply to the State Board of Education for contingency funds for additional personnel to correct exceptions. Excess deviations which cannot be corrected by transfer of teachers and by use of contingency funds shall be temporarily allowed with permission of the State Board of Education.

At the end of the first month of school each year, the superintendent of each administrative unit shall file a report for each school with the State Board of Education. This report shall be filed on forms furnished by the board and shall indicate the complete organization of each school, the duties of each teacher or other instructional personnel, and the class size or teaching load of each teacher.

It shall be the duty of local boards of education to provide adequate classroom facilities to meet the requirements of this subsection and of G.S. 115C-301.

(k) To Determine the Length of the School Day, the School Month and the School Term. — Local boards of education shall determine the length of the school day, the school month and the school term pursuant to the provisions of G.S. 115C-84(a) through (c).

(l) To Provide for Efficient Teaching of Subjects in the Outline Course of Study. — Local boards of education shall provide for the efficient teaching in each grade of all subjects included in the outline course of study prepared by the Superintendent of Public Instruction, as provided in G.S. 115C-81(b).

(m) To Elect a Superintendent. — The local boards of education shall elect superintendents subject to the requirements and limitations set forth in G.S. 115C-271.

(n) To Supply an Office, Equipment and Clerical Assistance for the Superintendent. — It shall be the duty of the various boards of education to provide the superintendent of schools with an office, equipment and clerical assistance as provided in G.S. 115C-277.

(o) To Prescribe Duties of Superintendent. — The local boards of education shall prescribe the duties of the superintendent as subject to the provisions of G.S. 115C-276(a).

(p) To Remove a Superintendent or Committeeman, When Necessary. — Local boards of education shall remove a superintendent or a committeeman for cause, pursuant to the provisions of G.S. 115C-59 and 115C-274(a).

(q) To Employ Assistant Superintendents and Supervisors. — Local boards of education have the authority to employ assistant superintendents and supervisors pursuant to the provisions of G.S. 115C-278 and 115C-284(g).

(r) To Make Rules Concerning the Conduct and Duties of Personnel. — Local boards of education, upon the recommendation of the superintendent, shall have full power to make all just and needful rules and regulations governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property.

(s) To Approve the Assignment of Duties to an Assistant Principal. — Local boards of education shall permit certain duties of the principal to be assigned to an assistant or acting principal pursuant to the provisions of G.S. 115C-289.

(t) To Provide for Training of Teachers. — Local boards of education are authorized to provide for the training of teachers as provided in G.S. 115C-300.

(u) To Pay School Employees. — It shall be the duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and of all current bills and other necessary operating expenses. All salaries and bills shall be paid as provided by law for disbursing State and local funds.

The local board shall determine salary schedules of employees pursuant to the provisions of G.S. 115C-273, 115C-285(b), 115C-302(b) and 115C-316(b).

The authority for boards of education to issue salary vouchers to all school employees, whether paid from State or local funds, shall be a monthly payroll prepared on forms furnished by the State Board of Education and containing all information required by the controller of the State Board of Education. This monthly payroll shall be signed by the principal of each school.

(v) To Provide School Food Services. — Local boards of education shall provide, to the extent practicable, school food services as provided in Part 2 of Article 17 of this Chapter.

(w) To Purchase Equipment and Supplies. — They shall contract for equipment and supplies pursuant to the provisions of G.S. 115C-522(a).

(x) Purchase of Activity Buses with Local Capital Outlay Tax Funds. — Local boards of education are authorized to purchase activity buses with local capital outlay tax funds, and are authorized to maintain these buses in the county school bus garage. Reimbursement to the State Public School Fund shall be made for all maintenance cost including labor, gasoline and oil, repair parts, tires and tubes, antifreeze, etc. Labor cost reimbursements and local funds may be used to employ additional mechanics so as to insure that all activity buses owned and operated by local boards of education are maintained in a safe mechanical condition. The State Board of Education shall inspect each activity bus and recommend to the board whether the bus should be replaced but replacements will be determined by the local board of education. Such replacement units for activity buses shall be financed with local funds.

(y) To Secure Liability Insurance. — Local boards of education are authorized to secure liability insurance, as provided in G.S. 115C-42, so as to waive their immunity for liability for certain negligent acts of their employees.

**"§ 115C-48. Penalties for certain conduct.** — (a) Members of local boards of election are criminally liable for certain conduct as provided in G.S. 14-234 through G.S. 14-237.

(b) Members of local boards of election are civilly liable for certain conduct as provided in G.S. 115C-441.

**"§§ 115C-49 to 115C-53:** Reserved for future codification purposes.

#### "ARTICLE 6.

#### "School Committees.

**"§ 115C-54. Eligibility and oath of office; holding other offices.** — Each school committeeman or member of an advisory council shall be a person of intelligence, good moral character, and good business qualifications, who is known to be in favor of public education and who resides in the district. Before entering upon the duties of his office, he shall take oath for the faithful performance thereof, which oath may be taken before the county superintendent.

No person, while employed as teacher in either a public school or a private school, or while serving as a member of any local board of education or serving as an employee of the schools shall be eligible to serve as a member of a district committee.

A school committeeman appointed to a school committee under G.S. 115C-55 or a councilman appointed to an advisory council is hereby declared to hold an office that, with the exceptions provided above, may be held concurrently with any appointive office pursuant to Article VI, Sec. 9, of the Constitution, but any person holding an elective office shall not be eligible to serve on a school committee or advisory council.

**"§ 115C-55. Appointment; number of members; terms; vacancies; advisory council.** — The county boards of education shall biennially elect and appoint school committees for each of the several districts in their counties, consisting of not less than three, nor more than five persons, for each school district, whose term of office shall be for two years: Provided, that in county school administrative units organized as one district, the county board of education need not appoint a district school committee, in which case the county board of education shall assume the duties of the district school committee or may authorize an advisory council, or councils, to assume such duties as it may legally delegate to them. In the event of death, resignation or removal from the district of any member of said school committee, the county board of education shall be empowered to select and appoint his or her successor to serve the

remainder of the term: Provided that in units desiring the same, by action of the county board of education, one third of the members may be selected for a term of one year, one third of the members for a term of two years, and one third of the members for a term of three years, and thereafter all members for a term of three years from the expiration of said terms. This section shall not have the effect of repealing any local or special acts relating to the appointment or terms of office of school committees.

A county board of education may appoint an advisory council for any school or schools within the local school administrative unit. The purpose and function of an advisory council shall be to serve in an advisory capacity to the board on matters affecting the school or schools for which it is appointed. The organization, terms, composition and regulations for the operation of such advisory council shall be determined by the board.

**"§ 115C-56. Organization of school committee; meetings.** — The school committee, at its first meeting after the membership has been completed by the county board of education, shall elect from its number, a chairman and secretary, who shall keep a record of its proceedings in a book to be kept for that purpose, which shall be open to public inspection. The names and addresses of the chairman and secretary shall be reported to the county superintendent and recorded by him. The committee shall meet as often as the school business of the district may require.

**"§ 115C-57. How to employ principals, teachers, janitors and maids.** — The district committee, upon the recommendation of the county superintendent of schools, shall elect the principals for the schools of the district, subject to the approval of the county board of education. The principal of each school shall nominate and the district committee shall elect the teachers for all the schools of the district, subject to the approval of the county superintendent of schools and the county board of education. Likewise, upon the recommendation of the principal of each school of the district, the district committee shall appoint janitors and maids for the schools of the district, subject to the approval of the county superintendent of schools and the county board of education. No election of a principal or teacher, or appointment of a janitor or maid, shall be deemed valid until such election or appointment has been approved by the county superintendent and the county board of education. No teacher under 18 years of age may be employed, and the election of all teachers and principals and the appointment of all janitors and maids shall be done at regular or called meetings of the committee.

In the event the district committee and the county superintendent are unable to agree upon the nomination and election of a principal or the principal and the district committee are unable to agree upon the nomination and election of teachers or appointment of janitors or maids, the county board of education shall select the principal and teachers and appoint janitors and maids, which selection and appointment shall be final.

The distribution of the teachers and janitors among the several schools of the district shall be subject to the approval of the county board of education.

**"§ 115C-58. Committee's responsibility as to school property.** — It shall be the duty of the school committee to protect all school property in its district. To this end, it is given custody of all schoolhouses, schoolhouse sites, grounds, textbooks, apparatus, and other school property in the district, with full power to control same as it may deem best for the interests of the public schools and the cause of education, but not in conflict with the rules and regulations of the county board of education. It shall be the duty of the committee to report any misuse or damage of school property immediately to the county board of education: Provided, that if the committee is unable or shall fail to take due care of all school property of the district, the county board of education may designate some responsible citizen of the district to have special charge of the property during vacation.

**"§ 115C-59. Removal of committeemen for cause.** — In case the county superintendent or any member of the county board of education shall have sufficient evidence at any time that any member of any school committee is not capable of discharging, or is not discharging, the

duties of his office, or is guilty of immoral or disreputable conduct, he shall bring the matter to the attention of the county board of education, which shall thoroughly investigate the charges. If the board of education finds that the evidence supports the charges made to such an extent that the actions and conduct of said committeeman are not for the best interests of the schools, then the board shall proceed to remove such committeeman and appoint his successor: Provided, that such committeeman shall be given proper notice of the hearing and that a record of the findings of the board shall be recorded in the minutes of the meeting.

"§§ 115C-60 to 115C-64: Reserved for future codification purposes.

**"SUBCHAPTER III.**

**"SCHOOL DISTRICTS AND UNITS.**

**"ARTICLE 7.**

**"Organization of Schools.**

**"§ 115C-65. State divided into districts.** — The State of North Carolina shall be divided into eight educational districts embracing the counties herein set forth:

**First District**

Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, Washington.

**Second District**

Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, Wayne.

**Third District**

Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton, Vance, Wake, Warren, Wilson.

**Fourth District**

Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Scotland.

**Fifth District**

Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.

**Sixth District**

Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.

**Seventh District**

Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.

**Eighth District**

Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey.

**"§ 115C-66. Administrative units classified.** — Each county of the State shall be classified as a county school administrative unit, the schools of which, except in city administrative units, shall be under the general supervision and control of a county board of education with a county superintendent as the administrative officer.

A city school administrative unit shall be classified as an area within a county or adjacent parts of two or more contiguous counties which has been or may be approved by the State Board of Education as such a unit for purposes of school administration. The general administration and supervision of a city administrative unit shall be under the control of a board of education with a city superintendent as the administrative officer.

All local school administrative units, whether city or county, shall be dealt with by the State school authorities in all matters of school administration in the same way.

**"§ 115C-67. Merger of units in same county.** — City school administrative units may be consolidated and merged with contiguous city school administrative units and with county school administrative units upon approval by the State Board of Education of a plan for

consolidation and merger submitted by the boards of education involved and bearing the approval of the board of county commissioners.

County and city boards of education desiring to consolidate and merge their school administrative units may do so by entering into a written plan which shall set forth the conditions of merger. The provisions of the plan shall be consistent with the General Statutes and shall contain, but not be limited to, the following:

- (1) The name by which the merged school administrative unit shall be identified and known.
- (2) The effective date of the merger.
- (3) The establishment and maintenance of a board of education which shall administer all the public schools of the newly created unit, including:
  - a. The termination of any terms of office proposed in the reorganization of the board.
  - b. The method of constituting and continuing the board of education, the length of the members' terms of office, the dates of induction into office, the organization of the board, the procedure for filling vacancies, and the compensation to be paid members of the board for expenses incurred in performance of their duties.
- (4) The authority, powers, and duties of the board of education with respect to the employment of personnel, the preparation of budgets, and any other related matters which may be particularly applicable to the merged unit not inconsistent with the General Statutes.
- (5) The transfer of all facilities, properties, structures, funds, contracts, deeds, titles, and other obligations, assets and liabilities to the board of education of the merged unit.
- (6) Whether or not there shall be continued in force any supplemental school tax which may be in effect in either or all local school administrative units involved.
- (7) A public hearing, which shall have been announced at least 10 days prior to the hearing, on the proposed plan of merger.
- (8) A statement as to whether the question of merger, in accordance with the projected plan, is to be contingent upon approval of the voters in the affected area.
- (9) Any other condition or prerequisite to merger, together with any other appropriate subject or function that may be necessary for the orderly consolidation and merger of the local school administrative units involved.

The plan referred to above shall be mutually agreed upon by the city and county boards of education involved and shall be accompanied by a certification that the plan was approved by the board of education on a given day and that the action has been duly recorded in the minutes of said board, together with a certification to the effect that the public hearing required above was announced and held. The plan, together with the required certifications, shall then be submitted to the board of county commissioners for its concurrence and approval. After such approval has been received, the plan shall be submitted to the State Board of Education for the approval of said State Board and the plan shall not become effective until such approval is granted. Upon approval by the State Board of Education, the plan of consolidation and merger shall become final and shall be deemed to have been made by authority of law and shall not be changed or amended except by an act of the General Assembly. The written plan of agreement shall be placed in the custody of the board of education operating and administering the public schools in the merged unit and a copy filed with the Secretary of State.

The plan may be, but it is not required that it be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for such purpose, and such

elections or referendums if held shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507, with authority of the board of county commissioners to have such election or referendum conducted by the board of elections of the county.

Upon approval of the plan of consolidation or merger by the State Board of Education, or upon approval of the plan of consolidation or merger by the voters in a referendum or election called for such purpose, and as soon as a provisional or interim board of education of the merged unit, or a permanent board of education of the merged unit, enters in and upon the duties of the administration of the public schools of the consolidated or merged unit, then the former boards of education and all public officers of the former boards of education of the separate units thus merged shall stand abolished, and said separate boards of education or administrative units thus merged shall stand dissolved and shall cease to exist for any and all purposes. All consolidations and mergers of county and city boards of education and of county and city school administrative units heretofore agreed to and finally approved, and all consolidation or merger proceedings entered into prior to June 9, 1969, are hereby declared to be effective, legal and according to law notwithstanding any defect in the merger or consolidation proceedings and notwithstanding any dissolution of the separate boards of education and public officers of the former, separate school units.

**"§ 115C-68. Merger of units in adjoining counties.** — (a) Boards of education of contiguous counties or boards of education in a group of counties in which each county is contiguous with at least one other county in the group, and any city school administrative unit located in counties to be merged, may merge school administrative units upon approval by the State Board of Education of a written plan for merger submitted by the boards of education involved and bearing the approval of the tax-levying body for the school units. The plan shall be consistent with the General Statutes, shall contain provisions covering those items listed in G.S. 115C-67 (providing for the merger of units in the same county, and shall contain any other provision deemed necessary or appropriate by the State Board of Education or the local boards of education for the merger of school units in two or more counties.

(b) The plan of merger, including any arrangements for financing or taxing for the schools in the new local school administrative unit, may be, but is not required to be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for the purpose of approving these matters. Such elections or referendums, if held, shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507. Each board of county commissioners shall have authority to have such elections or referendums conducted by the board of elections of its county under the provisions set forth in G.S. 115C-507.

(c) If twenty percent (20%) of the qualified voters of a county to be merged, petition the board of county commissioners of their county for an election as to whether their county shall be included in the proposed merger, the board of county commissioners shall call an election on this question for its county under the provisions of G.S. 115C-507. The petition must be submitted to the board of county commissioners within 10 days following the public hearing required by G.S. 115C-67 on the proposed plan of merger. The board of county commissioners shall have authority to have such an election conducted by the board of election of its county under the provisions set forth in G.S. 115C-507.

(d) Boards of education considering a merger of two or more counties may spend money necessary for studying and preparing for such a merger.

**"§ 115C-69. Types of districts defined.** — The term 'district' here used is defined to mean any convenient territorial division or subdivision of a county, created for the purpose of maintaining within its boundaries one or more public schools. It may include one or more incorporated towns or cities, or parts thereof, or one or more townships, or parts thereof, all of which territory is included in a common boundary. There shall be three different kinds of districts:

- (1) The 'nontax district' is a territorial division of a local school administrative unit under the control of the local board of education, having no special local tax fund voted by the people for supplementing State and county funds.
- (2) The 'local tax district' is a territorial division of a local school administrative unit under the control of the county local board of education, having in addition to State and county funds, a special local tax fund voted by the people for supplementing State and county funds.
- (3) The 'administrative district' is a territorial division of a county school administrative unit under the control of a county board of education which is established for administrative purposes and which consists of any combination of one or more local tax districts, nontax areas or bond districts of the county school administrative unit.

**"§ 115C-70. Creation and modification of school districts by State Board.** — (a) The State Board of Education, upon the recommendation of the county board of education, shall create in any county school administrative unit a convenient number of school districts. Such district organization may be modified in the same manner in which it was created when it is deemed necessary: Provided, that when changes in district lines are made between and among school districts that have voted upon themselves the same rate of supplemental tax, such changes in district lines shall not have the effect of abolishing any of such districts or of abolishing any supplemental taxes that may have been voted in any of such districts: Provided, further, that nothing in this paragraph shall affect the right of any city school administrative unit or special tax district which now exists for the purpose of retiring debt service, to have the indebtedness of such district taken over by the county as provided by law, and nothing herein shall be construed to restrict the county board of education or the board of county commissioners in causing such indebtedness to be assumed by the county as provided by law.

The General Assembly shall not enact any local, private, or special act or resolution establishing or changing the lines of school districts.

(b) All pupils residing in a school district or attendance area, who have not been removed from school for cause, shall be entitled to all the privileges and advantages of the public schools of such district or attendance area in such school buildings to which they are assigned by local boards of education as provided in G.S. 115C-366.

**"§ 115C-71. Districts formed from portions of contiguous counties.** — School districts may be formed out of contiguous counties by agreement of the county boards of education of the respective counties subject to the approval of the State Board of Education. Rules for the organization, support and operation of districts so formed are subject to the agreement of the boards of education concerned, and as a guide to the working out of such agreements the formulas contained in G.S. 115C-510 should be followed as far as applicable.

**"§ 115C-72. Consolidation of districts and discontinuance of schools.** — County boards of education shall have the power and authority to consolidate schools located in the same district, and with the approval of the State Board of Education, to consolidate school districts or other school areas over which the board has full control, whenever and wherever in its judgment the consolidation will better serve the educational interests of the county or any part of it: Provided, existing schools having suitable buildings shall not be abolished until the county board of education has made ample provisions for transferring all children of said school to some other school.

In determining whether two or more public schools shall be consolidated, or in determining whether or not a school shall be closed and the pupils transferred therefrom, the State Board of Education and the boards of education of the several counties shall observe and be bound by the following rules:

- (1) In any question involving the discontinuance or consolidation of any high school with an average daily attendance of 60 or more pupils, the board of

education of the county in which such school is located and the State Board of Education shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed consolidation and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such consolidation, the cost of providing additional school facilities in the event of such consolidation, and the importance of such school to the people of the community in which the same is located and their interest in and support of same. Before the entry of any order of consolidation, the county board of education shall provide for a public hearing in regard to such proposed consolidation, at which hearing the county and State boards of education and the public shall be afforded an opportunity to express their views. Upon the basis of the study so made and after such hearing, said boards may, in the exercise of their discretion and by concurrent action, approve the consolidation proposed.

- (2) Provision shall not be made by the State Board of Education for the operation of a high school with an average daily attendance of less than 60 pupils unless the State Board of Education and the Superintendent of Public Instruction, after a careful survey by them, find that geographic or other conditions make it impractical to provide for such pupils otherwise. Upon such finding, the State Board of Education may make provision for the operation of such school.
- (3) Notwithstanding the limitations imposed by the provisions of subdivision (2) of this section, the State Board of Education shall make provision for the continued operation of any high school now operating in any county school administrative unit and having an average daily attendance of at least 45 but fewer than 60 pupils, and shall allot to such school the number of teachers to which it may be entitled pursuant to law and rules of the State Board of Education if the continued operation of such school be requested by the board of education of such county by the inclusion of such school in the organization statement for the following year filed pursuant to the provisions of law: Provided, however, that at the time of making such request, the county board of education presents to the State Board of Education a certified statement that it has on hand and allocated for such purpose sufficient funds to pay the salaries, in accordance with the State standard salary schedule, of such additional teachers for said school as may be required in order to comply with minimum teacher requirements for a standard high school as now or hereafter defined and sufficient funds to pay the county's contribution for such teachers to the Teachers' and State Employees' Retirement System of North Carolina, as provided by G.S. 135-8(d) and that said county board of education will employ such teacher or teachers.

For the purpose of providing the funds required by the proviso of this subdivision, the boards of commissioners of the several counties are authorized to appropriate nontax funds, and the several county boards of education are authorized to accept and use privately donated funds.

- (4) The provisions of this section shall not deprive any local board of education of the authority to assign or enroll any and all pupils in schools in accordance with the provisions of G.S. 115C-366(b) and 115C-367 to 115C-370.



**"§ 115C-73. Enlarging tax districts and city units by permanently attaching contiguous property.** — The county boards of education with the approval of the State Board of Education may transfer from nontax territory and attach permanently to local tax districts or to city school administrative units, real property contiguous to said local tax districts or city school administrative units, upon the written petition of the owners thereof and the taxpayers of the families living on such real property, and there shall be levied upon the property of each individual in the area so attached, including landowners and tenants, the same tax as is levied upon other property in said district or unit: Provided, that such transfer shall be subject to the approval of the board of education of such city unit or the committee of such tax district, as the case may be: Provided, the petition must be signed by a majority of the persons who are the owners thereof and a majority of the taxpayers of the families living on such real property on the date the petition is filed with the county board of education: Provided, further, that a person or corporation owning only an easement in real property shall not be considered an owner of said property within contemplation of this section: Provided, further that no right of action or defense founded upon the invalidity of such transfer shall be asserted, nor shall the validity of such transfer be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 60 days after the approval of such transfer is given by the State Board of Education.

Any qualified voter residing in the area attached shall be permitted to vote in any election for members of the board of education having jurisdiction over the attached area.

**"§ 115C-74. School system defined.** — The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. The system may be organized in one or two ways as follows: The first eight grades shall be styled the elementary school and the remaining four grades, the high school; or if more practicable, a junior high school may be formed by combining the first year of high school with both the seventh and eighth grades or with the eighth grade alone, and a senior high school which shall comprise the last three years of high school work. For purposes of Title V of the National Defense Education Act of 1958 (Public Law 85-864) the term 'secondary school' shall be applicable to grades seven through 12.

**"§ 115C-75. Recommended school classification.** — The different types of public schools are classified and defined as follows:

- (1) An 'elementary school' is a school which embraces a part or all of the eight elementary grades and which may have a kindergarten or other early childhood program.
- (2) A 'high school' is a school which embraces a high school department above the elementary grades and which offers at least the minimum high school course of study prescribed by the State Board of Education.
- (3) A 'union school' is a school which embraces both elementary and high school grades.
- (4) A 'junior high school' is a school which embraces not more than the first year of high school with not more than the upper two elementary grades.
- (5) A 'senior high school' is a school which embraces the tenth, eleventh and twelfth grades.

**"§§ 115C-76 to 115C-80:** Reserved for future codification purposes.

#### **"SUBCHAPTER IV.**

#### **"EDUCATION PROGRAM.**

#### **"ARTICLE 8.**

#### **"General Education.**

#### **"Part 1 . Courses of Study.**

**"§ 115C-81. Required curriculum.** — (a) Standard Course of Study for Each Grade. — Upon the recommendation of the Superintendent, the State Board of Education shall adopt a standard

course of study for each grade in the elementary school and in the high school. In the course of study adopted by the Board, the Board may establish a program of continuous learning based upon the individual child's need, interest, and stages of development, so that the program has a nongraded structure of organization. These courses of study shall set forth what subjects shall be taught in each grade, and outline the basal and supplementary books on each subject to be used in each grade.

The Superintendent shall prepare a course of study for each grade of the school system which shall outline the appropriate subjects to be taught, together with directions as to the best methods of teaching them as guidance for the teachers. There shall be included in the course of study for each grade, outlines and suggestions for teaching the subject of Americanism; and in one or more grades, as directed by the Superintendent of Public Instruction, outlines for the teaching of the dangers of harmful or illegal drugs, including alcohol; and, in one or more grades at the high school level, outlines for the teaching of the free enterprise system.

Local boards of education shall require that all subjects in the course of study, except foreign languages, be taught in the English language, and any teacher or principal who shall refuse to conduct his recitations in the English language may be dismissed.

(b) **Subjects Taught in Public Schools.** — Local boards of education shall provide for the efficient teaching in each grade of all subjects included in the outline course of study prepared by the Superintendent of Public Instruction, which course of study at the appropriate grade levels shall include instruction in Americanism, government of the State of North Carolina, government of the United States, fire prevention, and the dangers of harmful or illegal drugs including alcohol. The study of the free enterprise system, its history, theory, foundation, and the manner in which it operates, shall be included at the high school level. Nothing in this Chapter shall prohibit local boards of education from operating a nongraded system in which pupils are taught at their individual learning levels.

(c) **Instruction in Music Education; Supervisors and Area Supervisors.** — There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of music education in the public schools of the State, and in the various communities in which said public schools are located. The Department of Public Instruction is hereby authorized to employ a supervisor of music education and six area music supervisors in its program of promotion of music education. It shall be the duty of the supervisors to train leaders among the teachers, to hold conferences throughout the State with groups of teachers and demonstrate proper methods of teaching music, and to organize and direct leadership in music programs in the schools and in the communities of the State.

(d) **Instruction in Physical Education and Health Education.** — There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a comprehensive program of physical education and of health education including scientific instruction in the dangers of harmful or illegal drugs including alcohol. It shall be the duty of teachers and principals in connection with this program to screen and observe all pupils in order to detect signs and symptoms of deviation from normal, and to record and report the results of their findings in accordance with the established policies and procedures and upon blanks furnished for this purpose. The Superintendent of Public Instruction, with the Department of Human Resources cooperating, shall make rules and regulations regarding screening and observation by teachers and for medical and psychiatric examination of pupils attending the public schools. Correction of chronic remediable defects for underprivileged children may be paid out of school health funds appropriated by the General Assembly to the State Board of Education for allocation to local school administrative units in accordance with policies agreed upon by the Superintendent of Public Instruction and the Department of Human Resources, and as otherwise provided by law. The Department of Human Resources shall provide free dental treatment for as many underprivileged school children as possible each year.

- (e) School Health Education Program to be Developed and Administered.
- (1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program shall be developed over a 10-year period beginning July 1, 1978.
  - (2) As used above, 'comprehensive school health' includes the subject matter of mental and emotional health, drug and alcohol abuse prevention, nutrition, dental health, environmental health, family living, consumer health, disease control, growth and development, first aid and emergency care, and any like subject matter.
  - (3) The development and administration of this program shall be the responsibility of each local school administrative unit in the State, a local school health education coordinator for each county, the Department of Public Instruction, and a State School Health Education Advisory Committee.
  - (4) Each existing local school administrative unit is eligible to develop and submit a plan for a comprehensive school health education program which shall meet all standards established by the State Board of Education, and to apply for funds to execute such plans.
  - (5) The Department of Public Instruction shall supervise the development and operation of a statewide comprehensive school health education program including curriculum development, in-service training provision and promotion of collegiate training, learning material review, and assessment and evaluation of local programs in the same manner as for other programs. It is the intent of this legislation that a specific position or positions in the Department of Public Instruction shall be assigned responsibilities as set forth in this subsection.
  - (6) A State School Health Advisory Committee is hereby established.
    - a. The committee shall provide citizen input into the operations of the program, report annually to the State Board of Education on progress in accomplishing the provisions and intent of this legislation, provide advice to the department with regard to its duties under this subsection, and encourage development of higher education programs which would benefit health education in the public schools.
    - b. The committee shall meet as necessary but at least twice annually. It shall select annually a chairperson from among its own membership, each member having an equal vote and the chairperson shall appoint such subcommittees as may be necessary. Members of the committee shall serve without compensation; however, they shall be reimbursed by the Department of Public Instruction for travel and other expenses incurred in the performance of their duties as members of the committee, to the extent that funds are appropriated for this purpose.
    - c. The committee shall consist of 17 members: 10 appointed by the Governor, two by the State Board of Education, one by the Speaker of the House of Representatives, one by the President of the Senate, and three ex officio members: the Chief, Office of Health Education, Department of Human Resources; the Chief, State Health Planning and Development Agency, Department of Human Resources; and the Superintendent of Public Instruction, or their designees. The Governor's appointees shall be named in the following manner: one physician from a list of three names submitted by the North Carolina

Medical Society; one physician from a list of three names submitted by the North Carolina Pediatric Society; one physician from a list of three names submitted by the North Carolina Chiropractic Association; one registered nurse from a list of three names submitted by the North Carolina Nurses' Association; one dentist from a list of three names submitted by the North Carolina Dental Society; one member from a list of three names submitted by the North Carolina Medical Auxiliary; one member from a list of three names submitted by the North Carolina Congress of Parents and Teachers, Inc.; one member from a list of three names submitted by the North Carolina Association for Health, Physical Education, and Recreation; one member from a list of three names submitted by the North Carolina Public Health Association; one member from a list of three names submitted by the North Carolina College Conference on Professional Preparation in Health and Physical Education. The State Board nominees shall represent local school administrative units and shall have been recommended by the Superintendent of Public Instruction. The Speaker's nominee shall be a member of the North Carolina House of Representatives and the President of the Senate's nominee shall be a member of the Senate.

- d. The appointed members of the advisory committee shall serve for a term of three years. Appointed members may be reappointed up to a maximum of nine years of service. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term.
- (f) Establishment and Maintenance of Kindergartens.
  - (1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in G.S. 115C-81(f) and G.S. 115C-82.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.
  - (2) Any child who has passed the fifth anniversary of his birth on or before October 15 of the year in which he enrolls shall be eligible for enrollment in kindergarten.
  - (3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten

program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program.

**"§ 115C-82. Maximum class size.** — The maximum number of students per kindergarten class is 26 students per class.

**"§ 115C-83. Observance of special days.** — The Superintendent of Public Instruction is hereby authorized and directed to provide suitable material for the appropriate observance in all the public schools of the State of all special days which are celebrated from year to year. All literature necessary for the proper observance of the days specified in this section shall be prepared by the Superintendent of Public Instruction and printed at the expense of the State. The Superintendent of Public Instruction may fix a later or an earlier date for the observance of any special day, the observance of which is required for a specific date, if it shall appear to him to be more convenient; and he may combine the programs so as to require the observance of any two or more of the special days at the same time.

The special days appropriate for observance in North Carolina are:

- (1) North Carolina Day on October the twelfth.
- (2) Temperance or Law and Order Day on the fourth Friday in January.
- (3) Arbor Day on the Friday following the fifteenth day of March.
- (4) The birthdays of George Washington, Robert Edward Lee, and Thomas Jonathan (Stonewall) Jackson.
- (5) Veterans Day, Memorial Day, and such other days as may be deemed of educational and patriotic value to the children and citizens of the State.

"Part 2. Calendar.

**"§ 115C-84. Length of school day, month, and term; Veterans Day.** — (a) School Day. — The length of the school day shall be determined by the several local boards of education for all public schools in their respective local school administrative units, and the minimum time for which teachers shall be employed in the schoolroom or on the grounds supervising the activities of children shall not be less than six hours: Provided, the several local boards of education may adopt rules and regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the first, second, and third grades to attend school for a period less than six hours. The superintendent of the several local boards of education, in the event of an emergency, act of God, or any other conditions requiring the termination of classes before six hours have elapsed, may suspend the operation of any school for that particular day without loss of credit to the pupil or loss of pay to the teacher.

(b) School Month.— A school month shall consist of 20 teaching days. School shall not be taught on Saturdays unless the needs of agriculture, or other conditions in the unit or district make it desirable that school be taught on such days. Whenever it is desirable to complete the school term of 180 days in a shorter term than nine calendar months, the board of education of any local school administrative unit may, in its discretion, require that school shall be taught on legal holidays, except Sundays, and in accordance with the custom and practice of such community.

(c) School Term. — There shall be operated in every school in the State a uniform school term of 180 days for instructing pupils: Provided, that the State Board of Education, or the board of education of any local school administrative unit with the approval of the State Board of Education, may suspend the operation of any school in such units, not to exceed a period of 60 days of said term of 180 days, when in the sound judgment of the State Board of Education, or the board of education of any local school administrative unit with the approval of the State Board of Education, conditions justify such suspension: Provided, further, that when the operation of any school is suspended the period of suspension shall be deducted from the total of 180 days included for each school year operation, all teachers shall be entitled to

normal pay for the days of school of the suspended term, not to exceed a period of 15 school days during the school term.

Full authority is hereby given to the State Board of Education during any period of emergency to order general, and if necessary, extended recesses or adjournment of the public schools in any section of the State where the planting or harvesting of crops or any emergency conditions make such action necessary.

(d) **Standard Class Duration.** — Classes in basic academic courses in grades seven through nine of departmentalized public schools shall be limited to one hour's duration unless the specific approval of the State Board of Education is obtained in advance for a longer duration.

(e) **Fixing Time of Opening and Closing Schools.** — The time of opening and closing the public schools shall be fixed and determined by local boards of education in their respective administrative units. Different opening and closing dates may be fixed for schools in the same administrative unit but all schools using the same buses for transportation of pupils must open and close at the same time.

(f) **Veterans Day.** — Veterans Day shall be a holiday for all children enrolled in the public schools, but shall be a work day for all school employees, unless designated as a holiday by the local board of education.

"Part 3. Textbooks.

**"§ 115C-85. Textbook needs are determined by course of study.** — When the State Board of Education has adopted, upon the recommendation of the Superintendent of Public Instruction, a standard course of study at each instructional level in the elementary school and the secondary school, setting forth what subjects shall be taught at each level, it shall proceed to select and adopt textbooks. Textbooks adopted in accordance with the provisions of this Part shall be used by the public schools of the State.

**"§ 115C-86. State Board of Education to select and adopt textbooks.** — The Board shall select and adopt for a period determined to be most advantageous to the State public school system for the exclusive use in the public schools of North Carolina the basic textbooks or series of books needed for instructional purposes at each instructional level on all subject matter required by law to be taught in elementary and secondary schools of North Carolina.

**"§ 115C-87. Appointment of Textbook Commission.** — Shortly after assuming office, the Governor shall appoint a Textbook Commission of 14 members who shall hold office for four years, or until their successors are appointed and qualified. The members of the Commission shall be appointed by the Governor upon recommendation of the Superintendent. Six of these members shall be teachers or principals in the elementary grades; five shall be teachers or principals in the high school grades; one shall be a superintendent of a local school administrative unit; one shall be the parent of an elementary student, grades K-6, at the time of appointment; and one shall be the parent of a high school student, grades 7-12, at the time of appointment. The Governor shall fill all vacancies by appointment for the unexpired term. The Commission shall elect a chairman, subject to the approval of the Superintendent. The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the Board and to reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5(a). Such compensation shall be paid from funds available to the State Board of Education.

**"§ 115C-88. Commission to evaluate books offered for adoption.** — The members of the Commission who are teachers, principals or the parent of students in the elementary grades shall evaluate all textbooks offered for adoption in the elementary grades. The members who are teachers, principals or the parent of students in the high schools shall evaluate all books offered for adoption in the high school grades.

Each member shall examine carefully and file a written evaluation of each book offered for adoption in the category for which he is responsible.

The evaluation report shall give special consideration to the suitability of the book to the instructional level for which it is offered, the content or subject matter, and other criteria prescribed by the Board.

Each evaluation report shall be signed by the member making the report and filed with the Board not later than a day fixed by the Board when the call for adoption is made.

**"§ 115C-89. Selection of textbooks by Board.** — At the next meeting of the Board after the reports have been filed, the Textbook Commission and the Board shall jointly examine the reports. From the books evaluated the Board shall select those that it thinks will meet the teaching requirements of the State public schools in the instructional levels for which they are offered. The Board shall then request sealed bids from the publishers on the selected books.

The Board shall make all necessary rules and regulations concerning requests for bids, notification to publishers of calls for adoption, execution and delivery of contracts, requirement of performance bonds, cancellation clauses, and such other material matters as may affect the validity of the contracts.

**"§ 115C-90. Adoption of textbooks and contracts with publishers.** — The publishers' sealed bids shall be opened in the Board's presence at the next regular meeting after the Board has requested the submission of bids. The Board may then adopt the books required by the courses of study and enter into contracts with the publisher of adopted books. It may refuse to adopt any of the books offered at the prices bid and call for new bids. When bids are accepted and a contract entered into, the contract may require, in the Board's discretion, that the total sales of each book in the State of North Carolina be reported annually to the Board.

**"§ 115C-91. Continuance and discontinuance of contracts with publishers.** — When an existing or future contract expires, the Board may, with the publisher's approval, continue the contract for any particular book or books for a period not less than one or more than five years. If a publisher desires to terminate a contract that has been extended beyond the original contract period, he shall give notice to the Board 90 days prior to May 1. The Board may then proceed to a new adoption.

**"§ 115C-92. Procedure for change of textbook.** — The Superintendent may at any time communicate to the Board that a particular book is unsatisfactory for the schools, whereupon the Board may call for a new selection and adoption. If the Board votes to change a textbook, it shall give the publisher 90 days' notice prior to May 1, after which it may adopt a new book or books on the subject for which a book is sought.

**"§ 115C-93. Advice from and suits by Attorney General.** — The form and legality of contracts between the Board and publishers of textbooks shall be subject to the approval of the Attorney General.

When requested by the Board, the Attorney General shall bring suit against any publisher who fails to keep his contract as to prices, distribution, adequate supply of books in the edition adopted, or in any other way violates the terms of his contract. The suit shall be brought for an amount sufficient to enforce the contract or to compensate the State for any loss sustained by the publisher's failure to keep his contract.

**"§ 115C-94. Publishers to register.** — Any publisher who submits books for adoption shall register in the office of the Superintendent of Public Instruction the names of all agents or other employees authorized to represent that company in the State, and this registration list shall be open to the public for inspection.

**"§ 115C-95. Sale of books at lower price reduces price to State.** — Every contract made by the Board with the publisher of any school textbook on the State-adopted list shall be deemed to have written therein a condition providing that if that publisher, during the life of his contract with this State, contracts with any other governmental unit or places that textbook on sale anywhere in the United States for a price less than that stipulated in his contract with the State of North Carolina, the publisher shall immediately furnish that textbook to this State at a price

not greater than that for which the book is furnished, sold, or placed on sale anywhere else in the nation.

**"§ 115C-96. Powers and duties of the State Board of Education in regard to textbooks.** — The children of the public elementary and secondary schools of the State shall be provided with free basic textbooks within the appropriation of the General Assembly for that purpose. The State Board of Education is directed to request sufficient appropriations from the General Assembly to implement this directive.

The State Board of Education shall administer a fund and establish rules and regulations necessary to:

- (1) Acquire by contract such basic textbooks as are or may be on the adopted list of the State of North Carolina which the Board finds necessary to meet the needs of the State public school system and to carry out the provisions of this Part.
- (2) Provide a system of distribution of these textbooks and distribute the books that are provided without using any depository or warehouse facilities other than those operated by the State Board of Education.
- (3) Provide for the free use, with proper care and return, of elementary and secondary basic textbooks. The title of said books shall be vested in the State.

**"§ 115C-97. State Board of Education authorized to discontinue handling supplementary and library books.** — The State Board of Education may discontinue the adoption of supplementary textbooks and, at the expiration of existing contracts, may discontinue the purchase, warehousing, and distribution of supplementary textbooks. The Board may also discontinue the purchase and resale of library books. Funds appropriated to the State Board of Education for supplementary textbooks shall be transferred to the State Public School Fund for allotment to each local school administrative unit, based on its average daily membership, for the purchase of supplementary textbooks, library books, periodicals, and other instructional materials.

**"§ 115C-98. Local boards of education to provide for local operation of the textbook program and the selection and procurement of other instructional materials.** — (a) Local boards of education shall adopt rules and regulations not inconsistent with the policies of the State Board of Education concerning the local operation of the textbook program.

(b) Local boards of education shall adopt written policies concerning the procedures to be followed in their local school administrative units for the selection and procurement of supplementary textbooks, library books, periodicals, and other instructional materials needed for instructional purposes in the public schools of their units. Supplementary books and other instructional materials shall neither displace nor be used to the exclusion of basic textbooks.

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

**"§ 115C-99. Legal custodians of books furnished by State.** — Local boards of education are the custodians of all books furnished by the State. They shall provide adequate and safe storage facilities for the proper care of these books and emphasize to all students the necessity for proper care of textbooks.

**"§ 115C-100. Rental fees for textbooks prohibited; damage fees authorized.** — No local board of education may charge any pupil a rental fee for the use of textbooks. Damage fees may be charged for abuse or loss of textbooks under rules and regulations promulgated by the State Board of Education. All money collected on State-owned books as damage fees or from the sale of books under the provisions of this Part shall be paid quarterly as collected to the State Board of Education.



**"§ 115C-101. Duties and authority of superintendents of local school administrative units.**

— The superintendent of each local school administrative unit, as an official agent of the State Board of Education, shall administer the provisions of this Part and the rules and regulations of the Board insofar as they apply to his unit. The superintendent of each local school administrative unit shall have authority to require the cooperation of principals and teachers so that the children may receive the best possible service, and so that all the books and moneys may be accounted for properly. If any principal or teacher fails to comply with the provisions of this section, his superintendent shall withhold his salary vouchers until the duties imposed by this section have been performed.

If any superintendent fails to comply with the provisions of this section, the State Superintendent, as secretary to the State Board of Education, shall notify the State Board of Education and the State Treasurer. The State Board and the State Superintendent shall withhold the superintendent's salary vouchers, and the State Treasurer shall make no payment until the State Superintendent notifies him that the provisions of this section have been complied with.

**"§ 115C-102. Right to purchase.** — Any parent, guardian, or person in loco parentis may purchase any instructional material needed for any child in the public schools of the State from the board of education of the local school administrative unit in which the child is enrolled or, in the case of basic textbooks, from the State Board of Education.

"Part 4. Fees.

**"§ 115C-103. Fees.** — Fees, charges and costs may be collected from students and school personnel in accordance with the provisions of G.S. 115C-47(f).

"Part 5. Interstate Compact on Education.

**"§ 115C-104. Enactment of Compact.** — The Compact for Education is hereby entered into and enacted into law, with all jurisdictions legally joining therein, in the form substantially as follows:

COMPACT FOR EDUCATION.

Article I. Policy and Purpose.

It is the purpose of this Compact to:

- (1) Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels.
- (2) Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.
- (3) Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.
- (4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advances in educational opportunities, methods and facilities.
- (5) It is the policy of this Compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.
- (6) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the

excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because of the products and services contributing to the health, welfare and economic advancement of each state which are supplied in significant part by persons educated in other states.

Article II. State Defined.

As used in this Compact, 'state' means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III. The Commission.

- (1) The education commission of the states, hereinafter called 'the commission', is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the Governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.
- (2) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(10).
- (3) The commission shall have a seal.
- (4) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice-chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate

- shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.
- (5) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.
  - (6) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
  - (7) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (6) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
  - (8) The commission may establish and maintain such facilities as may be necessary for the transaction of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.
  - (9) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.
  - (10) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

#### Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the Compact, the commission shall have authority to:

- (1) Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
- (2) Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
- (3) Develop proposals for adequate financing of education as a whole and at each of its many levels.
- (4) Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this Compact, utilizing fully the resources of national associations, regional compact organizations for

higher education, and other agencies and institutions, both public and private.

- (5) Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
- (6) Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this Compact.

#### Article V. Cooperation with Federal Government.

- (1) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representatives shall have a vote on the commission.
- (2) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### Article VI. Committees.

- (1) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this Compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One fourth of the voting membership of the steering committee shall consist of governors, one fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice-chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.
- (2) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.
- (3) The commission may establish such additional committees as its bylaws may provide.

#### Article VII. Finance.

- (1) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.
- (2) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.
- (3) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(7) of this Compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III(7) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.
- (4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.
- (5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.
- (6) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VIII. Eligible Parties' Entry into and Withdrawal.

- (1) This Compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term 'governor', as used in this Compact, shall mean the closest equivalent official of such jurisdiction.
- (2) Any state or other eligible jurisdiction may enter into this Compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.
- (3) Adoption of the Compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this Compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.
- (4) Except for a withdrawal effective on December 31, 1967, in accordance with paragraph (3) of this article, any party state may withdraw from this

Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX. Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the state affected as to all severable matters.

**"§ 115C-105. North Carolina Education Council; bylaws.** — (a) There is hereby established the North Carolina Education Council composed of the members of the education commission of the states representing this State, and not exceeding five other persons appointed by the Governor for terms of three years. Such other persons shall be selected so as to be broadly representative of professional and lay interests within this State having the responsibilities for, knowledge with respect to, and interest in educational matters. The Governor shall serve as chairman of the North Carolina Education Council or any person that the Governor may designate shall serve as chairman. The chairman of the State Board of Education, the Superintendent of Public Instruction, the chairman of the Board of Governors of The University of North Carolina, and the President of The University of North Carolina shall be ex officio members of the North Carolina Education Council. The Council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the Council shall meet not less than three times in each year. The Council may consider any and all matters relating to the recommendations of the education commission of the states and the activities of the members in representing this State thereon.

(b) Pursuant to Article III(9) of the Compact, the commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State of North Carolina.

"ARTICLE 9.

"Special Education.

"Part 1. State Policy.

**"§ 115C-106. Policy.** — (a) The General Assembly of North Carolina hereby declares that the policy of the State is to ensure every child a fair and full opportunity to reach his full potential and that no child as defined in this section and in G.S. 115C-122 shall be excluded from service or education for any reason whatsoever. This policy shall be the practice of the State for children from birth through age 21 and the State requires compliance by all local education agencies and local school administrative units, all local human resources agencies including, but not limited to, local health departments, local social service departments, community mental health centers and all State departments, agencies, institutions except institutions of higher education, and private providers which are recipients of general funds as these funds are defined in G.S. 143-1.

(b) The policy of the State is to provide a free appropriate publicly supported education to every child with special needs. The purpose of this Article is to (i) provide for a system of special educational opportunities for all children requiring special education, hereinafter called children with special needs; (ii) provide a system for identifying and evaluating the educational needs of all children with special needs; (iii) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (iv) require periodic evaluation of the benefits of the programs to the children and of the nature of

the children's needs after placement; (v) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the rights of children with special needs and their parents or guardians are protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with respect to children with special needs; and (viii) bring State law, regulations, and practice into conformity with relevant federal law.

**"§ 115C-107. Children can learn.** — The General Assembly finds that all children with special needs are capable of benefitting from appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop. Accordingly, the State has a duty to provide them with a free appropriate public education.

**"§ 115C-108. Definition of special education and related services.** — The term 'special education' means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a special needs child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term also includes speech pathology, audiology, occupational and physical therapy. The term 'related services' means transportation and such developmental, corrective and other supportive services as are required to assist a special needs child to benefit from special education and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes only. The term also includes school social work services, parent counseling and training, providing parents with information about child development and assisting parents in understanding the special needs of their child. Other similar services, materials and equipment may be provided as approved by regulations adopted by the State Board of Education.

**"§ 115C-109. Definition of children with special needs.** — The term 'children with special needs' includes, without limitation, all children between the ages of five and 18 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually impaired, genetically impaired, and gifted and talented.

**"§ 115C-110. Services mandatory; single-agency responsibility; State and local plans; census and registration.** — (a) The Board shall cause to be provided by all local school administrative units and by all other State and local governmental agencies providing special education services or having children with special needs in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special needs. In this regard, all local school administrative units and all other State and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when that service is not being provided by existing public or private resources or the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local administrative units and the programs and agencies of the Departments of Human Resources and Correction.

The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with special needs extends to and over the Department of Human Resources and the Department of Correction.

All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Human Resources and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Human Resources and the Department of Correction and their divisions and agencies. However, with respect to children with special needs who are residents or patients of any State-operated or State-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Human Resources and the Department of Correction for the provision of special education and related services and the power to review, revise and approve said departments' plans for special education and related services to those residents.

The Departments of Human Resources and Correction shall submit to the Board their plans for the education of children with special needs in their care, custody, or control. The Board shall have general supervision and shall set standards, by rule or regulation, for the programs of special education to be administered by it, by local educational agencies, and by the Departments of Human Resources and Correction. The Board may grant specific exemptions for programs administered by the Department of Human Resources or the Department of Correction when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on such department and when other procedural due process requirements, substantially equivalent to those of G.S. 115C-116, are assured in programs of special education and related services furnished to children with special needs served by such department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Human Resources and Correction may require more program resources than those necessary for optimal operation of such programs in local school administrative units.

Every State and local department, division, unit or agency covered by this section is hereinafter referred to as a 'local educational agency' unless the text of this Article otherwise provides.

(b) The Board shall make and keep current a plan for the implementation of the policy set forth in G.S. 115C-106(b). The plan shall include:

- (1) A census of the children with special needs in the State, as required by subsection (j) of this section;
- (2) A procedure for diagnosis and evaluation of each such child;
- (3) An inventory of the personnel and facilities available to provide special education for such children;
- (4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;
- (5) Standards for the education of children with special needs;
- (6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and
- (7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.



(c) The Board shall annually submit amendments to or revisions of the plan required by subsection (b) to the Governor and General Assembly and make it available for public comment pursuant to subdivision (1) and for public distribution no less than 30 days before January 15 of each year. All such submissions shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt rules or regulations covering:

- (1) The qualifications of and standards for certification of teachers, aides, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;
- (2) Minimum standards for the individualized education program for each child with special needs who receives special education or related services; and
- (3) Such other rules or regulations as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the Departments of Human Resources and Correction shall be involved in the development of the standards outlined under this subsection.

(e) On or before October 15, each local educational agency shall report annually to the Board the extent to which it is then providing special education for children with special needs. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this Article, including the following:

- (1) A statement of the extent to which the required education and services will be provided directly by the agency;
- (2) A statement of the extent to which standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2) are being met by the agency; and
- (3) The means by which the agency will contract to provide, at levels meeting standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2), all special education and related services not provided directly by it or by the State.

(f) After submitting the report required by subsection (e), the local educational agency also shall submit such supplemental and additional reports as the Board may require to keep the local educational agency's plan current.

(g) By rule or regulation, the Board shall prescribe due dates not later than October 15 of each year, and all other necessary or appropriate matters relating to such annual and supplemental and additional reports.

(h) The annual report shall be a two-year plan for providing appropriate special education and related services to children with special needs. The agency shall submit the plan to the Board for its review, approval, modification, or disapproval. Unless thereafter modified with approval of the Board, the plan shall be adhered to by the local educational agency. The procedure for approving, disapproving, establishing, and enforcing the plan shall be the same as that set forth for the annual plan. The long-range plan shall include such provisions as may be appropriate for the following, without limitation:

- (1) Establishment of classes, other programs of instruction, curricula, facilities, equipment, and special services for children with special needs; and
- (2) Utilization and professional development of teachers and other personnel working with children with special needs.

(i) Each local educational agency shall provide free appropriate special education and related services in accordance with the provisions of this Article for all children with special needs who are residents of, or whose parents or guardians are residents of, the agency's district, beginning with children aged five. No matriculation or tuition fees or other fees or charges shall be required or asked of children with special needs or their parents or guardians except such fees or charges as are required uniformly of all public school pupils. The provision of free appropriate special education within the facilities of the Department of Human Resources shall not prevent that department from charging for other services or treatment.

(j) The Board shall require an annual census of children with special needs, subdivided for 'identified' and 'suspected' children with special needs, to be taken in each school year. The census shall be conducted annually and shall be completed not later than October 15, and shall be submitted to the Governor and General Assembly and be made available to the public no later than January 15 annually.

In taking the census, the Board shall require the cooperation, participation, and assistance of all local educational agencies and all other State and local governmental departments and agencies providing or required to provide special education services to children with special needs, and those departments and agencies shall cooperate and participate with and assist the Board in conducting the census.

The census shall include the number of children identified and suspected with special needs, their age, the nature of their disability, their county or city of residence, their local school administrative unit residence, whether they are being provided special educational or related services and if so by what department or agency, whether they are not being provided special education or related services, the identity of each department or agency having children with special needs in its care, custody, management, jurisdiction, control, or programs, the number of children with special needs being served by each department or agency, and such other information or data as the Board shall require. The census shall be of children with special needs between the ages of three and 21, inclusive.

(k) The department shall monitor the effectiveness of individualized education programs in meeting the educational needs of children with special needs.

(l) The Board shall provide for procedures assuring that in carrying out the requirements of this Article procedures are established for consultation with individuals involved in or concerned with the education of children with special needs, including parents or guardians of such children, and there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, procedures, and rules or regulations required by this Article.

(m) Children with special needs shall be educated in the least restrictive appropriate setting, as defined by the State Board of Education.

"Part 2. Nondiscrimination in Education.

**"§ 115C-111. Free appropriate education for all children with special needs.** — No child with special needs between the ages specified by G.S. 115C-109 shall be denied a free appropriate public education or be prevented from attending the public schools of the local educational agency in which he or his parents or legal guardian resides or from which he receives services or from attending any other public program of free appropriate public education because he is a child with special needs. If it appears that a child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Human Resources, the local educational agency shall confer with the appropriate Department of Human Resources staff for their participation and determination of the appropriateness of placement in said program and development of the child's individualized education program. The individualized education program may then be challenged under the due process provisions of G.S. 115C-116. Every child with special needs shall be entitled to attend such nonresidential schools or programs and receive from them free appropriate public education.

**"§ 115C-112. Disciplinary suspensions.** — If:

- (1) A local educational agency suspends or expels a child with special needs from a public school program for a period of more than 10 days or for consecutive periods that total more than 10 days either because he is or poses a risk of injury to himself or others or because he is or is threatening to disrupt substantially the education of others;

- (2) The risk of injury or disruption of education of others for which the child was suspended or expelled was caused by the lack of proper medication, appropriate educational services or ambulatory services for the child; and
- (3) The period of suspension or expulsion is one in which the child would be receiving special education or training in the unit but for the suspension or expulsion.

The agency, notwithstanding the suspension or expulsion, shall continue to provide the child with essential special education or related services during the period of suspension or expulsion and the parents may appeal, under G.S. 115C-116, any suspension of more than 10 consecutive days. The expulsion or suspension of a child with special needs shall not be subject to the provisions of G.S. 115C-116, and there shall be no requirement for continued special education or related services if the risk of injury or disruption of education of others for which the child was suspended or expelled was not caused by the lack of proper medication, appropriate educational services or ambulatory services for the child. These limitations on suspension and expulsion shall not interfere with the authority of the Department of Human Resources to release or discharge patients and residents from its programs when the primary purpose of admission has been achieved or when it is no longer feasible or advisable to continue the patient or resident in residence.

**"§ 115C-113. Diagnosis and evaluation; individualized education program.** — (a) Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made of the child. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations; such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(b) An initial multi-disciplinary diagnosis and evaluation based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to the child's teacher, the principal of the school to which the child is, has been or will be assigned, and the superintendent or other chief executive officer of the affected local educational agency.

Within 30 days of such referral, the local educational agency shall send a written notice to the parents or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing on the failure of the parent to consent under G.S. 115C-116.

The local educational agency shall provide or cause to be provided a diagnosis and evaluation appropriate to the needs of the child within 30 calendar days after sending the notice unless the parents or guardian have objected to such evaluation. At the end of such diagnosis and evaluation, the local educational agency shall offer a proposal for an educational program

appropriate to the child's needs. If this proposal calls for a special educational program, it shall set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education program shall evaluate the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the reevaluation indicates that the placement or program does not benefit the child, the appropriate reassignment or alteration in the prescribed program shall be recommended to the parents or guardian and their consent requested.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and proposals based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication, within 15 calendar days after the diagnosis and evaluation are completed. Within 20 days after the diagnosis and evaluation are completed, it shall cause a conference to be scheduled between one of its staff competent to interpret the report of the diagnosis and evaluation and the child's parents or guardian. The conference shall be held no later than 30 calendar days after the date it is scheduled. At the conference, the report shall be explained to the parents or guardian. The parents or guardian may waive the interpretive conference.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special education services, including those being educated within the regular classroom setting or in other special education programs.

(f) Each local educational agency shall prepare an individualized educational program for each child found to be a child with special needs. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timelines set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Human Resources, the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

**"§ 115C-114. Records privacy and expunction.** — (a) No local educational agency may release to any persons other than the eligible student, his parents or guardian or any surrogate parent any records, data or information on any child with special needs except (i) as permitted by the prior written consent of the student, his parents or guardian or surrogate parent, (ii) as required or permitted by federal law, (iii) school officials within the local education agency who have legitimate educational interest, (iv) school officials of other local educational

agencies in which the student intends to enroll, or (v) certain authorized representatives of the State and federal government who are determining eligibility of the child for aid, as provided under Public Law 93-380 or other federal law,

(b) The eligible student, his parents or guardian or surrogate parent shall have the right to read, inspect and copy all and any records, data and information maintained by a local educational agency with respect to the student, and, upon their request, shall be entitled to have those records, data and information fully explained, interpreted and analyzed for them by the staff of the agency. The parent or guardian or surrogate parent may demand that his request must be honored within not more than 45 days after it is made.

(c) The student, his parents or guardian or surrogate parent shall have the right to add to the records, data and information written explanations or clarifications thereof, and to cause the expunction of incorrect, outdated, misleading or irrelevant entries. If a local educational agency refuses to expunge incorrect, outdated, misleading or irrelevant entries after having been asked to do so by the parent, such person may obtain a due process hearing, under G.S. 115C-116, on the agency's refusal, and must request the hearing within 30 days after the agency's refusal.

**"§ 115C-115. Placements in private schools, out-of-State schools and schools in other local educational agencies.** — The Board shall adopt rules and regulations to assure that:

- (1) There be no cost to the parents or guardian for the placement of a child in a private school, out-of-State school or a school in other local educational agencies if the child were so placed by the Board or by the appropriate local educational agency as the means of carrying out the requirement of this Article or any other applicable law requiring the provision of special education and related services to children within the State.
- (2) No child shall be placed by the Board or by the local educational agency in a private or out-of-State school unless the Board has determined that the school meets standards that apply to State and local educational agencies and that the child so placed will have all the rights he would have if served by a State or local educational agency.
- (3) If the placement of the child in a private school, out-of-State school or a school in another local educational agency determined by the Superintendent of Public Instruction to be the most cost-effective way to provide an appropriate education to that child and the child is not currently being educated by the Department of Human Resources or the Department of Correction, the State will bear a portion of the cost of the placement of the child. The local school administrative unit shall pay an amount equal to what it receives per pupil from the State Public School Fund and from other State and federal funds for children with special needs for that child. The State shall pay the full cost of any remainder up to a maximum of fifty percent (50%) of the total cost. The State and local educational agencies shall be excused from payment of the costs of special education and related services in a private school if a child is placed in that school by his parents or guardian against the advice of the State or a local educational agency.

"Part 3. Appeals.

**"§ 115C-116. Exceptional children special program dissatisfaction with assignment; right to appeal.** — (a) Right of Appeal. — A child, his parent, his guardian, or his surrogate parent, in the case of a child whose parent or guardian is unknown or unavailable or in the case of a child who is a ward of the State, may obtain review as herein provided of an action or omission by State or local authorities on the ground that the child has been or is about to be:

- (1) Denied entry or continuance in a program appropriate to his condition and needs;

- (2) Placed in a program which is inappropriate, unsuitable, or inadequate to his condition and needs; or
- (3) Assigned to a special program when he is not a child with special need.

(b) The parent or guardian of a child placed or denied placement in a program shall be notified promptly, via parent or guardian conference, or by registered or certified mail, return receipt requested, of his placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to review of the determination and of the procedure for obtaining such review. The notice shall contain information that a hearing may be had before the local school board for educational matters or the Advocacy Council for Human Resource matters, upon written request, no less than 15 days nor more than 30 days from the date on which the notice was received. The parent or guardian of a child may, upon written request, not more than 30 days from the date of a decision, appeal said decision to the Superintendent of Public Instruction or the Secretary of Human Resources. Any appeal of these decisions to the General Court of Justice must occur within 30 days after notice of such decision.

(c) A surrogate parent may not be an employee of the State or any local government educational or human resources agency responsible for or involved in the education or care of the child. In the case of an appeal from action or omission by the State or local government education agency the surrogate parent shall be appointed from a group of people selected by the Superintendent of Public Instruction, and in the case of an appeal from an action or omission by the State or a local government human resources agency, from a group of people selected by the Secretary of the Department of Human Resources. Both the Superintendent and the Secretary shall upon ratification of this subsection establish procedures, pursuant to their powers under subsection (g) of this section, to ensure that every child in need of a surrogate parent is provided with one. The surrogate parent shall represent the child in the appeal and subsequent proceedings arising therefrom.

(d) All hearings shall be closed unless otherwise requested by the parent or guardian of a child.

(e) Ordinarily no change in the program assignment or status of a child with special needs shall be made within the period afforded the parent or guardian to request a hearing, except that such change may be made with the written consent of the parent or guardian. However, if the health or safety of the child or any other individual would be endangered by delaying the change in assignment, the change may be made sooner without prejudice to any rights that the child and his parent or guardian may have pursuant to this section or otherwise pursuant to law.

(f) The parent or guardian shall have access to any reports, records, clinical evaluations or other materials upon which the determination to be reviewed was wholly or partially based or which could reasonably have a bearing on the correctness of the determination. At any hearing held pursuant to this section, the child and his parent or guardian shall be entitled to examine and cross-examine witnesses, to introduce evidence, to appear in person, and to be represented by counsel.

(g) The Superintendent and the Secretary shall make, amend or revise rules and regulations for the conduct of hearings authorized by this section and otherwise for the implementation of its purpose. Among other things, such rules and regulations shall allow the appointment of a hearing officer or board to hear such cases as may be appealed. Copies of such rules shall be filed in the office of the Attorney General as required by Chapter 150A.

(h) The determination of the appeal shall be subject to judicial review in the manner provided for in Article 4, Chapter 150A of the General Statutes.

(i) The remedies provided by this section are in addition to any other remedies which a child, his parent or guardian may otherwise have pursuant to law.

"Part 4. Regional Educational Training Center.

**"§ 115C-117. Creation.** — There is hereby established within the Department of Public Instruction a system of Regional Educational Training Centers. Said centers shall be equitably distributed across the State as shall be determined by the Superintendent, but such centers shall be located in reasonable proximity to one of the developmental evaluation centers operated by the Department of Human Resources.

**"§ 115C-118. Functions.** — The centers shall have the following functions:

- (1) To provide in-service training to all special education teachers and other professionals as defined by the Superintendent.
- (2) To develop in kindergarten and primary grade teachers the necessary skills to detect potential special educational needs and the capability to plan special educational programs.
- (3) To provide in-service training and consultative services to a parent or guardian of a child with special needs and to appropriate public school administrative and management personnel.
- (4) To work in concert with the various local human resources agencies to the end that multiple and duplicative services provided at various times and by various agencies of the State may be obviated.
- (5) To conduct an in-depth evaluation of the impact of in-service training on the delivery of services to children with special needs within the public schools on an annual basis in compliance with such rules and regulations as the Superintendent may promulgate.

**"§ 115C-119. Organization of centers.** — Employees of the centers shall be employees of the Department of Public Instruction appointed by the Superintendent subject to the approval of the State Board. Employees of those centers now in place and operational shall be employees of the Department, and those centers now in place and operational shall fulfill the functions set forth for new centers.

**"§ 115C-120. Rules and regulations.** — The Superintendent shall develop and promulgate appropriate rules and regulations for the operation of the centers subject to the approval of the State Board. Such rules and regulations shall prescribe the precise operational responsibility of the centers and shall include a description of the operational relationship that shall exist with the various local human resources agencies.

"Part 5. Council on Educational Services for Exceptional Children.

**"§ 115C-121. Establishment, organization; powers and duties.** — (a) There is hereby established an Advisory Council to the State Board of Education to be called the Council on Educational Services for Exceptional Children.

(b) The Council shall consist of 17 members to be appointed as follows: two members appointed by the Governor; two members of the Senate appointed by the Lieutenant Governor; two members of the House of Representatives appointed by the Speaker of the House; and 11 members appointed by the State Board of Education. Of those members of the Council appointed by the State Board one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The board shall promulgate rules or regulations to carry out this subsection.

Ex officio members of the Council shall be the following:

- (1) The Secretary of the Department of Human Resources or the Secretary's designee;

- (2) The Secretary of the Department of Correction or the Secretary's designee, designee;
- (3) A representative from The University of North Carolina Planning Consortium for Children with Special Needs; and
- (4) The Superintendent of Public Instruction or the Superintendent's designee.

The term of appointment for all members except those appointed by the State Board of Education shall be for two years. The term for members appointed by the State Board of Education shall be for four years. No person shall serve more than two consecutive four-year terms.

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly.

(c) The Council shall meet in offices provided by the Department of Public Instruction on a date to be agreed upon by the members of the Council from meeting to meeting; Provided, however, that the Council shall meet no less than once every three months. The Department of Public Instruction shall provide the necessary secretarial and clerical staff and supplies to accomplish the objectives of the Council.

(d) The duties of the Council shall be to:

- (1) Advise the Board with respect to unmet needs within the State in the education of children with special needs, as defined in this Chapter.
- (2) Comment publicly on rules and regulations proposed for issuance by the Board regarding special education and related services and the procedures for issuing State and federal funds for special education and related services.
- (3) Assist the Board in developing and reporting such data and evaluations as may assist the Commissioner of Education in the performance of his duties under Part B, Education of the Handicapped Act, as amended by Public Law 94-142.
- (4) Comment publicly on State special education plans developed pursuant to Public Law 94-142 and State law.

"Part 6. Range of Services Available.

**"§ 115C-122. Early childhood development program; evaluation and placement of children.** — The General Assembly of North Carolina declares that the public policy of North Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

- (1) The State shall provide for a comprehensive early childhood development program by emphasizing preventative and remedial measures designed to provide the services which will enable children to develop to the maximum level their physical, mental, social, and emotional potentials and to strengthen the role of the family as the first and most fundamental influence on child development. The General Assembly finds that the complexity of early childhood development precludes the enactment of legislation which is of a sufficiently comprehensive nature to encompass all possible implications. The Departments of Public Instruction and Human Resources shall, therefore, jointly develop an early childhood development program plan with flexibility sufficient to meet the State's policy as set forth in this subdivision. Said plan shall provide for the operation of a statewide early childhood development program no later than June 30, 1983.
- (2) The State requires a system of educational opportunities for all children with special needs and requires the identification and evaluation of the needs of children and the adequacy of various education programs before placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter.



- (3) The State shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional handicap in the provision of services to any child. Each local school administrative unit shall develop program plans to meet the educational requirements of children with special needs and each local human resources agency shall develop program plans to meet the human service requirements of children with special needs in accordance with program standards and in a planning format as shall be prescribed by the State Board of Education and the Department of Human Resources respectively.

The General Assembly intends that the educational program and human service program requirements of Session Laws 1973, Chapter 1293, shall be realized no later than June 30, 1982. The General Assembly further intends that currently imposed barriers to educational and human service opportunities for children with special needs by reason of a single standardized test, income, federal regulations, conflicting statutes, or any other barriers are hereby abrogated; except that with respect to barriers caused by reason of income, it shall be permissible for the State or any local education agency or local human resources agency to charge fees for special services rendered, or special materials furnished to a child with special needs, his parents, guardian or persons standing in loco parentis unless the imposition of such fees would prevent or substantially deter the child, his parents, guardian, or persons standing in loco parentis from availing themselves of or receiving such services or materials.

- (4) It is recognized that children have a variety of characteristics and needs, all of which must be considered if the potential of each child is to be realized; that in order to accomplish this the State must develop a full range of service and education programs, and that a program must actually benefit a child or be designed to benefit a particular child in order to provide such child with appropriate educational and service opportunities. The General Assembly requires that all programs employ least restrictive alternatives as shall be defined by the Departments of Public Instruction and Human Resources.

"Part 7. State Schools for Hearing-Impaired Children.

**"§ 115C-123. Incorporation; operation.** — There are hereby established, and there shall be maintained, schools for the deaf of this State which shall be a corporation under the corporate names of the Central North Carolina School for the Deaf at Greensboro, the Eastern North Carolina School for the Deaf at Wilson and the Western North Carolina School for the Deaf at Morganton. The Department of Human Resources shall be the governing body of the schools.

The Board of Directors of the North Carolina Schools for the Deaf shall advise the Department and shall adopt rules and regulations concerning the schools as provided in G.S. 115C-124 and G.S. 143B-173.

**"§ 115C-124. Pupils admitted; education.** — The Department of Human Resources shall according to such reasonable regulations as the Board of Directors may prescribe, on application, receive into the schools for the purposes of education all deaf children resident of the State who are between the ages of five and 18 years: Provided, that the Department of Human Resources may admit students who are not within the age limits set forth above when in its judgment, such admission will be in the best interests of the applicant and the facilities of the school permit such admission. Only those who are bona fide citizens or residents of North Carolina shall be eligible to and entitled to receive free tuition and maintenance. The Department may fix charges and the Board of Directors may prescribe rules whereby nonresident deaf children may be admitted, but in no event shall the admission of nonresidents

in any way prevent the attendance of any eligible deaf child, resident of North Carolina. The Department shall provide for the instruction of all pupils in the branches of study now prescribed by law for the public schools of the State and in such other branches as may be of special benefit to the deaf.

The Department shall encourage the State to provide the classrooms with modern auditory training equipment, audiovisual media equipment, and any other special equipment to provide the best educational conditions for the deaf. The Department shall provide a teacher training program in the State. The Department shall provide for a comprehensive vocational and technical training program for boys and girls as may be useful to them in making themselves self-supporting.

**"§ 115C-125. Free textbooks and State purchase and rental system.** — The Schools for the Deaf shall have the right and privilege of participating in the distribution of free textbooks and in the purchase and rental system operated by the State of North Carolina in the same manner as any other public school in the State.

**"§ 115C-126. Agreements with local governing authorities.** — The Department is authorized to make such agreements with the governing authority of any municipality, or of any county, as may be mutually agreed upon, to promote convenience and economy for joint water supply, lighted areas, use of sewage facilities, or any other utilities or facilities that may be necessary and as may be agreed upon.

"Part 8. State School for Sight-Impaired Children.

**"§ 115C-127. Incorporation name and management.** — The institution for the education of the blind, located in the City of Raleigh, shall be a corporation under the name and style of the Governor Morehead School, and shall be under the management of the Department of Human Resources and the director of the school.

**"§ 115C-128. Admission of pupils; how admission obtained.** — The Department of Human Resources shall, on application, receive in the institution for the purpose of education all blind children who are residents of this State and who are between the ages of five and 18 years: Provided, that pupils who are not within the age limits above set forth may be admitted to said institution in cases in which the Department of Human Resources finds that the admission of such pupils will be beneficial to them and in cases in which there is sufficient space available for their admission in said institution: Provided, further, that the Department of Human Resources is authorized to make expenditures, out of any scholarship funds or other funds already available or appropriated, of sums of money for the use of out-of-state facilities for any student who, because of peculiar conditions or disability, cannot be properly educated at the school in Raleigh.

**"§ 115C-129:** Reserved for future codification purposes.

**"§ 115C-130. Admission of pupils from other states.** — The Department of Human Resources may, on such terms as it deems proper and upon the receipt of tuition and necessary expenses as prescribed by the Department of Human Resources, admit as pupils persons of like infirmity from any other state but such power shall not be exercised to the exclusion of any child of this State, and the person so admitted shall not acquire the condition of a resident of the State by virtue of such pupilage.

**"§ 115C-131. Department of Human Resources may confer diplomas.** — The Department of Human Resources may, upon the recommendation of the superintendent and faculty, confer such diplomas or marks of achievement upon its graduates as it may deem appropriate to encourage merit.

**"§ 115C-132. State Treasurer is ex officio treasurer of institution.** — The State Treasurer shall be ex officio treasurer of the institution. He shall report to the Department of Human Resources at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand.

**"§ 115C-133. When clothing, etc., for pupils paid for by county.** — Where it shall appear to the satisfaction of the director of social services and the chairman of the board of county commissioners of any county in this State that the parents of any blind child residing in such county are then unable to provide such child with clothing or traveling expenses or both to and from the Governor Morehead School, or where such child has no living parent, or any estate of his own, or any person, or persons, upon which he is legally dependent who are able to provide expenses for such transportation and clothing, then upon the demand of the institution which such child attends or has been accepted for attendance, said demand being made through the State Auditor, the board of county commissioners of the county in which such child resides shall issue or cause to be issued its warrant payable to the State Auditor, same to be credited to the proper institution, for the payment of an amount sufficient to clothe and pay traveling expenses of said child.

"Part 9. Central Orphanage of North Carolina.

**"§ 115C-134. Creation powers.** — The corporation created by Chapter 47, Private Laws of 1887, is hereby continued as a body corporate for a period of 60 years from March 8, 1927, under the name and style of 'The Central Orphanage of North Carolina.' The said corporation shall have power to receive, purchase, and hold property, real and personal, not to exceed in value one million dollars (\$1,000,000), to sue and be sued, to plead and be impleaded, to receive gifts, donations and appropriations, to contract, and to do all other acts usual and necessary in the conduct of such corporation, and to carry out the intent and purposes thereof under and as subscribed by the laws of North Carolina.

**"§ 115C-135. Directors selection, self-perpetuation, management of corporation.** — The board of directors of the Central Orphanage of North Carolina shall consist of 13 members which shall organize by the election of a president and secretary and shall make all necessary bylaws and regulations for the convenient and efficient management and control of the affairs of said corporation, including the method by which successors to the directors herein named shall be chosen.

**"§ 115C-136. Board of trustees; appropriations; treasurer, board of audit.** — Five members of said board of directors shall also serve as a board of trustees of said Central Orphanage of North Carolina. The said board of trustees so appointed shall serve for a term of four years and until their successors are chosen. All appropriations made by the General Assembly to the said Central Orphanage of North Carolina shall be under the control of the board of trustees, and said appropriations shall be expended under their supervision and direction. The board of trustees shall select one of their members as a treasurer of the fund appropriated to the institution by the General Assembly and also not more than two persons to act as a board to audit the expenditure of such appropriation. The treasurer shall receive a salary of one hundred dollars (\$100.00) per year for his services and members of the board of audit a salary not to exceed one hundred fifty dollars (\$150.00) per year. The treasurer shall give a bond payable to the State of North Carolina in a surety company in such sum as the board of trustees may require, the annual premium to be paid out of the funds of the said Orphanage.

**"§ 115C-137. Training of orphans.** — The said corporation shall receive, train and care for such orphan children of the State of North Carolina as under the rules and regulations of said corporation may be deemed practical and expedient, and impart to them such mental, moral and industrial education as may lit them for usefulness in life.

**"§ 115C-138. Control over orphans.** — The said corporation shall have power to secure the control of such orphans by the written consent of their nearest of kin of those having control of such orphans, and shall receive such others as may be committed to its care under the appropriate laws of the State; and it shall be unlawful for any person or persons to interfere in any way with said corporation in the management of such orphans after they shall have been

entered and received by it. The board of directors shall make all necessary rules and regulations for the reception and discharge of children from said Orphanage.

"Part 10. State and Local Relationships.

**"§ 115C-139. Interlocal cooperation.** — (a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with special needs are authorized to enter into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A, Article 20, Part 1 of the General Statutes or into undertakings with a State agency such as the Departments of Public Instruction, Human Resources, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for such children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are most educationally appropriate to the children with special needs for whose benefit the undertaking is made, and provide such services by or in the local agency unit or State department, agency, or division located in the place most convenient to such children.

(b) Local educational agencies may establish special education and related programs for children with special needs aged birth through four and 19 through 21 inclusive.

**"§ 115C-140. Contracts with private service-providers.** — State departments, agencies and divisions and local educational agencies furnishing special education and related services to children with special needs may contract with private special education facilities or service providers to furnish such services as the public providers are unable to furnish. No contract between any public and private service provider shall be effective until it has received the prior written approval of the Board. The Board shall not withhold its approval of the contract unless the private facilities and providers do not meet the Board's standards established pursuant to G.S. 115C-110(a), (b)(5), and (d)(2).

"Part 11. Rules and Regulations.

**"§ 115C-141. Board Rules and Regulations.** — The Board shall adopt rules and regulations for the administration of this Article. The Board shall provide technical assistance to the various concerned agencies at their request.

"Part 12. Nonreduction Provision.

**"§ 115C-142. Nonreduction.** — Notwithstanding any of the other provisions of this Article, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by local school administrative units not be reduced; rather, that adequate funding be made available to meet the special educational and related services needs of children with special needs, without regard to which State or local department, agency, or unit has the child in its care, custody, control, or program.

"Part 13. Budget Analysis and Departmental Funding.

**"§ 115C-143. Budget analysis.** — The Division of Fiscal Research of the Legislative Services Office of the General Assembly shall conduct an annual budget analysis of the budgets of the Departments of Human Resources and Correction to determine what funds are expended by those departments for programs of special education and related services for children with special needs, aged birth through 21, and shall submit a report of its analysis to the General Assembly, the Governor, and the State Board of Education and the Departments of Human Resources and Correction no later than October 1, of each year.

**"§ 115C-144. Departmental requests.** — All budget requests for funding of new or existing or for the expansion of existing programs of special education and related services for children with special needs, aged birth through 21, to be furnished or provided by the Departments of Human Resources and Correction shall be annually submitted by those departments to the

Board for review and comment prior to presentation by the respective department to the Advisory Budget Commission.

"§ 115C-145. **Allocation of federal funds.** — At such time as any federal moneys for the special education and related services for children with special needs are made available, these funds shall be allocated according to a formula designed by the Board not inconsistent with federal laws and regulations. Such formula shall insure equitable distribution of resources based upon the number of children with special needs served by the respective agencies, and shall be implemented as funds are made available from federal and State appropriations.

"§§ 115C-146 to 115C-150: Reserved for future codification purposes.

"ARTICLE 10.

"Vocational Education.

"Part 1. Vocational Education Programs.

"§ 115C-151. **Statement of purpose.** — It is the intent of the General Assembly that vocational education be an integral part of the educational process. The State Board of Education is authorized and directed to administer through local boards of education a comprehensive program of vocational education which shall be available to all students who desire it in the public secondary schools of this State. The purposes of vocational education in North Carolina public secondary schools shall be:

- (1) Vocational Skill Development. — To prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations.
- (2) Preparation for Advanced Education. — To prepare individuals for participation in advanced or highly skilled vocational and technical education.
- (3) Pre-Vocational; Introductory. — To assist individuals in the making of informed and meaningful occupational choices.

It is also legislative intent to authorize the State Board of Education to support appropriate vocational education instruction and related services for individuals who have other specialized vocational education needs which can be fulfilled through a comprehensive vocational education program as designated by State Board of Education policy or federal vocational education legislation.

"§ 115C-152. **Definitions.** — The State Board of Education is authorized and directed to provide appropriate definitions to vocational education programs, services, and activities in grades 7-12 not otherwise included in this Part. As used in this Part, unless the context requires otherwise:

- (1) 'Comprehensive vocational education' means instructional programs, services, or activities directly related to preparation for and placement in employment, for advanced technical education, or for the making of informed and meaningful occupational choices.
- (2) 'Preparation for advanced education' means a program, service, or activity designed to prepare individuals for participation in advanced or highly skilled post-secondary and technical education programs leading to employment in specific occupations or a cluster of closely related occupations and for participation in vocational education teacher education programs.
- (3) 'Pre-vocational; introductory' means an instructional program, service, or activity designed to familiarize individuals with the broad range of occupations for which special skills are required and the requisites for careers in such occupations.
- (4) 'Vocational skill development' means a program, service, or activity designed to prepare individuals for paid or unpaid employment as

semi-skilled or skilled workers, technicians, or professional-support personnel in recognized occupations and in new and emerging occupations including occupations or a trade, technical, business, health, office, homemaking, homemaking related, agricultural, distributive, and other nature. Instruction is designed to fit individuals for initial employment in a specific occupation or a cluster of closely related occupations in an occupational field. Such instruction includes education in manipulative skills, theory, auxiliary information, and other associated knowledges.

**"§ 115C-153. Administration of vocational education.** — The State Board of Education shall be the sole State agency for the State administration of vocational education at all levels, shall be designated as the State Board of Vocational Education, and shall have all necessary authority to cooperate with any and all federal agencies in the administration of national acts assisting vocational education, to administer any legislation pursuant thereto enacted by the General Assembly of North Carolina, and to cooperate with local boards of education in providing vocational and technical education programs, services, and activities for youth and adults residing in the areas under their jurisdiction.

**"§ 115C-154. Duties of the State Board of Education.** — In carrying out its duties, the State Board of Education shall have full authority to develop and implement such policies, rules, regulations, and procedures as necessary to ensure vocational education programs of high quality. The State Board of Education shall prepare a Master Plan for Vocational Education. Such plan, to be updated periodically, shall ensure minimally that:

- (1) Articulation will occur with institutions, agencies, councils, and other organizations having responsibilities for manpower development.
- (2) Business, industrial, agricultural, and lay representatives have been utilized in the development of decisions affecting vocational education programs and services.
- (3) Public hearings are conducted annually to afford the public an opportunity to express their views concerning the State Board's plan to suggest changes in the plan.
- (4) The plan describes the State's policy for vocational education and the system utilized for the delivery of vocational education programs, services, and activities.
- (5) A professionally and occupationally qualified staff is employed and organized in a manner to assure efficient and effective State leadership for vocational education. Provisions will be made for such functions as: planning, administration, supervision, curriculum development, research and evaluation, and such others as the State Board may direct.
- (6) An appropriate supply of qualified personnel is trained for program expansion and replacements through cooperative arrangements with institutions of higher education and other institutions or agencies, including where necessary financial support of programs and curriculums designed for the preparation of vocational administrators, supervisors, coordinators, instructors, and support personnel.
- (7) Minimum standards shall be prescribed for personnel employed at the State and local levels.
- (8) Local boards of education submit to the State Board of Education a local plan for vocational education which has been prepared in accordance with the procedures set forth in the Master Plan for Vocational Education.
- (9) Appropriate minimum standards for vocational education programs, services, and activities shall be established, promulgated, supervised, monitored, and maintained. Such standards shall specify such characteristics

as program objectives, skill competencies, course sequence, program duration, class size, supervised on-the-job experiences, qualifications of instructors, and all other standards necessary to ensure that all programs conducted by local school administrative units shall be of high quality, relevant to student needs, and coordinated with employment opportunities.

- (10) A system of continuing qualitative and quantitative evaluation of all vocational education programs, services, and activities supported under the provisions of this Part shall be established, maintained, and utilized periodically. One component of such system shall be follow-up studies of former students of vocational education programs who have been out of school for one year, for three years, and for five years to ascertain the effectiveness of instruction, services, and activities.

**"§ 115C-155. Acceptance of benefits of federal vocational acts.** — The State of North Carolina, through the State Board of Education, shall be empowered to accept all the provisions and benefits of acts passed by the Congress of the United States providing federal funds for vocational and technical education programs: Provided, however, that the State Board of Education is not authorized to accept such funds upon any condition that the public schools of this State shall be operated contrary to any provision of the Constitution or statutes of this State.

**"§ 115C-156. State funds for vocational education.** — It is the intent of the General Assembly of North Carolina to appropriate funds for each fiscal year to support the purposes of vocational education as set forth in G.S. 115C-151. From funds appropriated, the State Board of Education shall establish a sum of money for State administration of vocational education and shall allocate the remaining sum on an equitable basis to local school administrative units, except that a contingency fund is established to correct excess deviations which may occur during the regular school year. In the administration of State funds, the State Board of Education shall adopt such policies and procedures as necessary to ensure that the funds appropriated are used for the purpose stated in this Part and consistent with the policy set forth in the Master Plan for Vocational Education.

**"§ 115C-157. Responsibility of local boards of education.** — Each local school administrative unit, shall provide free appropriate vocational education instruction, activities, and services in accordance with the provisions of this Part for all youth who elect such instruction and shall have responsibility for administering such in accordance with federal and State law and State Board of Education policies.

**"§ 115C-158. Federal funds division.** — The division between secondary and post-secondary educational systems and institutions of federal funds for which the State Board of Vocational Education has responsibility shall, within discretionary limits established by law, require the concurrence of the State Board of Education and the State Board of Community Colleges on and after January 1, 1981. The portion of the approved State Plan for post-secondary vocational education required by G.S. 115C-154 shall be as approved by the State Board of Community Colleges.

"Part 2. Vocational Education Production Work Activities.

**"§ 115C-159. Statement of purpose.** — It is the intent of the General Assembly that practical work experiences within the school and outside the school, which are valuable to students and which are under the supervision of a teacher, should be encouraged as a part of vocational education instruction in the public secondary schools when such experiences shall be organized and maintained to the best advantage of the vocational education programs. Local boards of education are authorized to use available financial resources to support such instruction.

**"§ 115C-160. Definitions.** — The State Board of Education is authorized and directed to provide appropriate definitions necessary to this part of vocational education instruction not otherwise included in this Part. As used in this Part, unless the context requires otherwise:

- (1) The term 'building trades training' means the development of vocational skills through the construction of dwellings or other buildings and related activities by students in vocational education programs.
- (2) The term 'production work' means production activities and services performed by vocational education classes under contract with a second party for remuneration.

**"§ 115C-161. Duties of the State Board of Education.** — The State Board of Education is authorized and directed to establish, maintain, and implement such policies, rules, regulations, and procedures not in conflict with State law or other State Board policies as necessary to assist local boards of education in the conduct of production work experiences performed in connection with approved State Board of Education vocational education programs.

**"§ 115C-162. Use of proceeds derived from production work.** — Unless elsewhere authorized in these statutes, local boards of education are authorized and directed to deposit to the appropriate school account, no later than the end of the next business day after receipt of funds, all proceeds derived from the sale of products or services from production work experiences. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.

**"§ 115C-163. Acquisition of land for agricultural education instructional programs.** — Local boards of education are authorized and empowered to acquire by gift, purchase, or lease for not less than the useful life of any project to be conducted upon the premises, a parcel of land suitable for a land laboratory to provide students with practical instruction in soil science, plant science, horticulture, forestry, animal husbandry, and other subjects related to the agriculture curriculum.

Each deed, lease, or other agreement for such land shall be made to the respective local board of education in which the school offering instruction in agriculture is located; and title to such land shall be examined and approved by the school attorney.

Any land laboratory thus acquired shall be assigned to the agricultural education program of the school, to be managed with the advice of an agricultural education advisory committee.

The products of the land laboratory not needed for public school purposes may be sold to the public: Provided, however, that all proceeds from the sale of products shall be deposited in the appropriate school account no later than the end of the next business day after receipt of funds. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.

**"§ 115C-164. Building trades training.** — In the establishment and implementation of production work experience policies, the State Board of Education shall be guided as follows:

- (1) Local boards of education are authorized to use supplementary tax funds or other local funds available for the support of vocational education to purchase and develop suitable building sites on which dwellings or other buildings are to be constructed by vocational education trade classes of each public school operated by local boards of education. Local boards of education are authorized to use such funds for each school to pay the fees necessary in securing and recording deeds to these properties for each public school operated by local boards of education and to purchase all materials needed to complete the construction of buildings by vocational education trade classes and for development of site and property by other vocational education classes. Local boards of education are further authorized to expend such funds in acquiring skilled services, including electrical, plumbing, heating, sewer, water, transportation, grading, and landscaping needed in the construction and completion of buildings which cannot be supplied by the students in vocational education trade classes.



- (2) Local boards of education are authorized, in conjunction with or in lieu of subdivision (1) above, to contract with recognized building trades educational foundations or associations in the purchase of land for the construction and development of buildings: Provided however, that all contracts are in accordance with the requirements set forth by the State Board of Education.

**"§ 115C-165. Advisory committee on construction projects.** — The board of education of the local school administrative unit in which the proposed project of construction is to be undertaken shall appoint an advisory committee composed of no less than five persons residing within that administrative unit of which no less than three will be associated with the building trades industry, and no building trades project shall be undertaken without the approval of a majority of the advisory committee.

"Part 3. Eye Safety Devices Required.

**"§ 115C-166. Eye protection devices required in certain courses.** — The governing board or authority of any public or private school or educational institution within the State, wherein shops or laboratories are conducted providing instructional or experimental programs involving:

- (1) Hot solids, liquids or molten metals;
- (2) Milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
- (3) Heat treatment, tempering, or kiln firing of any metal or other materials;
- (4) Gas or electric arc welding;
- (5) Repair or servicing of any vehicle; or
- (6) Caustic or explosive chemicals or materials, shall provide for and require that every student and teacher wear industrial quality eye protective devices at all times while participating in any such program. These industrial quality eye protective devices shall be furnished free of charge to the student and teacher.

**"§ 115C-167. Visitors to wear eye safety devices.** — Visitors to such shops and laboratories shall be furnished with and required to wear such eye safety devices while such programs are in progress.

**"§ 115C-168. 'Industrial-quality eye protective devices' defined.** — 'Industrial- quality eye protective devices', as used in G.S. 115C-166, means devices meeting the standards of the U.S.A. Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1-1968 approved by the U.S.A. Standards Institute, Inc.

**"§ 115C-169. Corrective-protective devices.** — In those cases where corrective- protective devices that require prescription ophthalmic lenses are necessary, such devices shall only be supplied by those persons licensed by the State to prescribe or supply corrective-protective devices.

**"§§ 115C-170 to 115C-174:** Reserved for future codification purposes.

"ARTICLE 11.

"High School Competency Testing.

**"§ 115C-175. Purpose.** — The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic high schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess those skills and that knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship. This Article has three purposes: to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society, to provide a means of identifying strengths and weaknesses in the education process,

and to establish additional means for making the education system accountable to the public for results.

**"§ 115C-176. Competency Test Commission.** — (a) The Governor shall appoint a Competency Test Commission which shall be composed of 15 members who shall hold office for four years or until their successors are appointed. Any vacancy on the Competency Test Commission shall be filled by the Governor for the unexpired term. Five members of the Competency Test Commission shall be persons serving as teachers or principals in high schools; five shall be citizens of the State interested in education; two shall be professional educators from the faculties of institutions of higher education in the State; two shall be persons competent in the field of psychological measurement; and one shall be the superintendent of a local school administrative unit in the State. The members shall be entitled to compensation for each day spent on the work of the Competency Test Commission as approved by the State Board of Education and receive reimbursement for travel and subsistence expenses incurred in the performance of their duties at rates specified in G.S. 138-5 or G.S. 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall be entitled to receive full pay for each day spent on the work of the Commission without any reduction in salary for a substitute teacher's pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Competency Test Commission.

**"§ 115C-177. Duties of the Commission.** — The Competency Test Commission shall annually advise the State Board of Education on matters pertaining to the use of high school graduation competency tests.

**"§ 115C-178. Administration of the Test.** — The tests shall be administered annually to all eleventh grade students in the public school. Students who fail to attain the required minimum standard for graduation in the eleventh grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the eleventh grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

**"§ 115C-179. Duties of Superintendent of Public Instruction.** — The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for administering the Competency Testing Program provided for by this Article and for providing necessary staff services to the Competency Test Commission.

**"§ 115C-180. Duties of State Board of Education.** — The State Board of Education shall adopt tests, graduation standards, and policies and procedures for the implementation of this Article.

**"§ 115C-181. Duties of local school boards.** — Local boards of education shall cooperate with the State Board of Education in carrying out the policies and guidelines adopted by the State Board of Education for implementing this Article.

**"§ 115C-182. Public records exception.** — Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this Article shall not be considered a public record within the meaning of G.S. 132-1 and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the State Board of Education, the Superintendent of Public Instruction, any employee of the Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

"§ 115C-183. **Provisions for nonpublic schools.** — The State Board of Education may require the implementation of the testing program contemplated by this Article in nonpublic schools supervised by it pursuant to the provisions of Part 1 of Article 39 of this Chapter.

"§ 115C-184. **Remediation funds.** — Funds appropriated for the purpose of remediation support for students who fail the high school competency test shall be distributed in accord with rules and regulations promulgated by the State Board of Education. The State Board of Education shall allocate remediation funds to institutions administered by the Department of Human Resources on the same basis as funds allocated to other local education agencies.

"§§ 115C-185 to 115C-188: Reserved for future codification purposes.

"ARTICLE 12.

"Statewide Testing Program.

"§ 115C-189. **Purpose.** — In order to assess the effectiveness of the educational process, and to insure that each pupil receives the maximum educational benefit from the educational process, the State Board of Education shall implement an annual statewide testing program in basic subjects. It is the intent of this testing program to help local school systems and teachers identify and correct student needs in basic skills rather than to provide a tool for comparison of individual students or to evaluate teacher performance. The statewide testing program shall be conducted each school year for the first, second, third, sixth and ninth grades: Provided, that criterion reference tests shall be used in the first and second grades and norm reference tests shall be used in the testing program in grades three, six and nine. Students in these grade levels who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

"§ 115C-190. **State Board of Education responsibilities.** — The State Board of Education shall have the responsibility and authority to make those policies necessary for the implementation of the intent and purposes of this Article, not inconsistent with the provisions of this Article.

"§ 115C-191. **Appointment of Testing Commission.** — (a) The Governor shall appoint a Testing Commission composed of 11 members who shall hold office for two years or until their successors are nominated and appointed. Any vacancy on the Testing Commission shall be filled by the Governor by appointment for the unexpired term. Six of the members of the Testing Commission shall be certified teachers currently employed for the grades in which tests are to be administered; two shall be persons competent in the field of psychological measurement; one shall be a school principal; one shall be a supervisor of elementary instruction; and one shall be the superintendent of a local school administrative unit. The members of the Testing Commission shall be entitled to compensation for each day spent on the work of the Testing Commission, as approved by the State Board of Education, and receive reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5 or G.S. 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall be entitled to receive their full pay for each school day spent on the work of the Commission without any reduction in salary for a substitute teacher's pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Testing Commission.

"§ 115C-192. **Evaluation and selection of tests.** — (a) The members of the Testing Commission shall secure copies of tests designed to measure the level of academic achievement. Each of these tests shall be examined carefully and the Testing Commission shall file with the State Board of Education a written evaluation of each of these tests along with appropriate recommendations. In evaluating a test, the Testing Commission shall give special consideration to the suitability of a test to the instructional level or special education program or level for which it is intended to be used and the validity of the test.

(b) The Testing Commission shall annually review the suitability and validity of the tests in use by the State Board of Education for the purposes of this Article and investigate the suitability and validity of other tests. A written evaluation of all tests and any recommendations considered by the Testing Commission shall be filed with the State Board of Education.

**"§ 115C-193. Duties of State Board of Education.** — The State Board of Education shall review the recommendations of the Testing Commission and select the tests that it believes will provide the best measures of the levels of academic achievement attained by students in various subject areas. The State Board of Education shall also establish policies and guidelines necessary for carrying out the provisions of the Article.

**"§ 115C-194. Duties of Superintendent of Public Instruction.** — The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this Article and for providing necessary staff services to the Testing Commission.

**"§ 115C-195. Duties of local boards of education.** — Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs further.

**"§ 115C-196. Public records exception.** — Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this Article shall not be considered a public record within the meaning of G.S. 132-1 and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the State Board of Education, the Superintendent of Public Instruction, any employee of the Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

**"§ 115C-197. Provisions for nonpublic schools.**—The State Board of Education may require the implementation of the testing program contemplated by this Article in nonpublic schools supervised by it pursuant to the provisions of Part 1 of Article 39 of this Chapter.

**"§§ 115C-198 to 115C-202:** Reserved for future codification purposes.

"ARTICLE 13.

"Community Schools Act.

**"§ 115C-203. Title of Article.** — This Article shall be known and may be cited as the 'Community Schools Act.'

**"§ 115C-204. Purpose of Article.** — The purpose of this Article is to encourage greater community involvement in the public schools and greater community use of public school facilities. To this end it is declared to be the policy of this State:

- (1) To provide for increased involvement by citizens in their local schools through community schools advisory councils.
- (2) To assure maximum use of public school facilities by the citizens of each community in this State.

It is further declared to be the policy of this State that, to the extent sufficient funds are made available, each local board of education shall comply with the provisions of this Article.

**"§ 115C-205. Definitions.** — As used in this Article:

- (1) The term 'public school facility' means any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school, high school or union school.
- (2) The term 'community schools advisory council' means a committee of citizens organized to advise community school coordinators, administrators,

and local boards of education in the involvement of citizens in the educational process and in the use of public school facilities.

- (3) The term 'community schools coordinator' means an employee of a local board of education whose responsibility it is to promote and direct maximum use of the public schools and public school facilities as centers for community development.
- (4) The term 'interagency council' means a committee of agency and organizational representatives appointed by the Governor to work with the Superintendent of Public Instruction concerning the involvement of statewide agencies and organizations with the public schools.

**"§ 115C-206. State Board of Education; duties; responsibilities.** — The Superintendent of Public Instruction shall prepare and present to the State Board of Education recommendations for general guidelines for encouraging increased community involvement in the public schools and use of public school facilities. The Superintendent of Public Instruction shall consult with the interagency council in preparing the general guidelines. These recommendations shall include, but shall not be limited to provisions for:

- (1) The use of public school facilities by governmental, charitable or civic organizations for activities within the community.
- (2) The utilization of the talents and abilities of volunteers within the community for the enhancement of public school programs including tutoring, counseling and cultural programs and projects.
- (3) Increased communications between the staff and faculty of the public schools, other community institutions and agencies, and citizens in the community.

Based on the recommendations of the Superintendent of Public Instruction, the State Board of Education shall adopt appropriate policies and guidelines for encouraging increased community involvement in the public schools and use of the public school facilities.

The State Board of Education shall establish rules and regulations governing the submission and approval of programs prepared by local boards of education for encouraging increased community involvement in the public schools and use of the public school facilities.

The State Board of Education is authorized to allocate funds to the local boards of education for the employment of community schools coordinators and for other appropriate expenses upon approval of a program submitted by a local board of education and subject to the availability of funds. In the event that a local board of education already has sufficient personnel employed performing functions similar to those of a community schools coordinator, the State Board of Education may allocate funds to that local board of education for other purposes consistent with this Article. Funds allocated to a local board of education shall not exceed three fourths of the total budget approved in the community schools program submitted by a local board of education.

**"§ 115C-207. Authority and responsibility of local boards of education.** — Every local board of education which elects to apply for funding pursuant to this Article shall:

- (1) Develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education.
- (2) Develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education.
- (3) Establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

Programs and plans developed by a local board of education shall provide for the establishment of one or more community schools advisory councils for the public schools under the board's jurisdiction and for the employment of one or more community schools coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education which elects to apply for funding pursuant to this Article shall have the authority to enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of funds allocated by the State Board of Education. Local funds from each local board of education applying for funds for the community schools program must equal at least one fourth of the total budget for the community schools program of said local board of education.

**"§ 115C-208. Community schools advisory councils; duties; responsibilities; membership.**

— Every participating local board of education shall establish one or more community schools advisory councils which may become involved in matters affecting the educational process in accordance with rules established by the local board of education and approved by the State Board of Education and further shall consider ways of increasing community involvement in the public schools and utilization of public school facilities. Community schools advisory councils may assist local boards of education in the development and preparation of the plans and programs to achieve such goals, may assist in the implementation of such plans and programs and may provide such other assistance as may be requested by the local boards of education.

Community schools advisory councils shall work with local school officials and personnel, parent-teacher organizations, and community groups and agencies in providing maximum opportunities for public schools to serve the communities, and shall encourage the maximum use of volunteers in the public schools.

At least one half of the members of each community schools advisory council shall be the parents of students in the particular public school system:

Provided, that less than twenty-five percent (25%) of the pupils attending a particular school reside outside the immediate community of the school, at least one half of the members shall be parents of students in the particular school for which the advisory council is established. Wherever possible the local board of education is encouraged to include at least one high school student. The size of the councils and the terms of membership on the councils shall be determined by the local board of education in accordance with the State guidelines.

**"§ 115C-209. Community schools coordinators.** — Every participating local board of education shall employ one or more community schools coordinators and shall establish the terms and conditions of their employment. Community schools coordinators shall be responsible for:

- (1) Providing support to the community schools advisory councils and public school officials.
- (2) Fostering cooperation between the local board of education and appropriate community agencies.
- (3) Encouraging maximum use of community volunteers in the public schools.
- (4) Performing such other duties as may be assigned by the local superintendent and the local board of education, consistent with the purposes of this Article.

**"§§ 115C-210 to 115C-214:** Reserved for future codification purposes.

"ARTICLE 14.

"Driver Education.

**"§ 115C-215. Instruction in driver training and safety education.** — There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State,

said courses to be noncredit courses taught by instructors approved by the Department of Public Instruction.

**"§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.** — (a) Course of Training and Instruction Required in Public High Schools. — The State Board of Education and local boards of education are hereby required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles and to make such courses available for all persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age whose physical and mental qualifications meet license requirements, in conformance with course requirements and funds made available under the provisions of G.S. 20-88.1 or as hereinafter provided or both.

(b) Inclusion of Expense in Budget. — The local boards of education of every local school administrative unit are hereby authorized to include as an item of instructional service and as a part of the current expense fund of the budget of the several high schools under their supervision, the expense necessary to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles.

(c) Appropriations. — The boards of county commissioners in the several counties of the State and the governing bodies of all municipalities having power to appropriate and raise money by taxation and otherwise are hereby authorized to appropriate funds necessary to pay the expenses necessary to install and maintain in any public high school under their supervision a course of training and instruction for eligible students in such schools in the operation of motor vehicles, whether or not the county board of education or administrative unit shall have included the cost of the same in its budget request when submitted for approval.

(d) How Moneys Appropriated May Be Provided. — The board of county commissioners and the governing bodies of all municipalities having power to appropriate money and to levy taxes and raise money are hereby authorized to allocate and expend the moneys appropriated pursuant to this section or other acts of the General Assembly and the moneys provided by taxation, by sale or rental of any real or personal property owned by such county or other taxing unit, or by use of any surplus funds on hand or acquired from any source, for the purpose of funding any such course of instruction and training in any public high school. The special approval of the General Assembly is hereby given for the levying of taxes for such purpose and for providing funds for such purpose by the other means herein mentioned.

(e) Content of Course; What Persons Eligible. — The words 'a course of training and instruction for eligible persons in the operation of motor vehicles' as applied to this section means such course of instruction in the operation of motor vehicles prescribed or approved by the Department of Public Instruction, provided that every such course shall include actual operation of motor vehicles by the persons eligible for same, under the supervision of a qualified instructor. Only such persons older than 14 years and six months, who are approved by the principal of the school, shall be eligible for such course of instruction, subject to rules and regulations prescribed by the Department of Public Instruction.

(f) Acts Ratified and Confirmed. — The acts of all boards of county commissioners and the governing bodies of all municipalities, the acts of all local boards of education, and the acts of the State Board of Education heretofore done in connection with providing courses of training and instruction in the operation of motor vehicles in this State, including the appropriation and expenditure of funds for such purpose, are hereby ratified and confirmed.

**"§§ 115C-217 to 115C-221: Reserved for future codification purposes.**

"ARTICLE 15.

"North Carolina School of Science and Mathematics.

**"§ 115C-222. Establishment of North Carolina School of Science and Mathematics.** — The North Carolina School of Science and Mathematics is established to be governed by a board of trustees described in this Article.

**"§ 115C-223. Board of Trustees appointment; terms of office.** — (a) The Board of Trustees of the North Carolina School of Science and Mathematics consists of the following members:

- (1) Five ex officio nonvoting members: the Chairman of the State Board of Education; the Superintendent of Public Instruction; the President of the Community College System; the President of the Association of Independent Colleges and Universities; and one member of the Board of Governors of The University of North Carolina designated by the Chairman of that Board.
- (2) Two members appointed by the Superintendent of Public Instruction: a science teacher; and a mathematics teacher; both of whom are from within the State.
- (3) Two members appointed by the Lieutenant Governor: a member of the Senate; and a superintendent of a local school administrative unit.
- (4) Two members appointed by the Speaker of the House of Representatives: a member of the House; and a principal of a local school administrative unit.
- (5) Fifteen members appointed by the Governor, at least 12 of whom shall be scientists and mathematicians. One of these scientists or mathematicians shall be designated by the Governor as Chairman of the Board of Trustees.

(b) The terms of the appointments of the Lieutenant Governor and of the Speaker of the House shall coincide with the terms of the particular appointing officer. The two initial appointments of the Superintendent of Public Instruction shall be for terms of four years. Five of the initial appointments of the Governor shall be for terms of two years; five shall be for terms of four years; and five shall be for terms of six years. With the exception of the appointments of the Lieutenant Governor and Speaker of the House, at the expiration of the terms of the initial appointees, their successors shall be appointed for terms of six years, beginning July 1 in the year of the respective appointments.

(c) Vacancies in appointive terms shall be filled for the unexpired portion of the terms by appointment of the officer who appointed the person causing each vacancy.

**"§ 115C-224. Budget preparation; submission.** — The Board of Trustees, assisted by administrative staff, shall prepare budgets for the School and shall submit these budgets directly to the Governor.

**"§§ 115C-225 to 115C-229:** Reserved for future codification purposes.

"ARTICLE 16.

"Optional Programs.

"Part 1. Educational Research.

**"§ 115C-230. Special projects.** — Local boards of education are authorized to sponsor or conduct educational research and special projects pursuant to the provisions of G.S. 115C-47(h).

"Part 2. Adult Education.

**"§ 115C-231. Adult education programs; tuition; limitation of enrollment of pupils over 21.** — (a) When in the judgment of the State Board of Education a program of adult education should be established as a part of the public school system and when appropriations have been made therefor, there shall be organized and administered under the general supervision of the Superintendent of Public Instruction, a course in adult education: Provided, that local boards of education, in their discretion, may institute and support such programs from local funds upon the approval of the State Board of Education.

(b) Tuition shall be free of charge to every person of the State 18 years of age, or over, who has not completed a standard high school course of study.



(c) Unless otherwise assigned by the local board of education, all persons of the district or attendance area who have not completed the prescribed course for graduation in the high school are entitled to attend the schools in the district or attendance area in which they reside: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years.

"Part 3. Summer Schools.

"§ 115C-232. **Local financing of summer schools.** — Supplementary funds authorized in special tax elections for school purposes may be used to establish and maintain summer schools, as provided in G.S. 115C-501(a).

"§ 115C-233. **Operation of summer schools.** — Each local school administrative unit may establish and maintain summer schools. Such summer schools as may be established shall be administered by local boards of education and shall be conducted in accordance with standards developed by the State Board of Education. The standards so developed shall specify the requirements for approved curriculum, the qualifications of the personnel, the length of the session, and the conditions under which students may be granted credit for courses pursued during a summer school. In determining the eligibility of students for admission to summer schools, boards of education shall be governed by the provisions of G.S. 115C-116, 115C-366(b) and 115C-367 to 115C-370. Boards of education of local school administrative units may provide for summer schools from funds made available for that purpose by the State Board of Education, funds appropriated to the local school administrative unit by the tax-levying authority, and from any other revenues available for the purpose.

"§§ 115C-234 to 115C-238: Reserved for future codification purposes.

"ARTICLE 17.

"Supporting Services

"Part 1. Transportation.

"§ 115C-239. **Authority of local boards of education.** — Each local board of education is hereby authorized, but is not required, to acquire, own and operate school buses for the transportation of pupils enrolled in the public schools of such local school administrative unit and of persons employed in the operation of such schools within the limitations set forth in G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261. Boards of education which own and operate school buses for the transportation of pupils shall have authority to establish separate systems of transportation for pupils attending elementary schools and for pupils attending junior or senior high schools. Each such board may operate such buses to and from such of the schools within the local school administrative unit, and in such number, as the board shall from time to time find practicable and appropriate for the safe, orderly and efficient transportation of such pupils and employees to such schools.

"§ 115C-240. **Authority and duties of State Board of Education.** — (a) The State Board of Education shall have no authority over or control of the transportation of pupils and employees upon any school bus owned and operated by any local board of education, except as provided in G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261.

(b) The State Board of Education shall be under no duty to supply transportation to any pupil or employee enrolled or employed in any school. Neither the State nor the State Board of Education shall in any manner be liable for the failure or refusal of any local board of education to furnish transportation, by school bus or otherwise, to any pupil or employee of any school, or for any neglect or action of any county or city board of education, or any employee of any such board, in the operation or maintenance of any school bus.

(c) The State Board of Education shall from time to time adopt such rules and regulations with reference to the construction, equipment, color, and maintenance of school

buses, the number of pupils who may be permitted to ride at the same time upon any bus, and the age and qualifications of drivers of school buses as it shall deem to be desirable for the purpose of promoting safety in the operation of school buses. No school bus shall be operated for the transportation of pupils unless such bus is constructed and maintained as prescribed in such regulations and is equipped with adequate heating facilities, a standard signaling device for giving due notice that the bus is about to make a turn, an alternating flashing stoplight on the front of the bus, an alternating flashing stoplight on the rear of the bus, and such other warning devices, fire protective equipment and first aid supplies as may be prescribed for installation upon such buses by the regulation of the State Board of Education.

(d) The State Board of Education shall, when requested so to do by any local board of education, but not otherwise, advise such local board with reference to the establishment and amendment of school bus routes, the acquisition and maintenance of school buses, or any other question which may arise in connection with the organization and operation of the school bus transportation system of such local board.

(e) The State Board of Education shall allocate to the respective local boards of education all funds appropriated from time to time by the General Assembly for the purpose of providing transportation to the pupils enrolled in the public schools within this State. All such funds shall be allocated by the State Board of Education in accordance with the number of pupils to be transported, the length of bus routes, road conditions and all other circumstances affecting the cost of the transportation of pupils by school bus to the end that the funds so appropriated may be allocated on a fair and equitable basis, according to the needs of the respective local school administrative units and so as to provide the most efficient use of such funds. Such allocation shall be made by the State Board of Education at the beginning of each fiscal year, except that the State Board may reserve for future allocation from time to time within such fiscal year as the need therefor shall be found to exist, a reasonable amount not to exceed ten percent (10%) of the total funds available for transportation in such fiscal year from such appropriation.

(f) Upon such allocation by the State Board of Education, all funds so appropriated by the General Assembly shall be paid over to the respective local boards of education in accordance with such allocation in equal monthly installments throughout the regular school year: Provided, however, that upon the request of a local board of education, the State Board of Education may, in its discretion, pay over to the local board all or any part of any or all monthly installments prior to the time when the same would otherwise be payable. The respective local boards shall use such funds for the purposes of replacing, maintaining, insuring, and operating public school buses and service vehicles in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261, and for no other purpose, but in the making of expenditures for such purposes shall be subject to no control by the State Board of Education.

**"§ 115C-241. Assignment of school buses to schools.** — The superintendent of the schools of each local school administrative unit which shall elect to operate a school bus transportation system, shall, prior to the commencement of each regular school year and subject to the approval of the local board of education, allocate and assign to the respective public schools within the jurisdiction of such local school administrative unit the school buses which the local board shall own and direct to be operated during such school year. From time to time during such school year, subject to the directions of the local board of education, the superintendent may revise such allocation and assignment of school buses in accordance with the changing transportation needs and conditions at the respective schools of such local school administrative unit, and may, pursuant to such revision, assign an additional bus or buses to a school or withdraw a bus or buses from a school in such local school administrative unit.

**"§ 115C-242. Use and operation of school buses.** — Public school buses may be used for the following purposes only, and it shall be the duty of the superintendent of the school of each

local school administrative unit to supervise the use of all school buses operated by such local school administrative unit so as to assure and require compliance with this section:

- (1) A school bus may be used for the transportation of pupils enrolled in and employees in the operation of the school to which such bus is assigned by the superintendent of the local school administrative unit. Except as otherwise herein provided, such transportation shall be limited to transportation to and from such school for the regularly organized school day, and from and to the points designated by the principal of the school to which such bus is assigned, for the receiving and discharging of passengers. No pupil or employee shall be so transported upon any bus other than the bus to which such pupil or employee has been assigned pursuant to the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261: Provided, that children enrolled in a Headstart program which is housed in a building owned and operated by a local school administrative unit where school is being conducted may be transported on public school buses, so long as the contractual arrangements made cause no extra expense to the State: Provided further, that children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.
- (2) In the case of illness or injury requiring immediate medical attention of any pupil or employee while such pupil or employee is present at the school in which such pupil is enrolled or such employee is employed, the principal of such school may, in his discretion, permit such pupil or employee to be transported by a school bus to a doctor or hospital for medical treatment, and may, in his discretion, permit such other person as he may select to accompany such pupil.
- (3) The board of education of any local school administrative unit may operate the school buses of such unit one day prior to the opening of the regular school term for the transportation of pupils and employees to and from the school to which such pupils are assigned or in which they are enrolled and such employees are employed, for the purposes of the registration of students, the organization of classes, the distribution of textbooks, and such other purposes as will, in the opinion of the superintendent of the schools of such unit, promote the efficient organization and operation of such public schools.
- (4) A local board of education which elects to operate a school bus transportation system, shall not be required to provide transportation for any school employee, nor shall such board be required to provide transportation for any pupil living within one and one half miles of the school in which such pupil is enrolled.
- (5) Local boards of education, under such rules and regulations as they shall adopt, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools. Included in the use permitted by this section is the transportation of children with special needs, such as mentally retarded children and children with physical defects, and children enrolled in programs that require transportation from the school

grounds during the school day, such as special vocational or occupational programs. On any such trip, a city or county-owned school bus shall not be taken out of the State.

If State funds are inadequate to pay for the transportation approved by the local board of education, local funds may be used for these purposes. Local boards of education shall determine that funds are available to such boards for the transportation of children to and from the school to which they are assigned for the entire school year before authorizing the use and operation of school buses for other services deemed necessary to serve the instructional program of the schools.

Children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

- (6) School buses owned by a local board of education may be used for Civil Preparedness purposes in any state of disaster or local state of emergency declared under Chapter 166A of the General Statutes. Under rules and regulations adopted by a local board of education, its school buses may be used with its permission for the purpose of testing civil preparedness plans; however, neither the State Board of Education nor the local board of education shall be liable for the operating cost, any compensation claims or any tort claims resulting from the test.

- (7) Uses authorized by G.S. 115C-243.

**"§ 115C-243. Use of school buses by senior citizen groups.** — (a) Any local board of education may enter into agreements with the governing body of any county, city, or town, or with any State agency, or any agency established or identified pursuant to Public Law 89-73, Older Americans Act of 1965, to provide for the use of school buses to provide transportation for the elderly.

- (b) Each agreement entered into under this section must provide the following:

- (1) That the board of education shall be reimbursed in full for the proportionate share of any and all costs, both fixed and variable, of such buses attributable to the uses of the bus pursuant to the agreement.
- (2) That the board of education shall be held harmless from any and all liability by virtue of uses of the buses pursuant to the agreement.
- (3) That adequate liability insurance is maintained under G.S. 115C-42 to insure the board of education, and that adequate insurance is maintained to protect the property of the board of education. The minimum limit of liability insurance shall not be less than the maximum amount of damages which may be awarded under the Tort Claims Act, G.S. 143-291. The costs of said insurance shall be paid by the agency contracting for the use of the bus, either directly or through the fee established by the agreement.

(c) Before any board of education shall enter into any agreement under this section, it must by resolution establish a policy for use of school buses by the elderly. The policy must give first priority to school uses under G.S. 115C-242 and G.S. 115C-42. The resolution must provide for a schedule of charges under this section. Such resolution, if adopted, shall be amended or readopted at least once per year to provide for adjustments to the schedule of charges or to provide for maintaining the same schedule of charges. If the price bid for the service by a private bus carrier is less than the schedule of charges adopted by the board of education, then the board of education may not enter into the agreement.

(d) No board of education shall be under any duty to sign any agreement under this section.

(e) No bus operated under the provisions of this section shall travel outside of the area consisting of the county or counties where the local board of education is located and the county or counties contiguous to that county or counties, but not outside of the State of North Carolina.

(f) Before any agreement under this section may be signed, the State Board of Education shall adopt a uniform schedule of charges for the use of buses under this section. Such schedule must be approved by the Advisory Budget Commission before becoming effective. Such schedule shall include a charge by the hour and by the mile which shall cover all costs both fixed and variable, including depreciation, gasoline, fuel, labor, maintenance, and insurance. The schedule may be amended by the State Board of Education with the concurrence of the Advisory Budget Commission. The schedule of charges adopted by the local board of education under subsection (c) may vary from the State schedule only to cover changes in wages.

**"§ 115C-244. Assignment of pupils to school buses.** — (a) The principal of a school, to which any school bus has been assigned by the superintendent of the schools of the local school administrative unit embracing such school, shall assign to such bus or buses the pupils and employees who may be transported to and from such school upon such bus or buses. No pupil or employee shall be permitted to ride upon any school bus to which such pupil or employee has not been so assigned by the principal, except by the express direction of the principal.

(b) In the event that the superintendent of any local school administrative unit shall assign a school bus to be used in the transportation of pupils to two or more schools, the superintendent shall designate the number of pupils to be transported to and from each such school by such bus, and the principals of the respective schools shall assign pupils to such buses in accordance with such designation.

(c) Any pupil enrolled in any school, or the parent or guardian of any such pupil, or the person standing in loco parentis to such pupil, may apply to the principal of such school for transportation of such pupil to and from such school by school bus for the regularly organized school day. The principal thereupon shall assign such pupil to a school bus serving the bus route upon which such pupil lives, if any, and if such pupil is entitled to ride upon such bus in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 and the regulations of the State Board of Education herein provided for. Such assignment shall be made by the principal so as to provide for the orderly, safe and efficient transportation of pupils to such school and so as to promote the orderly and efficient administration of the school and the health, safety and general welfare of the pupils to be so transported. Assignments of pupils and employees to school buses may be changed by the principal of the school as he may from time to time find proper for the safe and efficient transportation of such pupils and employees.

(d) The parent or guardian of any pupil enrolled in any school, or the person standing in loco parentis to any such pupil, who shall apply to the principal of such school for the transportation of such pupil to and from such school by school bus, may, if such application is denied, or if such pupil is assigned to a school bus not satisfactory to such parent, guardian, or person standing in loco parentis to such pupil, pursuant to rules and regulations established by the local board of education, apply to such board for such transportation upon a school bus designated in such application, and shall be entitled to a prompt and fair hearing by such board in accordance with the rules and regulations established by it. The majority of such board shall be a quorum for the purpose of holding such hearing and passing upon such application, and the decision of the majority of the members present at such hearing shall be the decision of the board. If, at such hearing, the board shall find that pupil is entitled to be transported to and from such school upon the school bus designated in such application, or if the board shall find that

the transportation of such pupil upon such bus to and from such school will be for the best interests of such pupil, will not interfere with the proper administration of such school, or with the safe and efficient transportation by school bus of other pupils enrolled in such school and will not endanger the health or safety of the children there enrolled, the board shall direct that such child be assigned to and transported to such school upon such bus.

(e) A final decision of the local board of education pursuant to G.S. 115C-244(d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any State board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so providing and adjudging that such child is entitled to the school bus assignment as claimed by the appellant, or such other school bus assignment as the court may find such child is entitled to, and in such case such child shall be assigned to such school bus by the local board of education concerned.

(f) No employee shall be assigned to or permitted to ride upon a school bus when to do so will result in the overcrowding of such bus or will prevent the assignment to such bus of a pupil entitled to ride thereon, or will otherwise, in the opinion of the principal, be detrimental to the comfort or safety of the pupils assigned to such bus, or to the safe, efficient and proper operation of such bus.

**"§ 115C-245. School bus drivers monitors; safety assistants.** — (a) Each local board, which elects to operate a school bus transportation system, shall employ the necessary drivers for such school buses. The drivers shall have all qualifications prescribed by the regulations of the State Board of Education herein provided for and must have at least six months driving experience as a licensed operator of a motor vehicle before employment as a regular or substitute driver, but the selection and employment of each driver shall be made by the local board of education, and the driver shall be the employee of such local school administrative unit. Each local board of education shall assign the bus drivers employed by it to the respective schools within the jurisdiction of such board, and the principal of each such school shall assign the drivers to the school buses to be driven by them. No school bus shall at any time be driven or operated by any person other than the bus driver assigned by such principal to such bus except by the express direction of such principal or in accordance with rules and regulations of the appropriate local board of education.

(b) The driver of a school bus subject to the direction of the principal shall have complete authority over and responsibility for the operation of the bus and the maintaining of good order and conduct upon such bus, and shall report promptly to the principal any misconduct upon such bus or disregard or violation of the driver's instructions by any person riding upon such bus. The principal may take such action with reference to any such misconduct upon a school bus, or any violation of the instructions of the driver, as he might take if such misconduct or violation had occurred upon the grounds of the school.

(c) The driver of any school bus shall permit no person to ride upon such bus except pupils or school employees assigned thereto or persons permitted by the express direction of the principal to ride thereon.

(d) The principal of a school, to which a school bus has been assigned, may, in his discretion, appoint a monitor for any bus so assigned to such school. It shall be the duty of such monitor, subject to the direction of the driver of the bus, to preserve order upon the bus and do such other things as may be appropriate for the safety of the pupils and employees assigned to such bus while boarding such bus, alighting therefrom or being transported thereon, and to require such pupils and employees to conform to the rules and regulations established by the

local board of education for the safety of pupils and employees upon school buses. Such monitors shall be unpaid volunteers who shall serve at the pleasure of the principal.

(e) A local board of education may, in its discretion within funds available, employ transportation safety assistants upon recommendation of the principal through the superintendent. The safety assistants thus employed shall assist the bus drivers with the safety, movement, management, and care of children boarding the bus, leaving the bus, or being transported in it. The safety assistant should be either an adult or a certified student driver who is available as a substitute bus driver.

**"§ 115C-246. School bus routes.** — (a) The principal of the school to which a school bus has been assigned shall, prior to the commencement of each regular school year, prepare and submit to the superintendent of the local school administrative unit a plan for a definite route, including stops for receiving and discharging pupils, for each school bus assigned to such school so as to assure the most efficient use of such bus and the safety and convenience of the pupils assigned thereto. The superintendent shall examine such plan and may, in his discretion, obtain the advice of the State Board of Education with reference thereto. The superintendent shall make such changes in the proposed bus routes as he shall deem proper for the said purposes and, thereupon, shall approve the route. When so approved the buses shall be operated upon the route so established and not otherwise, except as provided in G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261. From time to time the principal may suggest changes in any such bus route as he shall deem proper for the said purposes, and the same shall be effective when approved by the superintendent of the local school administrative unit.

(b) Unless road or other conditions shall make it inadvisable to do so, public school buses shall be so routed on state-maintained highways that the school bus, to which such pupil is assigned, shall pass within one mile of the residence of each pupil, who lives one and one half miles or more from the school to which such pupil is assigned.

(c) All bus routes when established pursuant to this section shall be filed in the office of the board of education of the local school administrative unit, and all changes made therein shall be filed in the office of such board within 10 days after such change shall become effective.

(d) If any school bus route established or changed as hereinabove provided is unsatisfactory to the district school committee, the committee may request the board of education of the local school administrative unit to make such change in such route as the committee desires. In the event, the board of education shall hear the request of the district school committee and shall make such change, if any, in such route as to the board shall seem advisable so as to assure the most efficient use of such bus and the safety and convenience of the pupils assigned thereto.

(e) No provision of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 shall be construed to place upon the State, or upon any county or city, any duty to supply any funds for the transportation of pupils, or any duty to supply funds for the transportation of pupils who live within the corporate limits of the city or town in which is located the public school in which such pupil is enrolled or to which such pupil is assigned, even though transportation to or from such school is furnished to pupils who live outside the limits of such city or town.

**"§ 115C-247. Purchase of activity buses by local boards.** — The several local boards of education in the State are hereby authorized and empowered to take title to school buses purchased with local or community funds for the purpose of transporting pupils to and from athletic events and for other local school activity purposes, and commonly referred to as activity buses. The provisions of G.S. 115C-42 shall be fully applicable to the ownership and operation of such activity school buses. Activity buses may also be used as provided in G.S. 115C-243.

**"§ 115C-248. Inspection of school buses and activity buses; report of defects by drivers; discontinuing use until defects remedied.** — (a) The superintendent of each local school administrative unit, shall cause each school bus owned or operated by such local school administrative unit to be inspected at least once each 30 days during the school year for mechanical defects, or other defects which may affect the safe operation of such bus. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed promptly in the office of the superintendent of such local school administrative unit, and a copy thereof shall be forwarded to the principal of the school to which such bus is assigned.

(b) It shall be the duty of the driver of each school bus to report promptly to the principal of the school, to which such bus is assigned, any mechanical defect or other defect which may affect the safe operation of the bus when such defect comes to the attention of the driver, and the principal shall thereupon report such defect to the superintendent of the local school administrative unit. It shall be the duty of the superintendent of the local school administrative unit to cause any and all such defects to be corrected promptly.

(c) If any school bus is found by the principal of the school, to which it is assigned, or by the superintendent of the local school administrative unit, to be so defective that the bus may not be operated with reasonable safety, it shall be the duty of such principal or superintendent to cause the use of such bus to be discontinued until such defect is remedied, in which event the principal of the school, to which such bus is assigned, may permit the use of a different bus assigned to such school in the transportation of the pupils and employees assigned to the bus found to be defective.

(d) The superintendent of each local school administrative unit, shall cause each activity bus which is used for the transportation of students by such local school administrative unit or any public school system therein to be inspected for mechanical defects, or other defects which may affect the safe operation of such activity bus, at the same time and in the same way and manner as the regular public school buses for the normal transportation of public school pupils are inspected. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed with the principal of the school which uses and operates such activity bus and a copy shall be forwarded to the superintendent of the local school administrative unit involved. It shall be the duty of the driver of each activity bus to make the same reports to the principal of the school using and operating such activity bus as is required by this section. If any public school activity bus is found to be so defective that the activity bus may not be operated with reasonable safety, it shall be the duty of such principal to cause the use of such activity bus to be discontinued until such defect is remedied to the satisfaction of the person making the inspection and a report to this effect has been filed in the manner herein prescribed. Nothing in this subsection shall authorize the use of State funds for the purchase, operation or repair of any activity bus.

**"§ 115C-249. Purchase and maintenance of school buses, materials and supplies.** — (a) To the extent that the funds shall be made available to it for such purpose, a local board of education is authorized to purchase from time to time such additional school buses and service vehicles or replacements for school buses and service vehicles, as may be deemed by such board to be necessary for the safe and efficient transportation of pupils enrolled in the schools within such local school administrative unit. Any school bus so purchased shall be constructed and equipped as prescribed by the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 and by the regulations of the State Board of Education issued pursuant thereto.

(b) The tax-levying authorities of any county are hereby authorized to make provision from time to time in the capital outlay budget of the county for the purchase of such school buses or service vehicles.



(c) Any funds appropriated from time to time by the General Assembly for the purchase of school buses or service vehicles shall be allocated by the State Board of Education to the respective local boards of education in accordance with the requirements of such boards as determined by the State Board of Education, and thereupon shall be paid over to the respective local boards of education in accordance with such allocation.

(d) The title to any additional or replacement school bus or service vehicle purchased pursuant to the provisions of this section, shall be taken in the name of the board of education of such local school administrative unit, and such bus shall in all respects be maintained and operated pursuant to the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 in the same manner as any other public school bus.

(e) It shall be the duty of the county board of education to provide adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles owned or operated by the board of education of any local school administrative unit in such county. It shall be the duty of the tax-levying authorities of such county to provide in its capital outlay budget for the construction or acquisition of such buildings and equipment as may be required for this purpose.

(f) In the event of the damage or destruction of any school bus or service vehicle by fire, collision, or otherwise, the board of education of the local school administrative unit which shall own or operate such bus or service vehicle may apply to the State Board of Education for funds with which to replace it. If the State Board of Education finds that such bus or service vehicle has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the State Board of Education finds that the replacement of such bus or service vehicle is necessary in order to enable such local school administrative unit to operate properly its school bus transportation system, the State Board of Education shall allot to the board of education of such local school administrative unit from the funds now held by the State Board of Education for the replacement of school buses or service vehicles, or from funds hereafter appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or service vehicle and upon such allocation such sum shall be paid over to or for the account of the board of education of such local school administrative unit for such purpose.

(g) All school buses or service vehicles purchased by or for the account of any local board of education, except school buses or service vehicles purchased by such board from another local board of education of this State, shall be purchased through the Department of Administration.

(h) Appropriations made in the biennial Budget Appropriation Act for the purchase of public school buses shall be permanent appropriations, and unexpended portions of those appropriations shall not revert to the General Fund at the end of the biennium for which appropriated. Any unexpended portion of those appropriations shall at the end of each fiscal year be transferred to a reserve account and shall be held, together with any other funds appropriated for the purpose, for the purchase of public school buses.

**"§ 115C-250. Authority to expend funds for transportation of children with special needs.**

— (a) The State Board of Education is authorized to expend public funds to defray the reasonable cost of motor vehicle transportation for autistic and communications-handicapped children and deaf and blind children to the nearest proper public educational institution located within the State.

(b) The State Board of Education is authorized to expend public funds or to otherwise provide motor vehicle transportation for children with special needs as those children are defined by G.S. 115C-109. Such transportation may be provided for nonresidential students to and from the nearest public educational institution or sheltered workshop located within the State when said students are full-time equivalent students in the public schools. Such

transportation also may be provided for nonresidential students to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are, or have been placed in that program by the State or by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

(c) The General Assembly intends that the Department of Human Resources shall provide for the transportation of autistic and communications- handicapped and deaf and blind children and shall have the operational and fiscal responsibilities for such transportation.

(d) Funds appropriated for the transportation of children with special needs may be used to pay transportation safety assistants employed in accordance with the provisions of G.S. 115C-245(e) for buses to which children with special needs are assigned.

**"§ 115C-251. Transportation supervisors.** — The State Board of Education shall from time to time adopt such rules and regulations with regard to the qualifications of persons employed by local boards of education as chief mechanic or supervisor of transportation as it shall deem necessary or desirable for the purpose of assuring the proper maintenance and safety of school buses. A local board of education shall not employ any person as chief mechanic or supervisor of transportation if that person does not meet the qualifications established by the State Board.

**"§ 115C-252. Aid in lieu of transportation.** — (a) When, by reason of road conditions or otherwise, any local board of education, which shall elect to operate a school bus transportation system, shall find it impracticable to furnish to a pupil transportation by school bus to the school in which such pupil is enrolled, or to which such pupil is assigned, the board may assign such pupil to such other school within such local school administrative unit as the board shall deem advisable, unless the parent or guardian of such pupil or the person standing in loco parentis to such pupil, shall notify the principal of the school, in which such pupil is enrolled or to which such pupil is assigned, of the desire of such pupil to continue to attend such school without the benefit of transportation by school bus.

(b) In the event that any local board of education, which shall operate a system of school bus transportation, shall find it impracticable to furnish to a pupil such transportation to the school in which such pupil is enrolled or to which such pupil is assigned, and if, as a result thereof, such pupil shall be required to obtain board and lodging at a place other than the residence of such pupil in order to attend a school, such board may, in its discretion, provide for the payment to the parent or guardian of such pupil of a sum not to exceed fifty dollars (\$50.00) per month for each school month that such pupil shall so obtain board and lodging at a place other than the residence of the pupil for the purpose of attending a school.

**"§ 115C-253. Contracts for transportation.** — Any local board of education may, in lieu of the operation by it of public school buses, enter into a contract with any person, firm or corporation for the transportation by such person, firm or corporation of pupils enrolled in the public schools of such local school administrative unit for the same purposes for which such local school administrative unit is authorized by G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 to operate public school buses. Any vehicle used by such person, firm or corporation for the transportation of such pupils shall be constructed and equipped as provided in rules and regulations promulgated by the State Board of Education, and the driver of such vehicle shall possess all of the qualifications prescribed by rules and regulations promulgated by the State Board of Education: Provided, that where a contract for transportation of pupils is entered into between a local board of education and any person, firm or corporation which contemplates the use of an automobile or vehicle other than a bus for the transportation of 16 pupils or less, the automobile or vehicle shall not be required to be constructed and equipped as provided for in G.S. 115C-240(d), but shall be constructed and equipped pursuant to rules and regulations promulgated by the State Board of Education. In the event that any local board of education shall enter into such a contract, the board may use for such purposes any funds which it might use for the operation of

school buses owned by the board, and the tax-levying authorities of the county or of the city may provide in the county or city budget such additional funds as may be necessary to carry out such contracts.

**"§ 115C-254. Use of school buses by State guard or national guard.** — When requested to do so by the Governor, the board of education of any local school administrative unit is authorized and directed to furnish a sufficient number of school buses to the North Carolina State guard or the national guard for the purpose of transporting members of the State guard or members of the national guard to and from authorized places of encampment, or to and from places to which members of the State guard or members of the national guard are ordered to proceed for the purpose of suppressing riots or insurrections, repelling invasions or dealing with any other emergency. Public school buses so furnished by any local school administrative unit to the North Carolina State guard or the national guard shall be operated by members or employees of the State or national guard, and all expense of such operation, including any repair or replacement of any bus occasioned by such operation, shall be paid by the State from the appropriations available for the use of the State guard or the national guard.

**"§ 115C-255. Liability insurance and waiver of immunity as to certain acts of bus drivers.** — The securing of liability insurance and the waiver of immunity as to certain torts of school bus drivers, school transportation service vehicle drivers and school activity bus drivers, is subject to the provisions of G.S. 115C-42, except when such vehicles are operated with funds from the State Public School Fund.

**"§ 115C-256. School bus drivers under Workers' Compensation Act.** — Awards to school bus drivers under the Workers' Compensation Act shall be made pursuant to the provisions of G.S. 115C-337(b).

**"§ 115C-257. State Board of Education authorized to pay claims.** — The State Board of Education is hereby authorized and directed to set up in its budget for the operation of the public schools of the State a sum of money which it deems sufficient to pay the claims hereinafter authorized and provided for. The Board is hereby authorized and directed to pay out of said sum provided for this purpose to the parent, guardian, executor or administrator of any pupil who may be injured or whose death results from injuries received while such pupil is boarding, riding on, or alighting from a school bus owned and operated by any local school administrative unit, and transporting pupils to or from the public schools of the State, or sustained as a result of the operation of a school bus on the grounds of the school in which such pupil is enrolled, medical, hospital, surgical, and funeral expenses incurred on account of such injuries or death of such pupil in an amount not to exceed six hundred dollars (\$600.00). This section shall not apply to injuries sustained as a result of the operation of any activity bus as distinguished from a regular school bus.

**"§ 115C-258. Approval of claims by State Board of Education final.** — The State Board of Education is hereby authorized and empowered, under such rules and regulations as it may promulgate, to approve any claim authorized herein, and when such claim is so approved, such action shall be final: Provided, that the total benefits for hospitalization, medical treatment, and funeral expenses shall in no case exceed six hundred dollars (\$600.00) for any pupil so injured.

**"§ 115C-259. Claims paid without regard to negligence of driver, amounts paid out declared lien upon civil recoveries for child.** — The claims authorized herein shall be paid by the said State Board of Education, regardless of whether the injury received by said pupil shall have been due to the negligence of the driver of the said school bus: Provided, that whenever there is recovery on account of said accident by the father, mother, guardian, or administrator of such pupil against any person, firm or corporation, the amount expended by the State Board of Education hereunder shall constitute a paramount lien on any judgment recovered by said parent, guardian, or administrator, and shall be discharged before any money is paid to said parent, guardian, or administrator, on account of said judgment.

**"§ 115C-260. Disease and injuries incurred while not riding on bus not compensable.** — Nothing in G.S. 115C-257 to G.S. 115C-261 shall be construed to mean the State shall be liable for sickness, or disease, or for personal injuries sustained otherwise than by reason of the operation of such bus.

**"§ 115C-261. Claims must be filed within one year.** — The right to compensation as authorized herein shall be forever barred unless a claim be filed with the State Board of Education within one year after the accident, and if death results from the accident, unless a claim be filed with the said Board within one year thereafter.

**"§ 115C-262. Liability insurance and tort liability.** — Liability insurance and tort liability of local boards of education for actions arising out of activities conducted pursuant to this Part, are subject to the provisions of G.S. 115C-42.

"Part 2. Food Service.

**"§ 115C-263. Required provision of services.** — As a part of the function of the public school system, local boards of education shall provide to the extent practicable school food services in the schools under their jurisdiction. All school food services made available under this authority shall be provided in accordance with standards and regulations recommended by the Superintendent of Public Instruction and approved by the State Board of Education.

**"§ 115C-264. Operation.** — In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture.

All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term 'cost of operation' shall be defined as actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. 'Personnel' shall be defined as food service supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: Provided, that food service personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. It shall not be mandatory that the provisions of G.S. 115C-522(a) and G.S. 143-129 be complied with in the purchase of supplies and food for such school food services.

"Part 3. Library/Media Personnel.

**"§ 115C-265. Rules and regulations tor distribution of library/media personnel funds; employment of personnel.** — (a) The State Board of Education is authorized to promulgate rules and regulations for the distribution of library/media personnel funds, on the basis of average daily membership (ADM), to each local school administrative unit of the State.

(b) Each local school administrative unit in the State shall employ library/media personnel in accordance with State library/media guidelines approved by the State Board of Education insofar as funds are approved for that purpose by the North Carolina General Assembly.

**"§§ 115C-266 to 115C-270:** Reserved for future codification purposes.

**"SUBCHAPTER V.**

**"PERSONNEL.**

**"ARTICLE 18.**

**"Superintendents.**

**"§ 115C-271. Selection by local board of education, term of office.** — At a meeting to be held biennially or quadrennially during the month of April, the various county boards of education shall meet and elect a county superintendent of schools subject to the approval of the Superintendent of Public Instruction and the State Board of Education. Such superintendent shall take office on the following July 1 and shall serve for a term of two or four years, or until his successor is elected and qualified. The superintendent shall be elected for a term of either two or four years, which term shall be in the discretion of the county board of education. The county board of education may, with the written consent of the current superintendent, extend or renew the term of the superintendent's contract at any time during the final year of his term. Provided, however, in any year when new members are to be elected or appointed, the board may not act until after the new members have been sworn in. The term and conditions of employment shall be stated in a written contract which shall be entered into between the board of education and the superintendent. A copy of the contract shall be filed with the Superintendent of Public Instruction before any person is eligible for this office. A certification to the county board of education by the Superintendent of Public Instruction showing that the person proposed for the office of county superintendent of schools holds a superintendent certificate and has had three years experience in school work in the past 10 years, together with a doctor's certificate showing the person to be free from any contagious or communicable disease, shall make any person eligible for this office.

If any board of education shall elect a person to serve as superintendent of schools in any local school administrative unit who is not qualified, or cannot qualify, according to this section, such election is null and void and it shall be the duty of such board of education to elect a person who can qualify.

In all city administrative units, the superintendent of schools shall be elected by the city board of education of such unit, to serve for a period of either two or four years, which term of office shall be within the discretion of the board; and the qualifications, provisions and approval shall be the same as for county superintendents. The city board of education may, with the written consent of the current superintendent, extend or renew the term of the superintendent's contract at any time during the final year of his term: Provided, however, in any year when new members are to be elected or appointed, the board may not act until after the new members have been sworn in. The election shall be held biennially or quadrennially, as the case may be, during the month of April.

**"§ 115C-272. Residence oath of office, and salary of superintendent.** — (a) Every superintendent shall reside in the county in which he is employed. The superintendent shall not teach, nor be regularly employed in any other capacity that may limit or interfere with his duties as superintendent. Each superintendent, before entering upon the duties of his office, shall take an oath for the faithful performance thereof. The salary of the superintendent shall be in accordance with a State standard salary schedule, fixed and determined by the State Board of Education as provided by law; and such salary schedule for superintendents shall be determined on the same basis for both county and city superintendents and shall take into consideration the amount of work inherent to the office of both county and city superintendents; and such schedule shall be published in the same way and manner as the schedules for teacher and principal salaries are now published.

(b) Superintendents shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All superintendents employed by any local school administrative unit or school district who are paid from local funds shall be paid promptly as provided by law and as State allotted superintendents are paid.

Superintendents paid from State funds shall be paid as follows:

- (1) The salaries of superintendents shall be paid monthly on the basis of each calendar month of service. Included within their term of employment shall be 1.25 days of annual vacation leave for each month of the 12 months'

- service. Included within the 12 months' employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.
- (2) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year: Provided, that superintendents may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any superintendent with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the superintendent will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.
  - (3) Each local board of education shall sustain any loss by reason of an overpayment to any superintendent paid from State funds.
  - (4) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(c) The State Board of Education, in fixing the State standard salary schedule of superintendents as authorized by law, shall provide that superintendents who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

**"§ 115C-273. Salary schedule for superintendents.** — Every local board of education may adopt, as to assistant or associate superintendents not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

**"§ 115C-274. Removal for cause.** — (a) Local boards of education are authorized to remove a superintendent who is guilty of immoral or disreputable conduct or who shall fail or refuse to perform the duties required of him by law. In case the Superintendent of Public Instruction shall have sufficient evidence at any time that any superintendent of schools is not capable of discharging, or is not discharging, the duties of his office as required by law or is guilty of immoral or disreputable conduct, he shall report this matter to the board of education employing said superintendent of schools. It shall then be the duty of said board of education to hear the evidence in such case and, if after careful investigation it shall find the charges true, it shall declare the office vacant at once and proceed to elect a successor: Provided, that such superintendent shall have the right to try his title to office in the courts of the State.

(b) If the superintendent shall fail in the duties enumerated in G.S. 115C-276(g) through (i) or such other duties as may be assigned him, he shall be subject, after notice, to an investigation by the Superintendent of Public Instruction or by his board of education for failure to perform his duties. For persistent failure to perform these duties, his certificate may be revoked by the Superintendent of Public Instruction, or he may be dismissed by his board of education.

**"§ 115C-275. Vacancies in office of superintendent.** — In case of vacancy by death, resignation, or otherwise, in the office of a superintendent, such vacancy shall be filled by the local board of education in which such vacancy occurred. If the vacancy is filled on a temporary basis, subject to the same approvals and to the same educational qualifications as provided for superintendents, the individual appointed to fill the vacancy on a temporary basis shall be paid the salary provided for superintendents. During the time any superintendent is on an approved leave of absence, without pay, an acting superintendent may be appointed in the same manner to serve during the interim period, which appointment shall be subject to the same approvals and to the same educational qualifications as provided for superintendents. In case such position is not filled immediately on a permanent or temporary basis, or in case of absence of a superintendent on account of illness or other approved reason, the board of education, by resolution duly adopted and recorded in the minutes of such board, may assign to an employee of such school board, with the approval of the Superintendent of Public Instruction and the controller of the State Board of Education, any duty or duties of such superintendent which necessity requires be performed during such time: Provided, that if the duty of signing warrants and checks is so assigned, said board shall give proper notice immediately to State and local disbursing officials.

**"§ 115C-276. Duties of superintendent.** — (a) In General. — All acts of local boards of education, not in conflict with State law, shall be binding on the superintendent, and it shall be his duty to carry out all rules and regulations of the board.

All the powers, duties and responsibilities imposed by law upon the superintendents of county administrative units shall, with respect to city administrative units, be imposed upon, and exercised by, the superintendents of city administrative units, in the same manner and to the same extent, insofar as applicable thereto, as such powers and duties are exercised and performed by superintendents of county administrative units with reference to said county administrative units.

(b) To Serve as Secretary to Board. — Superintendents shall be ex officio secretary to their respective boards of education. As secretary to the board of education, the superintendent shall record all proceedings of the board, issue all notices and orders that may be made by the board, and otherwise be executive officer of the board of education. He shall see that the minutes of the meetings of the board of education are promptly and accurately recorded in the minute book which shall be kept in the office of the board of education and be open at all times to public inspection.

(c) To Monitor Condition of School Plants. — It shall be the duty of every superintendent to visit the schools of his unit, to keep his board of education informed at all times as to the condition of the school plants in his administrative unit, and to make immediate provisions to remedy any unsafe or unsanitary conditions existing in any school building.

(d) To Attend Professional Meetings. — It shall be the duty of every superintendent to attend professional meetings conducted by the State Superintendent of Public Instruction and such other professional meetings as are necessary to keep him informed on educational matters.

(e) To Report Certain Information to the Superintendent of Public Instruction. — It shall be the duty of every superintendent to furnish as promptly as possible to the State Superintendent when requested by him, information and statistics on any phase of the school work in his administrative unit.

(f) To Administer Oaths When Required. — The superintendent shall have authority to administer oaths to teachers and all other school officials when an oath is required of the same.

(g) To Familiarize Himself with and to Implement State Policies and Rules. — It shall be the duty of the superintendent to keep himself thoroughly informed as to all policies promulgated and rules adopted by the State Superintendent of Public Instruction and the State Board of Education, for the organization and government of the public schools. The superintendent shall notify and inform his board of education, the school committees, supervisors, principals, teachers, janitors, bus drivers, and all other persons connected with the public schools, of such policies and rules. In the performance of these duties, the superintendent shall confer, work, and plan with all school personnel to achieve the best methods of instruction, school organization and school government.

(h) To Hold Necessary Teachers' Meetings. — the superintendent shall hold each year such teachers' meetings and study groups as in his judgment will improve the efficiency of the instruction in the schools of his unit.

(i) To Distribute Certain Supplies and Information. — The superintendent shall distribute to all school personnel all blanks, registers, report cards, record books, bulletins, and all other supplies and information furnished by the State Superintendent and the State Board of Education and give instruction for their proper use.

(j) To Assist the Local Board in Electing School Personnel. — It shall be the duty of the county superintendent to approve, in his discretion, the election of all teachers and personnel by the several school committees of the administrative unit. He shall then present the names of all principals, teachers and other school personnel to the county board of education for approval or disapproval, and he shall record in the minutes the action of the board in this matter: Provided, that in county administrative units which elect to operate as one school district without a school committee it shall be the duty of the county superintendent to recommend and the board of education to elect all principals, teachers, and other school personnel in the county administrative unit.

It shall be the duty of the city superintendent to record in the minutes the action of the city board of education in the election of all principals, teachers and other school personnel elected upon the recommendation of the superintendent.

(k) To Submit Organization Statement and other Information to the State Board. — Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statements, certified by the chairman of the board of education, showing the organization of the schools in his unit and any additional information the State Board may require.

At the end of the first month of school each year, the superintendent of each local school administrative unit shall report school organization, employees' duties and teaching loads to the State Board as provided in G.S. 115C-47(j).

(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. — The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher and shall participate in the firing and demoting of staff as provided in G.S. 115C-325.

(m) To Furnish Boundaries of Special Taxing Districts. — It shall be the duty of county superintendents, and of city superintendents where their administrative units are not coterminous with city or township limits, to furnish tax listers at tax listing time the boundaries of each taxing district and city administrative unit in which a special tax will be levied to the end that all property in such district or unit may be properly listed.

(n) To Issue Salary Vouchers. — The authority for a superintendent to issue vouchers for the salary of all school employees, whether paid from State or local funds, shall be a monthly payroll, prepared on forms furnished by the State Board of Education and containing all information required by the controller of the State Board of Education. This monthly payroll



shall be signed by the principal of the school. If any voucher so drawn is chargeable against district funds, the amount so charged and the district to which said amount is charged shall be specified on the voucher. The superintendent shall not approve the vouchers for the pay of principals or teachers until the monthly and annual reports required by the local board of education are made.

(o) To Participate in the School Budget and Finances. — The superintendent shall participate in the school budget and finances, as provided in Article 31 of this Chapter.

(p) To Require Teachers and Principals to Make Reports. — The superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent. Any superintendent who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

**"§ 115C-277. Office, equipment, and clerical assistance to be provided by board.** — It shall be the duty of the various boards of education to provide the superintendent of schools with an appropriate office. Likewise, it shall be the duty of the various boards of education to furnish adequately the superintendent's office and provide all necessary office supplies. Authority is hereby given to boards of education to employ sufficient clerical assistants and purchase sufficient office machines and equipment to the end that the business of the superintendent of schools shall always be conducted in a prompt and efficient manner.

**"§ 115C-278. Assistant superintendent and associate superintendent.** — Local boards of education shall have authority to employ an assistant superintendent, in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such assistant superintendent shall be assigned by the superintendent with the approval of the board of education.

Local boards of education may, upon the recommendation of the superintendent, elect assistant or associate superintendents for a term of from one to four years. The term may not, however, exceed the expiration date of the superintendent's contract, unless the remaining time of the superintendent's contract is less than one year. If there is less than one year remaining on the superintendent's contract, the assistant or associate superintendent shall be given a contract through the next school year.

The term of employment shall be stated in a written contract which shall be entered into between the board of education and the assistant or associate superintendent, a copy of which shall be filed with the Superintendent of Public Instruction as a matter of information. The assistant or associate superintendent may not be dismissed during the term to which he is elected except for misconduct of such a nature as to indicate he is unfit to continue in his position, incompetence, neglect of duty, or failure or refusal to carry out validly assigned duties.

**"§§ 115C-279 to 115C-283:** Reserved for future codification purposes.

**"ARTICLE 19.**

**"Principals and Supervisors.**

**"§ 115C-284. Method of selection and requirements.** — (a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(c) The State Board of Education shall have entire control of certifying all applicants for supervisory and professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes. Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

(d) No certificate issued by the board shall be valid until approved and signed by the superintendent of the local school administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

(e) It shall be unlawful for any board of education or school committee to employ or keep in service any principal or supervisor who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

(f) The allotment of classified principals shall be one principal for each duly constituted school with seven or more State-allotted teachers and shall be included in the calculation of the allotment of general teachers set out in G.S. 115C-301(b)(i).

(g) Local boards of education shall have authority to employ supervisors in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the local school administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such supervisors shall be assigned by the superintendent with the approval of the board of education.

(h) All principals and supervisors employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

**"§ 115C-285. Salary.** — (a) Principals and supervisors shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All principals and supervisors employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted principals and supervisors are paid.

Principals and supervisors paid from State funds shall be paid as follows:

- (1) Classified principals and State-allotted supervisors shall be employed for a term of 12 calendar months and shall be paid monthly at the end of each calendar month of service for the term of their employment. They shall earn annual leave at the rate of 1.25 days per month employed. They shall be provided by the board the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.
- (2) Supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without

any applicable maximum until December 31 of each year. On December 31 of each year, any supervisor or principals with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.

- (3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year, except as provided in subdivision (5) of this section.
- (4) Each local board of education shall sustain any loss by reason of an overpayment to any principal or supervisor paid from State funds.
- (5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
- (6) The State Board of Education, in fixing the State standard salary schedule of principals as authorized by law, shall provide that principals who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.
- (7) All persons employed as principals in the schools and institutions listed in subsection (p) of G.S. 115C-325 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

(b) Every local board of education may adopt, as to principals and supervisors not paid out of State funds, a salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

(c) The board of education may withhold the salary of any supervisor or principal who delays or refuses to render such reports as are required by law, but when the reports are delivered in accordance with law, the salary shall be paid forthwith.

**"§ 115C-286. Rules for conduct of principals and supervisors.** — The conduct of principals and supervisors, the kind of reports they shall make, and their duties in the care of school property are subject to the rules of the local board, as provided in G.S. 115C-47(r).

**"§ 115C-287. Tenure as principal or supervisor.** — Tenure of a principal or supervisor shall be determined in accordance with the provisions of G.S. 115C-325.

**"§ 115C-288. Powers and duties of principal.** — (a) To Grade and Classify Pupils. — The principal shall have authority to grade and classify pupils.

(b) To Make Accurate Reports to the Superintendent and to the Local Board. — The principal shall make all reports to the superintendent. Every principal of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of principals until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent: Provided further, that any principal or supervisor who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(c) To Improve Instruction and Community Spirit. — The principal shall give suggestions to teachers for the improvement of instruction.

(d) To Conduct Fire Drills and Inspect for Fire Hazards. — It shall be the duty of the principal to conduct a fire drill during the first week after the opening of school and thereafter at least one fire drill each school month, in each building in his charge, where children are assembled. Fire drills shall include all pupils and school employees, and the use of various ways of egress to simulate evacuation of said buildings under various conditions, and such other regulations as shall be prescribed for fire safety by the Commissioner of Insurance, the Superintendent of Public Instruction and the State Board of Education. A copy of such regulations shall be kept posted on the bulletin board in each building.

It shall be the duty of each principal to inspect each of the buildings in his charge at least twice each month during the regular school session. This inspection shall include cafeterias, gymnasiums, boiler rooms, storage rooms, auditoriums and stage areas as well as all classrooms. This inspection shall be for the purpose of keeping the buildings safe from the accumulation of trash and other fire hazards.

It shall be the duty of the principal to file a written report once each month during the regular school session with his local school committee, and two copies of this report with the superintendent of his local school administrative unit, one copy of which shall be transmitted by the superintendent to the chairman of the local board of education. This report shall state the date the last fire drill was held, the time consumed in evacuating each building, that the inspection has been made as prescribed by law and such other information as is deemed necessary for fire safety by the Commissioner of Insurance, the Superintendent of Public Instruction and the State Board of Education.

It shall be the duty of the principal to minimize fire hazards pursuant to the provisions of G.S. 115C-525.

(e) To Discipline Students and to Assign Duties to Teachers With Regard to the Discipline, General Well-being, and Medical Care of Students. — The principal shall have authority to exercise discipline over the pupils of the school. The principal shall use reasonable force to discipline students and shall assign duties to teachers with regard to the general well-being and the medical care of students pursuant to the provisions of G.S. 115C-307 and 115C-390. The principal also may suspend or dismiss pupils pursuant to the provisions of G.S. 115C-391.

(f) To Protect School Property. — The principal shall protect school property as provided in G.S. 115C-523.

**"§ 115C-289. Assignment of principal's duties to assistant or acting principal.** — Any duty or responsibility assigned to a principal by statute. State Board of Education regulation, or by the superintendent may, with the approval of the local board of education, be assigned by the principal to an assistant principal designated by the local board of education or to an acting principal designated by a principal.

"§§ 115C-290 to 115C-294: Reserved for future codification purposes.

"ARTICLE 20.

"Teachers.

"§ 115C-295. **Minimum age and certificate prerequisites.** — (a) All teachers employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe: Provided further, that no person shall be employed to teach who is under 18 years of age.

(b) It shall be unlawful for any board of education or school committee to employ or keep in service any teacher who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

"§ 115C-296. **Board sets certification requirements.** — The State Board of Education shall have entire control of certifying all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

"§ 115C-297. **Local board of education approves certificate.** — No certificate issued by the board shall be valid until approved and signed by the superintendent of the local school administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

"§ 115C-298. **Colleges may assist teachers in certification.** — Each and every college or university of the State is hereby authorized to aid public school teachers or prospective teachers in securing, raising, or renewing their certificates, in accordance with the rules and regulations of the State Board of Education.

"§ 115C-299. **Hiring of teachers.** — (a) In the city administrative units, teachers shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

Teachers shall be elected by the county and city boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school on the grounds he is totally or partially blind; nor shall any school district refuse to engage a teacher on such grounds, so long as such blind teacher is able to carry out the duties of the position for which he applies in the school district.

"§ 115C-300. **In-service training.** — Local boards of education are authorized to provide for the professional growth of teachers while in service and to pass rules and regulations requiring teachers to cooperate with their superintendent for the improvement of instruction in the classroom and for promoting community improvement.

**"§ 115C-301. Allocation of teachers; class size.** — (a) On the basis of the organization statements, submitted as provided in G.S. 115C-276(k) and any other information considered relevant, the State Board of Education shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget.

(b) The State Board of Education shall allocate teachers and instructional personnel to the various local school administrative units in the following separate categories: (i) general teachers, including classified principals, (ii) vocational teachers, (iii) special education teachers.

(c) The State Board of Education is authorized to promulgate rules and regulations to make the allotment of instructional personnel and teachers.

(d) Upon receipt of the allotments, local boards of education shall organize schools and assign teachers to achieve the following class size maximums:

- (1) No more than 26 students per teacher in average daily membership for grades one through three.
- (2) No more than 33 students per teacher in average daily membership for the upper elementary grades.
- (3) No more than 35 students per class except as permitted by local boards of education and no more than 150 students per day in average daily membership for teachers in high schools and junior high schools except as permitted by regional accrediting agencies.

(e) When class-size maximums are achieved, a local board of education may assign other teachers to teaching or nonteaching duties in the various schools.

(f) It shall be the duty of teachers to notify the superintendent of any deviation from allowable class size, as provided in G.S. 115C-47(j).

**"§ 115C-302. Salary and vacation.** — (a) Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

Teachers paid from State funds shall be paid as follows:

- (1) Academic Teachers. — Regular State-allotted teachers shall be employed for a period of 10 calendar months and shall be paid monthly at the end of each calendar month of service: Provided, that any individual teacher may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said local school administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months. Included within the 10 calendar months employment shall be 1.25 days of annual vacation leave for each month of the 10 months service which shall be designated by each local board of education at a time when students are not scheduled to be in regular attendance. Included within the 10 calendar months employment each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees. Within policy adopted by the State Board of Education, each local board of education shall develop rules and regulations designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave, shall apply to service rendered before the opening of the school term, during the

school term, and after the school term and to fix and regulate the duties of State-allotted teachers during said period, but in no event shall the total number of workdays exceed 200 days. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule.

- (2) Occupational Education Teachers. — State-allotted man-months of service to local boards of education as provided by the State Board of Education shall be used for the employment of teachers of occupational education for a term of employment as determined by the local boards of education and teachers so employed shall be paid on a calendar month basis at the end of each calendar month of service for the term of their employment: Provided, that any individual teacher employed for a term of 10 calendar months may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year.

Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit. Included within their term of employment shall be the same rate of annual vacation leave and legal holidays provided under the same conditions as set out in subdivision (1) above, but in no event shall the total workdays for a 10-month employee exceed 200 days in a 10-month schedule and the workweek shall constitute five days for all occupational teachers regardless of the employment period.

No deductions shall be made from salaries of teachers of vocational agriculture and home economics whose salaries are paid in part from State and federal vocational funds while in attendance upon community, county and State, meetings called for the specific purpose of promoting the agricultural interests of North Carolina, when such attendance is approved by the superintendent of the administrative unit and the State Director of Vocational Education.

- (3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year.
- (4) Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.
- (5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
- (6) The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals and superintendents in the public schools of the State

after having been honorably discharged from the armed or auxiliary forces of the United States.

(b) All persons employed as teachers in the schools and institutions listed in subsection (p) of G.S. 115C-325 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

(c) Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force. No teacher shall receive a salary higher than that provided in the salary schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

Whenever a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason for the same: Provided, that a county board of education, upon the recommendation of the committee of a district, may authorize the committee and the superintendent to supplement the salaries of all teachers of the district from funds derived from taxes within such district, and the minutes of the board shall show what increase is allowed each teacher in each such district: Provided, further, that when one or more local tax districts have been combined to create an administrative district, the county board of education may supplement the salaries of all teachers of each local tax district, from funds derived from taxes collected within such local tax district, and the minutes of the board shall show what increase is allowed each teacher in each such district.

**"§ 115C-303. Withholding of salary.** — (a) No teacher shall be placed on the payroll of a local school administrative unit unless he holds a certificate as required by law, and unless a copy of the teacher's contract has been filed with the superintendent. No teacher may be paid more than he is due under the local school salary schedule in force in the local school administrative unit or special taxing district. Substitute and interim teachers shall be paid under rules of the State Board of Education.

(b) The board of education may withhold the salary of any teacher who delays or refuses to render such reports as are required by law, but when the reports are delivered in accordance with law, the salary shall be paid forthwith.

**"§ 115C-304. Teacher tenure.** — Tenure of teachers shall be determined in accordance with the provisions of G.S. 115C-325.

**"§ 115C-305. Appeals to board of education and to superior court.** — Appeals to the local board of education or to the superior court shall lie from the decisions of all school personnel, including decisions affecting character or the right to teach, as provided in G.S. 115C-45(c).

**"§ 115C-306. Reducing employment term of occupational education teacher.** — The following procedures shall be complied with before any local board of education may take any action reducing the term of employment of any occupational education teacher:

- (1) At least 60 calendar days prior to the beginning date of any reduction in the term of employment, the board shall give written notice to the occupational education teacher of its intentions and reasons for the proposed action.
- (2) Within 15 calendar days of receipt of this written notice, the occupational education teacher may request a hearing before the board. The board shall conduct such hearing within 20 calendar days of receipt of the request with the occupational education teacher being given at least 10 calendar days' notice of the date of hearing.
- (3) At the hearing, the occupational education teacher may be accompanied by a representative of his choice and may present such witnesses and other



evidence as he may wish in order to show that a reduction in his term of employment is unjustified or arbitrary.

- (4) After the hearing, the board shall make its decision and notify the occupational education teacher in writing.
- (5) Any occupational education teacher whose term of employment has been reduced by the board pursuant to this section shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the occupational education teacher is employed. The appeal shall be filed within a period of 30 calendar days after notification of the decision of the board.

The board shall advise the Division of Occupational Education of the Department of Public Instruction of its intention to reduce the term of employment of an occupational education teacher at least 90 calendar days prior to the effective date of reduction in his term of employment.

**"§ 115C-307. Duties of teachers.** — (a) To Maintain Order and Discipline. — It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to maintain good order and discipline in their respective schools.

(b) To Provide for General Well-Being of Students. — It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to encourage temperance, morality, industry, and neatness; to promote the health of all pupils, especially of children in the first three grades, by providing frequent periods of recreation, to supervise the play activities during recess, and to encourage wholesome exercises for all children.

(c) To Provide Some Medical Care to Students. — It is within the scope of duty of teachers, including substitute teachers, teacher aides, student teachers or any other public school employee when given such authority by the board of education or its designee, (a) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (b) to give emergency health care when reasonably apparent circumstances indicate that any delay would seriously worsen the physical condition or endanger the life of the pupil, and (c) to perform any other first aid or life savings techniques in which the employee has been trained in a program approved by the State Board of Education: Provided, that no one shall be required to administer drugs or medication or attend life saving techniques training programs.

At the commencement of each school year, but prior to the beginning of classes, and thereafter as circumstances require, the principal of each school shall determine which persons will participate in the medical care program.

(d) To Teach the Students. — It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to teach as thoroughly as they are able all branches which they are required to teach; to provide for singing in the school, and so far as possible to give instruction in the public school music.

(e) To Enter Into The Superintendent's Plans for Professional Growth. — It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to enter actively into the plans of the superintendent for the professional growth of the teachers.

(f) To Discourage Nonattendance. — Teachers shall cooperate with the principal in ascertaining the cause of nonattendance of pupils that he may report all violators of the compulsory attendance law to the attendance officer in accordance with rules promulgated by the State Board of Education.

(g) To Make Required Reports. — Every teacher of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of teachers until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals. Provided further, that any teacher who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public- schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(h) To Take Care of School Buildings. — It shall be the duty of every teacher to instruct children in proper care of property and to exercise due care in the protection of school property, in accordance with the provisions of G.S. 115C-523.

**"§ 115C-308. Rules for teacher's conduct.** — The conduct of teachers, the kind of reports they shall make, and their duties in the care of school property are subject to the rules and regulations of the local board, as provided in G.S. 115C-47(r).

**"§ 115C-309. Student teachers.** — (a) Student Teacher and Student Teaching Defined. — A 'student teacher' is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local board of education to student-teach under the direction and supervision of a regularly employed certified teacher.

'Student teaching' may include those duties granted to a teacher by G.S. 115C-307 and G.S. 115C-390 and any other part of the school program for which either the supervising teacher or the principal is responsible.

(b) Legal Protection. — A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher.

(c) Assignment of Duties. — It shall be the responsibility of a supervising teacher, in cooperation with the principal and the representative of the teacher preparation institution, to assign to the student teacher responsibilities and duties that will provide adequate preparation for teaching.

**"§§ 115C-310 to 115C-314:** Reserved for future codification purposes.

#### "ARTICLE 21.

#### "Other Employees.

**"§ 115C-315. Hiring of school personnel.** — (a) In the city administrative units, janitors and maids shall be appointed by the board of education of such local school administrative unit upon the recommendation of the superintendent.

(b) School personnel shall be elected by the local board of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(c) Prerequisites for employment. All professional personnel employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

(d) The State Board of Education shall have entire control of certifying all applicants for professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his or her academic and professional preparation by

achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

(e) Local approval of certificate required. No certificate issued by the board shall be valid until approved and signed by the superintendent of the administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

(f) Employing persons not holding nor qualified to hold certificate. It shall be unlawful for any board of education or school committee to employ or keep in service any professional person who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

**"§ 115C-316. Salary and vacation.** — (a) School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

- (1) Employees Other Than Superintendents, Supervisors and Classified Principals on an Annual Basis. — The salaries of employees other than superintendents, supervisors and classified principals employed on an annual basis shall be paid monthly on the basis of each calendar month of service. Included within their term of employment shall be provided 1.25 days of annual vacation leave time for each calendar month of service. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.
- (2) School Employees Paid on an Hourly or Other Basis. — School employees paid on an hourly basis or on a basis other than a 10-month or 12-month basis shall be paid at a time as determined by each local board of education and expenditures from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that any individual school employee employed for a term of 10 calendar months may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Included within the term of employment shall be provided for full-time employees 1.25 days of annual vacation leave time for each calendar month of service, to be taken under policies determined by each local board of education. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees.

- (3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year: Provided, that
- (4) Twelve-month school employees other than superintendents, supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any employee with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.
- (5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
- (6) Each local board of education shall sustain any loss by reason of an overpayment to any school official or other employee paid from State funds.

(b) Every local board of education may adopt, as to school officials other than superintendents, principals and supervisors not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

**"§ 115C-317. Penalty for making false reports or records.** — Any school employee of the public schools other than a superintendent, principal, or teacher, who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

**"§§ 115C-318 to 115C-322:** Reserved for future codification purposes.

"ARTICLE 22.

"General Regulations.

"Part 1. Health Certificate.

**"§ 115C-323. Employee health certificate.** — All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, district principals, building principals, teachers, and any other employees in the public schools of the State, shall file in the office of the superintendent, before assuming his duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease,

physical or mental, which would impair the ability of the said person to perform effectively his duties. A local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease must, before returning to work, file with the superintendent a physician's certificate certifying that the individual is free from any communicable disease.

The examining physician shall make the aforesaid certificates on an examination form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been made at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the Superintendent of Public Instruction, with approval of the Secretary of Human Resources, and such rules and regulations may include the requirement of an X-ray chest examination for all new employees of the public school system.

It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and subject to a fine or imprisonment in the discretion of the court.

"Part 2. Payment of Wages after Death of Employee.

**"§ 115C-324. Disposition of payment due employees at time of death.** — In the event of the death of any superintendent, teacher, principal, or other school employee to whom payment is due for or in connection with services rendered by such person or to whom has been issued any uncashed voucher for or in connection with services rendered, when there is no administration upon the estate of such person, such voucher may be cashed by the clerk of the superior court of the county in which such deceased person resided, or a voucher due for such services may be made payable to such clerk, who will treat such sums as a debt owed to the intestate under the provisions of G.S. 28-68.

"Part 3. Principal and Teacher Employment Contracts.

**"§ 115C-325. System of employment for public school teachers.** — (a) Definition of Terms. — As used in this section unless the context requires otherwise:

- (1) 'Career teacher' means a teacher who has obtained career status as provided in G.S. 115C-325(c).
- (2) 'Committee' means the Professional Review Committee created under G.S. 115C-325(g).
- (3) 'Day' means any day except Saturday, Sunday, or a legal holiday. In computing any period of time, the day in which notice is received is not counted, but the last day of the period so computed is to be counted.
- (4) 'Demote' means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom teacher or to transfer him to a new position carrying a lower salary. The word 'demote' does not include a reduction in compensation that results from the elimination of a special duty, such as the duty of an athletic coach, assistant principal, or a choral director.
- (5) 'Probationary teacher' means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.
- (6) 'Teacher' means a person who holds at least a current, not expired. Class A certificate or a regular, not provisional or expired, vocational certificate issued by the Department of Public Instruction; whose major responsibility is to teach or directly supervise teaching or who is classified by the State

Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position.

(b) The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file.

The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before his employment by the board may be kept in a file separate from his personnel file and need not be made available to him. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher.

- (c) (1) Election of a Teacher to Career Status. — When a teacher will have been employed by a North Carolina public school system for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision at least 30 days before the end of his third year of employment. If a majority of the board votes to reemploy him, he becomes a career teacher on the first day of the fourth year of employment. If the board votes to reemploy the teacher and thus grant career status at the beginning of the next school year, and if it has notified him of this decision, it may not later rescind that action but must proceed under the provisions of this section for the demotion or discharge of a teacher if it decides to terminate his employment. If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the fourth year of employment.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 workdays performed as a full-time, permanent teacher in a normal school year.

- (2) Employment of a Career Teacher. — A teacher who has obtained career status in another North Carolina public school system need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately as a career teacher. In any event, if the teacher is reemployed for a third consecutive year, he shall automatically become a career teacher. A teacher with career status who resigns and within five years seeks to be reemployed by the same local school administrative unit need not serve another probationary period of more than one year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is reemployed for a second consecutive year, he shall automatically become a career teacher.
- (3) Ineligible for Career Status. — No superintendent, associate superintendent, assistant superintendent or other school employee who is not a teacher as defined by G.S. 115C-325(a)(6) is eligible to obtain career status or continue in a career status if he no longer performs the responsibilities of a teacher as defined in G.S. 115C-325(a)(9).

- (4) Leave of Absence. — A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave.
- (d) Career Teachers.
  - (1) A career teacher shall not be subjected to the requirement of annual appointment nor shall he be dismissed, demoted, or employed on a part-time basis without his consent except as provided in subsection (e).
  - (2) A career teacher who has performed the duties of a principal or supervisor in a particular position in the school system for three consecutive years shall not be transferred from that position to a lower-paying administrative position or to a lower-paying nonadministrative position without his consent except for the reasons given in G.S. 115C-325(e) and in accordance with the procedure for the dismissal of a career teacher set out in this section.
- (e) Grounds for Dismissal or Demotion of a Career Teacher.
  - (1) No career teacher shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:
    - a. Inadequate performance.
    - b. Immorality.
    - c. Insubordination.
    - d. Neglect of duty.
    - e. Physical or mental incapacity.
    - f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
    - g. Conviction of a felony or a crime involving moral turpitude.
    - h. Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
    - i. Failure to fulfill the duties and responsibilities imposed upon teachers by the General Statutes of this State.
    - j. Failure to comply with such reasonable requirements as the board may prescribe.
    - k. Any cause which constitutes grounds for the revocation of such career teacher's teaching certificate.
    - l. A justifiable decrease in the number of positions due to district reorganization or decreased enrollment, provided that subdivision (2) is complied with.
    - m. Failure to maintain his certificate in a current status.
    - n. Failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 of the General Statutes.
  - (2) When a career teacher is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his name shall be placed on a list of available teachers to be maintained by the board. Career teachers whose names are placed on such a list shall have a priority on all positions for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed teacher a position for which he is certified and he refuses it, his name shall be removed from the priority list.
  - (3) In determining whether the professional performance of a career teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing

local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career teacher of an inadequacy in his performance shall be conclusive evidence of satisfactory performance.

- (4) Dismissal under subdivision (1) above, except paragraph g. thereof, shall not be based on conduct or actions which occurred more than three years before the written notice of the superintendent's intention to recommend dismissal is mailed to the teacher.

(e) Suspension without Pay. — If a board believes that cause exists for dismissing a probationary or career teacher for any reason specified in G.S. 115C-325(e)(1)b. through G.S. 115C-325(e)(1)h. and that immediate suspension of the teacher is necessary, the board may by resolution suspend him without pay and without giving notice and a hearing.

If a board thinks a probationary or career teacher's performance is so inadequate that an emergency situation exists requiring the teacher to be removed immediately from his duties, the board shall give him written notice that it plans to suspend him and the reasons for the planned action. Not less than two or more than five days after the teacher receives the board's notice, the board shall hold a hearing on whether it should suspend the teacher. The hearing procedures provided in G.S. 115C-325(j) shall be followed and all teacher evaluations and other information in the teacher's personnel file shall be made available to the board. If the board finds it necessary to suspend the teacher, it may by resolution suspend him without pay.

Within five days after a suspension under this section, the superintendent shall initiate a dismissal as provided in this section. If it is finally determined that no grounds for dismissal exist, the teacher shall be reinstated immediately and shall be paid for the period of suspension.

- (g) Professional Review Committee; Qualifications; Terms; Vacancy; Training.

- (1) There is hereby created a Professional Review Committee which shall consist of 121 citizens, 11 from each of the State's congressional districts, five of whom shall be lay persons and six of whom shall have been actively and continuously engaged in teaching or in supervision or administration of schools in this State for the five years preceding their appointment and who are broadly representative of the profession, to be appointed by the Superintendent of Public Instruction with the advice and consent of the State Board of Education. Each member shall be appointed for a term of three years. The Superintendent of Public Instruction, with the advice and consent of the State Board of Education, shall fill any vacancy which may occur in the Committee. The person appointed to fill the vacancy shall serve for the unexpired portion of the term of the member of the Committee whom he is appointed to replace.
- (2) The Superintendent of Public Instruction shall provide for the Committee such training as he considers necessary or desirable for the purpose of enabling the members of the Committee to perform the functions required of them.
- (3) The compensation of committee members while serving as a member of a hearing panel shall be as for State boards and commissions pursuant to G.S. 138-5. The compensation shall be paid by the State Board of Education.

- (h) Procedure for Dismissal or Demotion of Career Teacher.

- (1) A career teacher may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.
- (2) Before recommending to a board the dismissal or demotion of the career teacher, the superintendent shall give written notice to the career teacher by certified mail of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes



such dismissal is justified. The notice shall include a statement to the effect that if the teacher within 15 days after the date of receipt of the notice requests a review, he shall be entitled to have the proposed recommendations of the superintendent reviewed by a panel of the Committee. A copy of G.S. 115C-325 and a current list of the members of the Professional Review Committee shall also be sent to the career teacher. If the teacher does not request a panel hearing within the 15 days provided, the superintendent may submit his recommendation to the board.

- (3) Within the 15-day period after receipt of the notice, the career teacher may file with the superintendent a written request for either (i) a review of the superintendent's proposed recommendation by a panel of the Professional Review Committee or (ii) a hearing before the board within 10 days. If the teacher requests an immediate hearing before the board, he forfeits his right to a hearing by a panel of the Professional Review Committee. If no request is made within that period, the superintendent may file his recommendation with the board. The board, if it sees fit, may by resolution dismiss such teacher. If a request for review is made, the superintendent shall not file his recommendation for dismissal with the board until a report of a panel of the Committee is filed with the superintendent.

- (4) If a request for review is made, the superintendent, within five days of filing such request for review, shall notify the Superintendent of Public Instruction who, within seven days from the time of receipt of such notice, shall designate a panel of five members of the Committee, at least two of whom shall be lay persons, who shall not be employed in or be residents of the county in which the request for review is made, to review the proposed recommendations of the superintendent for the purpose of determining whether in its opinion the grounds for the recommendation are true and substantiated. The teacher or principal making the request for review shall have the right to require that at least two members of the panel shall be members of his professional peer group.

(i) Investigation by Panel of Professional Review Committee; Report; Action of Superintendent; Review by Board.

- (1) The career teacher and superintendent will each have the right to designate not more than 30 of the 121 members of the Professional Review Committee as not acceptable to the teacher or superintendent respectively. No person so designated shall be appointed to the panel. The career teacher shall specify those Committee members who are not acceptable in his request for a review of the superintendent's proposed recommendations provided for in subdivision (h)(3) above. The superintendent's notice to the Superintendent of Public Instruction provided for in subdivision (h)(4) above shall contain a list of those members of the committee not acceptable to the superintendent and the teacher respectively. Failure to designate nonacceptable members in accordance with this subsection shall constitute a waiver of that right.
- (2) As soon as possible after the time of its designation, the panel shall elect a chairman and shall conduct such investigation as it may consider necessary for the purpose of determining whether the grounds for the recommendation are true and substantiated. The panel shall be furnished assistance reasonably required to conduct its investigation and shall be empowered to subpoena and swear witnesses and to require them to give testimony and to produce books and papers relevant to its investigation.

- (3) The career teacher and superintendent involved shall each have the right to meet with the panel accompanied by counsel or other person of his choice and to present any evidence and arguments which he considers pertinent to the considerations of the panel and to cross-examine witnesses.
  - (4) When the panel has completed its investigation, it shall prepare a written report and send it to the superintendent and teacher. The report shall contain an outline of the scope of its investigation and its finding as to whether or not the grounds for the recommendation of the superintendent are true and substantiated. The panel shall complete its investigation and prepare the report within 20 days from the time of its designation, except in cases in which the panel finds that justice requires that a greater time be spent in connection with the investigation and the preparation of such report, and reports that finding to the superintendent and the teacher: Provided, that such extension does not exceed 10 days.
  - (5) Within five days after the superintendent receives the report of the panel, he shall submit his written recommendation for dismissal to the board with a copy to the teacher, or shall drop the charges against the teacher. His recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the report of the panel of the Committee.
  - (6) Within seven days after receiving the superintendent's recommendation and before taking any formal action, the board shall notify the teacher by certified mail that it has received the superintendent's recommendation and the report of the panel. The notice shall state that if the teacher requests a hearing before the board on the superintendent's recommendation, a hearing will be provided at the time and place specified in the notice. The time specified shall not be sooner than seven or later than 20 days after the teacher received the notice. The notice shall further state that if the board does not receive the teacher's written notification that he wants a hearing before the board, such notice to be given within five days after he has received the board's notice, it may by resolution dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited.
- (j) Hearing Procedure. — The following provisions shall be applicable to any hearing conducted pursuant to G.S. 115C-325(k) or (l).
- (1) The hearing shall be private.
  - (2) The hearing shall be conducted in accordance with such reasonable rules and regulations as the board may adopt consistent with G.S. 115C-325, or if no rules have been adopted, in accordance with reasonable rules and regulations adopted by the State Board of Education to govern such hearings.
  - (3) At the hearing the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.
- (k) Panel Finds Grounds for Superintendent's Recommendation True and Substantiated.
- (1) If the panel found that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall consider the recommendation of the superintendent, the report of the panel, including any minority report, and any evidence which the teacher or the superintendent may wish to present with respect to the question of whether

the grounds for the recommendation are true and substantiated. The hearing may be conducted in an informal manner.

- (2) If, after considering the recommendation of the superintendent, the report of the panel and the evidence adduced at the hearing, the board concludes that the grounds for the recommendation are true and substantiated, the board, if it sees fit, may by resolution order such dismissal.

(l) Panel Does Not Find That the Grounds for Superintendent's Recommendation Are True and Substantiated.

- (1) If the panel does not find that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall determine whether the grounds for the recommendation of the superintendent are true and substantiated upon the basis of competent evidence adduced at the hearing by witnesses who shall testify under oath or affirmation to be administered by any board member or the secretary of the board.
- (2) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant competent evidence to be received therein. The report of the panel of the committee shall be deemed to be competent evidence. A full record shall be kept of all evidence taken or offered at such hearing. Both counsel for the local school administrative unit and the career teacher or his counsel shall have the right to cross-examine witnesses.
- (3) At the request of either the superintendent or the teacher, the board shall issue subpoenas requiring the production of papers or records or the attendance of persons residing within the State before the board. Subpoenas for witnesses to testify at the hearing in support of the recommendation of the superintendent or on behalf of the career teacher shall, as requested, be issued in blank by the board over the signature of its chairman or secretary. The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the teacher, except that it shall not pay for any witness who resides within the county in which the dismissal originates or who is an employee of the board. However, no employee of the board shall suffer any loss of compensation because he has been subpoenaed to testify at the hearing. These payments shall be as provided for witnesses in G.S. 7A-314.
- (4) At the conclusion of the hearing provided in this section, the board shall render its decision on the evidence submitted at such hearing and not otherwise.
- (5) Within five days following the hearing, the board shall send a written copy of its findings and order to the teacher and superintendent. The board shall provide for making a transcript of its hearing. If the teacher contemplates an appeal to a court of law, he may request and shall receive at no charge a transcript of the proceedings.

(m) Probationary Teacher.

- (1) The board of any local school administrative unit may not discharge a probationary teacher during the school year except for the reasons for and by the procedures by which a career teacher may be dismissed as set forth in subsections (e) and (h) to (l) above.
- (2) The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient: Provided, however, that

the cause may not be arbitrary, capricious, discriminatory or for personal or political reasons.

(n) Appeal. — Any teacher who has been terminated by action of the board after a hearing pursuant to subsections (k) or (l) shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the teacher is employed. The appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be borne by the board.

(o) A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact not less than 30 days before the end of his employment period.

(p) Notwithstanding any law or regulation to the contrary and the teacher salary schedule as adopted by the State Board of Education, this section shall apply to all persons defined as teachers by this section who serve as teachers in the following schools and institutions:

Cameron Morrison.  
Samuel Leonard.  
Richard T. Fountain.  
Juvenile Evaluation Center.  
C. A. Dillon.  
Dobbs School for Girls.  
Samarkand Manor.  
Stonewall Jackson.

**"§ 115C-326. Uniform performance standards and criteria for professional employees. —** The State Board of Education, in consultation with local boards of education, shall develop uniform performance standards and criteria to be used in evaluating professional public school employees. It shall develop rules and regulations to insure the use of these standards and criteria in the employee evaluation process. The performance standards and criteria shall be adopted by the Board by July 1, 1981, and may be modified in the discretion of the Board.

Local boards of education shall adopt rules and regulations by July 1, 1981, to provide for annual evaluation of all professional employees defined as teachers by G.S. 115C-325(a)(6). Local boards may also adopt rules and regulations requiring annual evaluation of other school employees not specifically covered in this section. All such rules and regulations adopted by local boards shall utilize performance standards and criteria adopted by the State Board of Education pursuant to the first paragraph of this section; however, the standards and criteria used by local boards are not to be limited by those adopted by the State Board of Education.

"Part 4. Personnel Administration Commission for Public School Employees.

**"§ 115C-327. Commission established; purpose. —** There is hereby established a Personnel Administration Commission for Public School Employees which shall provide advice and recommendations to the Governor and the State Board of Education in regard to personnel administration practices and policies for public school employees.

**"§ 115C-328. Commission membership; meetings; compensation. —** (a) The Personnel Administration Commission for Public School Employees shall consist of nine members to be appointed by the Governor on or before September 1, 1980. Of the nine members of the Commission, one shall be appointed from each of the eight educational districts of the State as established in G.S. 115C-65, and the chairman, who shall be designated by the Governor, shall be an at-large member. To assure continuity of membership, initial appointments to the Commission shall be made as follows: three members, including the chairman, for terms of

three years; three members for terms of two years; and three members for terms of one year. All appointments after the initial appointments shall be for terms of three years. Vacancies on the Commission shall be filled by the Governor for the unexpired term.

(b) In making his appointments to the Commission, the Governor shall assure that the membership of the Commission consists of persons interested in education and persons possessing knowledge and skills in personnel administration. However, no person shall be eligible for appointment to the Commission if he is a member of the General Assembly, officer or employee of any organization or association of public school employees, or a person whose employment would be directly affected by recommendations of the Commission.

(c) Within 30 days after the appointment of the Commission, the chairman shall convene the Commission for an initial meeting. At this meeting, the Commission shall elect such officers, in addition to the chairman, as it deems necessary and establish a regular meeting schedule.

(d) Members of the Commission shall be entitled to receive per diem and reimbursement for travel and subsistence expenses incurred in the performance of their duties as specified in G.S. 138-5 or 138-6, whichever is applicable to the individual member. Funds for this purpose shall be made available to the State Board of Education from funds appropriated to implement Section 36 of Chapter 1137 of the 1980 Session Laws.

**"§ 115C-329. Responsibilities of the Commission.** — (a) The primary function of the Commission shall be to review the classification of positions and to make written recommendations to the Governor and the State Board of Education concerning proper compensation, salary and benefits, and such other proper personnel matters as to encourage the development of employees with a high degree of necessary skills and to stimulate a high degree of employee morale. In addition, the Commission shall provide advice and make recommendations to the Governor and the State Board of Education in such other areas of personnel management as may be requested by either the Governor or the State Board.

(b) The State Board of Education is authorized and directed to receive periodic reports and recommendations from the Commission and is empowered to implement recommendations of the Commission.

(c) The State Board of Education and the Superintendent of Public Instruction shall provide necessary staff services to the Commission in the performance of its responsibilities.

"Part 5. Employment of Handicapped.

**"§ 115C-330. Employment of handicapped.** — The Board and each local educational agency shall make positive efforts to employ and advance in employment qualified handicapped individuals.

**"§§ 115C-331 to 115C-335:** Reserved for future codification purposes.

"ARTICLE 23.

"Employment Benefits.

**"§ 115C-336. Sick leave.** — All public school employees shall be permitted a minimum of five days per school term of sick leave, pursuant to rules and regulations promulgated by the State Board of Education as provided in G.S. 115C-12(8).

**"§ 115C-337. Workers' Compensation for school employees.** — (a) Workers' Compensation Act Applicable to School Employees. — The provisions of the Workers' Compensation Act shall be applicable to all school employees, and the State Board of Education shall make such arrangements necessary to carry out the provisions of the Workers' Compensation Act applicable to such employees paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the State-operated school term. The State shall be liable for said compensation on the basis of the average weekly wage of such employees as defined in the Workers' Compensation Act, whether all of said compensation for the school term is paid from State

funds or in part supplemented by local funds. The State shall also be liable for workers' compensation for all school employees employed in connection with the teaching of vocational agriculture, home economics, trades and industries, and other vocational subjects, supported in part by State and federal funds, which liability shall cover the entire period of service of such employees. The local school administrative units shall be liable for workers' compensation for school employees, including lunchroom employees, whose salaries or wages are paid by such local units from local or special funds. Such local units are authorized and empowered to provide insurance to cover such compensation liability and to include the cost of such insurance in their annual budgets.

The provisions of this subsection shall not apply to any person, firm or corporation making voluntary contributions to schools for any purpose, and such person, firm or corporation shall not be liable for the payment of any sum of money under this Chapter.

(b) Payment of Awards to School Bus Drivers Pursuant to the Workers' Compensation Act. — In the event that the Industrial Commission shall make an award pursuant to the Workers' Compensation Act against any local board of education on account of injuries to or the death of a school bus driver arising out of and in the course of his employment as such driver, the local board of education shall draw a requisition upon the State Board of Education for the amount required to pay such award. The State Board of Education shall honor such requisition to the extent that it shall have in its hands, or subject to its control, available funds which have been or shall thereafter be appropriated by the General Assembly for the support of the school term. It shall be the duty of the local board of education to apply all funds received by it from the State Board of Education pursuant to such requisition to the payment of such award. Neither the State nor the State Board of Education shall be deemed the employer of such school bus driver, nor shall the State or the State Board of Education be liable to any school bus driver or any other person for the payment of any claim, award, or judgment under the provisions of the Workers' Compensation Act or of any other law of this State for any injury or death arising out of or in the course of the operation by such driver of a public school bus. Neither the local board of education, the local school administrative unit, nor the tax levying authorities for the local school administrative unit shall be liable for the payment of any award made pursuant to the provisions of this subsection in excess of the amount paid upon such requisition by the State Board of Education, nor shall the local school board of education, the local school administrative unit, nor the said tax levying authorities be required to provide or carry workers' compensation insurance for such purpose.

**"§ 115C-338. Salaries for employees injured during an episode of violence.** — (a) For the purpose of this section, 'employee' shall mean any teacher, helping teacher, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term 'teacher' shall not include any part-time, temporary, or substitute teacher or employee, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1. In all cases of doubt, the Board of Trustees, as defined in G.S. 135-1(7), shall determine whether any person is a teacher as herein defined.

(b) Any employee who while engaged in the course of his employment or in any activities incidental thereto, suffers any injury or disability resulting from or arising out of any episode of violence by one or more persons shall be entitled to receive his full salary during the shortest of these periods: one year, the continuation of his disability, or the time during which he is unable to engage in his employment because of injury. An episode of violence shall be defined to mean but shall not be limited to any acts of violence directed toward any school building or facility, or to any employee or any student by any person including but not limited to another student. These benefits shall be in lieu of all other income or disability benefits

payable under workers' compensation to such employee only during the period prescribed herein. Thereafter, such teacher shall be paid such income or disability payments to which he might be entitled under workers' compensation. If the employment of a substitute is necessitated by the disability of the injured employee the salary of such substitute shall be paid from the same source of funds from which the employee is paid. This section shall in no way limit the right of the injured employee to receive the benefits of medical, hospital, drug and related expense payments from any source, including workers' compensation: Provided, further, that this section shall not apply to any employee who is injured while he participates in or provokes such episode of violence except as is incident to the maintenance or restoration of order or classroom discipline or to defend himself: Provided, further, that this section shall be given liberal construction and interpretation as to any and all definitions, conditions, and factual circumstances set forth herein.

(c) Any employee claiming the benefits of this section shall file claim with the board of education employing such employee within one year after the occurrence giving rise to his alleged injury. That board of education shall, within 30 days after receipt of such claim, decide whether and to what extent that employee is entitled to the benefits of this section and shall forthwith transmit its decision in writing to such employee. That employee shall, however, have the right to appeal the decision of that board of education to the North Carolina Industrial Commission by serving that board of education and the North Carolina Industrial Commission with written notice thereof within 30 days after receipt of the board's written decision. In determining all appeals under this section the North Carolina Industrial Commission shall constitute a court for the purpose of hearing de novo and passing upon all claims thereby presented in accordance with procedures utilized by the Commission in determining claims under the Workers' Compensation Act. The decision of the Industrial Commission in each instance shall be subject to appeal to the North Carolina Court of Appeals as provided in G.S. 143-293 and 143-294.

**"§ 115C-339. Retirement plan.** — Provisions for retirement plans for public school employees may be found in Chapter 135 of the General Statutes.

**"§ 115C-340. Health insurance.** — (a) The State Board of Education may authorize and empower any local board of education, the board of trustees of any community college or technical institute, or other governing authority, within the State, to establish a voluntary payroll deduction plan for premiums for any type of group insurance, including health insurance, established and authorized by the laws of this State.

(b) Any employee of any local board of education, any community college, technical institute, or of any educational association, may enter into a written agreement with his employer for the purpose of carrying out the provisions of this section. The State Board of Education is authorized and empowered to make and promulgate rules and regulations to carry out the purposes of this section.

**"§ 115C-341. Annuity contracts.** — Notwithstanding the provisions of this Chapter for the adoption of State and local salary schedules for the pay of teachers, principals, superintendents, and other school employees, local boards of education may enter into annual contracts with any employee of such board which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The local board of education shall use the funds derived from the reduction in the salary of the employee to purchase a nonforfeitable annuity contract for the benefit of said employee. An employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity contract. Funds used by the local boards of education for the purchase of an annuity contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective.

The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the State Board of Education and on forms prepared by the State Board of Education.

Notwithstanding any other provisions of this section, the amount by which the salary of any employee is reduced pursuant to this section shall be included in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes.

**"§ 115C-342. Group insurance and credit unions.** — (a) The State Board of Education may authorize and empower any local board of education, the board of trustees of any community college or technical institute, or other governing authority, within the State, to establish a voluntary payroll deduction plan for:

- (1) Premiums for any type of group insurance established and authorized by the laws of this State.
- (2) Amounts authorized by members of the State Employees' Credit Union or any local teachers' credit unions to be deposited with such organizations.
- (3) Loans made to teachers by credit unions.

(b) Any employee of any local board of education, any community college, technical institute, or of any educational association, may enter into a written agreement with his employer for the purpose of carrying out the provisions of this section. The State Board of Education is authorized and empowered to make and promulgate rules and regulations to carry out the purposes of this section.

(c) Any public school teacher who is a member of a credit union organized and established under Chapter 54 of the General Statutes may, by executing a written consent to the local school administrative unit by whom employed, authorize periodical payment or obligation to such credit union to be deducted from their salaries or wages, and such deductions shall be made and paid to said credit union as and when said salaries and wages are payable.

**"§ 115C-343. Payroll savings plan for purchase of United States bonds.** — (a) The State Board of Education may authorize any local school administrative school unit within the State to establish a voluntary payroll deduction plan for the purchase of United States Savings Bonds by the employees of such local school administrative unit, and to set up the necessary machinery for carrying out the purposes of this section.

(b) Any employee of any local school administrative school unit within the State may enter into a written agreement with the local board of education by which he is employed and which has adopted such payroll savings plan to authorize deductions from his salary of certain designated sums to be invested in United States Savings Bonds of the kind and type specified in such agreement.

(c) Upon execution of such agreement by an employee of any local school administrative unit the local board of education employing such person is authorized and empowered to deduct the sum specified in said agreement from the weekly or monthly salary of such employee and to show deductions on all payrolls in a manner similar to that in the weekly or monthly salary of such employee and to show deductions on all payrolls in a manner similar to that in which withholding tax and retirement are shown. Such sums shall be deposited monthly with a depository authorized by the United States Treasury Department. The sums so deposited shall be held by the depository until sufficient moneys have accumulated to the credit of each individual sufficient to purchase a bond, and such sums shall be invested in United States Savings Bonds for and on behalf of such employee, and the bonds shall be delivered to the employee as soon as practicable: Provided, that no coercion shall be exercised to require any person to participate in such plan.

(d) Such agreement may be canceled by the employee executing the same by giving written notice to the superintendent of schools who is ex officio secretary to the local board of education, not later than the fifteenth day of the month in which he desires such agreement to



be terminated; and the local board of education may cancel any agreement herein provided for upon giving 10 days written notice to the affected employee. Upon the termination of the agreement, the depository is hereby authorized and directed to refund any amount of money held for such employee.

"§§ 115C-344 to 115C-348: Reserved for future codification purposes.

"ARTICLE 24.

"Interstate Agreement on Qualifications of Educational Personnel.

"§ 115C-349. **Purpose, findings, and policy.** — (a) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(b) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this Compact can increase the availability of educational manpower.

"§ 115C-350. **Definitions.** — As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

- (1) 'Accept', or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.
- (2) 'Designated state official' means the educational official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.
- (3) 'Educational personnel' means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.
- (4) 'Originating state' means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools, is acceptable in accordance with the terms of a contract made pursuant to G.S. 115C-351.
- (5) 'Receiving state' means a state (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to G.S. 115C-351.
- (6) 'State' means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

"§ 115C-351. **Interstate educational personnel contracts.** — (a) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to

this section only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(b) Any such contract shall provide for:

- (1) Its duration.
- (2) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.
- (3) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.
- (4) Any other necessary matters.

(c) No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(d) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(e) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(f) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

**"§ 115C-352. Approved and accepted programs.** — (a) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(b) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

**"§ 115C-353. Interstate cooperation.** — The party states agree that:

- (1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to G.S. 115C-351 of this agreement.
- (2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

**"§ 115C-354. Agreement evaluation.** — The designated state officials of any party state(s) may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

**"§ 115C-355. Other arrangements.** — Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

**"§ 115C-356. Effect and withdrawal.** — (a) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(b) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(c) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

**"§ 115C-357. Construction and severability.** — This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

**"§ 115C-358. Designated state official.** — For the purposes of the agreement set forth in this Article the 'designated state official' for this State shall be the Superintendent of Public Instruction. He shall enter into contracts pursuant to G.S. 115C-351 only with the approval of the specific text thereof by the State Board of Education.

**"§§ 115C-359 to 115C-363:** Reserved for future codification purposes.

#### **"SUBCHAPTER VI.**

#### **"STUDENTS.**

#### **"ARTICLE 25.**

#### **"Admission and Assignment of Students.**

**"§ 115C-364. Admission requirements.** — Children to be entitled to enrollment in the public schools must have passed the sixth anniversary of their birth before October 1 of the year in which they enroll, and must enroll during the first month of the school year: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in the schools of this State regardless of whether such child has passed the sixth anniversary of his birth before October 1. The State Board of Education is hereby authorized and empowered, in its discretion, to change the above dates of October 1. The principal of any public school shall have the authority to require the parents of any child presented for admission for the first time to such school to furnish a certified copy of the birth certificate of such child, which shall be furnished without charge by the register of deeds of the county having on file the record of the birth of such child, or other satisfactory evidence of date of birth.

**"§ 115C-365. Children at orphanages admitted to public schools.** — Children living in and cared for and supported by an institution established or incorporated for the purpose of rearing and caring for orphan children shall be considered legal residents of the local school administrative unit in which the institution is located, and a part or all of said orphan children shall be permitted to attend the public schools of their local school administrative unit: Provided, that the provisions of this section shall be permissive only, and shall not be mandatory.

**"§ 115C-366. Assignment of student to a particular school.** — (a) All pupils residing in a school district or attendance area, who have not been removed from school for cause, shall be entitled to all the privileges and advantages of the public schools of such district or attendance

area in such school buildings to which they are assigned by local boards of education: Provided, that wherever pupils from nontax units, districts, or attendance areas, are assigned to a school in a tax unit, district, or attendance area, the assignment shall be for only the current school year, unless satisfactory agreements are reached between all units, districts, or attendance areas concerned: Provided, further, that pupils residing in one local school administrative unit may be assigned either with or without the payment of tuition to a school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the local school administrative units involved and entered upon the official records of such boards: Provided, further, that the assignment of pupils living in one local school administrative unit or district to a school located in another local school administrative unit or district, either with or without the payment of tuition, shall have no effect upon the right of the local school administrative unit or district to which said pupils are assigned to levy and collect any supplemental tax heretofore or hereafter voted in such local school administrative unit or district: Provided, further, the boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education.

Unless otherwise assigned by the local board of education, the following pupils are entitled to attend the schools in the district or attendance area in which they reside: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years:

- (1) All persons of the district or attendance area who have not completed the prescribed course for graduation in the high school.
- (2) All pupils whose parents have recently moved into the unit, district, or attendance area for the purpose of making their legal residence in the same.
- (3) Any pupil living with either father, mother or guardian who has made his permanent home within the district.

(b) Each local board of education is hereby authorized and directed to provide for the assignment to a public school of each child residing within the local school administrative unit who is qualified under the laws of this State for admission to a public school. Except as otherwise provided in G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete, and its decision as to the assignment of any child to any school shall be final. A child residing in one local school administrative unit may be assigned either with or without the payment of tuition to a public school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the local school administrative units involved and entered upon the official records of such boards. No child shall be enrolled in or permitted to attend any public school other than the public school to which the child has been assigned by the appropriate board of education. In exercising the authority conferred by this subsection, each local board of education shall make assignments of pupils to public schools so as to provide for the orderly and efficient administration of the public schools, and provide for the effective instruction, health, safety, and general welfare of the pupils. Each board of education may adopt such reasonable rules and regulations as in the opinion of the board are necessary in the administration of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116.

**"§ 115C-367. Assignment on certain bases prohibited.** — No person shall be refused admission to or be excluded from any public school in this State on account of race, creed, color or national origin. No school attendance district or zone shall be drawn for the purpose of segregating persons of various races, creeds, colors or national origins from the community.

Where local school administrative units have divided the geographic area into attendance districts or zones, pupils shall be assigned to schools within such attendance districts: Provided, however, that the board of education of a local school administrative unit may assign any pupil to a school outside of such attendance district or zone in order that such pupil may attend a school of a specialized kind including but not limited to a vocational school or school operated for, or operating programs for, pupils mentally or physically handicapped, or for any other reason which the board of education in its sole discretion deems sufficient.

The provisions of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116 shall not apply to a temporary assignment due to the unsuitability of a school for its intended purpose nor to any assignment or transfer necessitated by overcrowded conditions or other circumstances which, in the sole discretion of the school board, require assignment or reassignment.

The provisions of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116 shall not apply to an application for the assignment or reassignment by the parent, guardian or person standing in loco parentis of any pupil or to any assignment made pursuant to a choice made by any pupil who is eligible to make such choice pursuant to the provisions of a freedom of choice plan voluntarily adopted by the board of education of a local school administrative unit.

**"§ 115C-368. Notice of assignment.** — In exercising the authority conferred by G.S. 115C-366(b), each local board of education may, in making assignments of pupils, give individual written notice of assignment, on each pupil's report card or by written notice by any other feasible means, to the parent or guardian of each child or the person standing in loco parentis to the child, or may give notice of assignment of groups or categories of pupils by publication at least two times in some newspaper having general circulation in the local administrative unit.

**"§ 115C-369. Application for reassignment; notice of disapproval; hearing before board.** — The parent or guardian of any child, or the person standing in loco parentis to any child, who is dissatisfied with the assignment made by a local board of education may, within 10 days after notification of the assignment, or the last publication thereof, apply in writing to the local board of education for the reassignment of the child to a different public school. Application for reassignment shall be made on forms prescribed by the local board of education pursuant to rules and regulations adopted by the board of education. If the application for reassignment is disapproved, the local board of education shall give notice to the applicant by registered mail, and the applicant may within five days after receipt of such notice apply to the local board for a hearing, and shall be entitled to a prompt and fair hearing on the question of reassignment of such child to a different school. A majority of the local board shall be a quorum for the purpose of holding such hearing and passing upon application for reassignment, and the decision of a majority of the members present at the hearing shall be the decision of the board. If, at the hearing, the local board shall find that the child is entitled to be reassigned to such school, or if the local board shall find that the reassignment of the child to such school will be for the best interests of the child, and will not interfere with the proper administration of the school, or with the proper instruction of the pupils there enrolled, and will not endanger the health or safety of the children there enrolled, the local board shall direct that the child be reassigned to and admitted to such school. The local board shall render prompt decision upon the hearing, and notice of the decision shall be given to the applicant by registered mail.

**"§ 115C-370. Appeal from board's decision.** — A final decision of the local board of education pursuant to G.S. 115C-369 shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any State board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so

providing and adjudging that such child is entitled to attend the school as claimed by the appellant, or such other school as the court may find such child is entitled to attend, and in such case such child shall be admitted to such school by the local board of education concerned.

**"§ 115C-371. Assignment to special education programs.** — Assignment of students to special education programs is subject to the provisions of G.S. 115C-116.

**"§ 115C-372. Assignment to school bus.** — Assignment of students to school buses is subject to the provisions of G.S. 115C-244.

**"§§ 115C-373 to 115C-377:** Reserved for future codification purposes.

"ARTICLE 26.

"Attendance.

"Part 1. Compulsory Attendance.

**"§ 115C-378. Children between seven and 16 required to attend.** — Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. No person shall encourage, entice or counsel any such child to be unlawfully absent from school.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause which does not constitute unlawful absence as defined by the State Board of Education. The term 'school' as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal shall notify the parent, guardian, or custodian of his child's excessive number of absences from school after his child has five consecutive or 10 accumulated absences whichever occurs first, unless the principal is satisfied that these absences are excused under the established attendance policies of the local board. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law enforcement officer accompany him if he believes that a home visit is necessary.

Notification of a parent shall be in writing and shall state that the parent may be prosecuted under Part 1 of this Article if these absences cannot be justified under the established attendance policies of the local school board. The principal shall notify the prosecutor after 30 accumulated absences, unless he has notified the prosecutor sooner. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 30 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences.

**"§ 115C-379. Method of enforcement.** — It shall be the duty of the State Board of Education to formulate such rules and regulations as may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe what shall constitute unlawful absence, what causes may constitute legitimate excuses for temporary nonattendance due to physical or mental inability to attend, and under what circumstances teachers, principals, or

superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein.

**"§ 115C-380. Penalty for violation.** — Any parent, guardian or other person violating the provisions of this Part shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than 30 days, or both, in the discretion of the court.

**"§ 115C-381. Attendance counselors; reports; prosecutions.** — The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the attendance counselor of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the attendance counselor of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ attendance counselors and such counselors shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such attendance counselors as may be employed through State or local funds, or both. The State Board of Education shall determine the formula for allocating attendance counselors to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance officers shall be deemed qualified as attendance counselors under the terms of this Part subject to the approval of said local boards of education: Provided, further, that until qualified persons become available, local boards of education are hereby authorized to employ as attendance counselors persons not determined by the State Board of Education to be qualified under the terms of this Part.

The school attendance counselor shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the attendance counselor shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school.

**"§ 115C-382. Investigation of indigency.** — If affidavit shall be made by the parent of a child or by any other person that any child between the ages of seven and 16 years is not able to attend school by reason of necessity to work or labor for the support of himself or the support of the family, then the attendance counselor shall diligently inquire into the matter and bring it to the attention of some court allowed by law to act as a juvenile court, and said court shall proceed to find whether as a matter of fact such parents, or persons standing in loco parentis, are unable to send said child to school for the term of compulsory attendance for the reasons given. If the court shall find, after careful investigation, that the parents have made or are making bona fide effort to comply with the compulsory attendance law, and by reason of illness, lack of earning capacity, or any other cause which the court may deem valid and sufficient, are unable to send said child to school, then the court shall find and state what help is needed for the family to enable compliance with the attendance law. The court shall transmit its findings to the director of social services of the county or city in which the case may arise for such social services officer's consideration and action.

**"§ 115C-383. Attendance of deaf and blind children.** — (a) Deaf Children and Blind Children to Attend School; Age Limits; Minimum Attendance. — Every deaf child and every blind child between the ages of six and 18 years of sound mind in North Carolina who shall be qualified for admission into a State school for the deaf or the blind shall attend a school that has an approved program for the deaf or the blind, or in the case of a blind child, such child may attend a public school, for a term of not less than nine months each year. Parents, guardians, or custodians of every such blind or deaf child between the ages of six and 18 years shall send, or cause to be sent, such child to some school for the instruction of the blind or deaf or public school as herein provided. As to any deaf child, or any blind child not attending a public school as herein provided, the superintendent of any school for the blind or deaf may exempt any such child from attendance at any session or during any year, and may discharge from his custody any such blind or deaf child whenever such discharge seems necessary or proper. Such discharge or exemption shall be reviewed by the board of directors upon petition by the parent, guardian, or other interested person or the child who has been exempted or discharged; Provided, however, that such board shall not be required to review such discharge or exemption more than once during each calendar year. Whenever a blind or deaf child reaches the age of 18 years and is still unable to become self-supporting because of his defects, such child shall continue in said school until he reaches the age of 21, unless he becomes capable of self-support at an earlier date.

(b) Parents, etc., Failing to Enroll Deaf Child in School Guilty of Misdemeanor; Provisos. — The parents, guardians, or custodians of any deaf child between the ages of six and 18 years failing to enroll such deaf child or children in some school for instruction as provided herein, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court: Provided, that this subsection shall not apply to or be enforced against the parent, guardian, or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf shall in his discretion serve written notice on such parent, guardian, or custodian, directing that such child be sent to the institution, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parent, guardian, or custodian shall constitute a continuing offense and shall not be barred by the statute of limitations.

(c) Parents, etc., Failing to Send Blind Child to School Guilty of Misdemeanor; Provisos. — The parents, guardians, or custodians of any blind child between the ages of six and 18 years failing to send such child to some school for the instruction of the blind or public school shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court. This subsection shall not be enforced against the parents, guardians, or custodians of any blind child until such time as the superintendent of some school for the instruction of the blind shall in his discretion serve written notice on such parents, guardians, or custodians directing that such child be sent to the said school or to a public school, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parents, guardians, or custodians shall constitute a continuing offense and shall not be barred by the statute of limitations. The authorities of the Governor Morehead School shall not be compelled to retain in their custody or under their instruction any incorrigible person of confirmed immoral habits.

(d) Local Superintendent to Report Blind and Deaf Children. — It shall be the duty of the local superintendents to report the names and addresses of parents, guardians, or custodians of any deaf or blind children residing within their respective local school administrative units to the superintendent of the institution provided for each. Such report also shall be made to the Department of Public Instruction.

"Part 2. Student Records and Fees.



"§ 115C-384. **Student records and fees.** — (a) In General.— The local board of education has the power to regulate fees, charges and solicitations subject to the provisions of G.S. 115C-47(f).

(b) Refund of Fees Upon Transfer of Pupils.

(1) As used in this subsection:

- a. 'Month' shall mean 20 school days.
- b. 'First semester' shall mean the first 90 teaching days of the 180 days of the school year.
- c. 'Second semester' shall mean the last 90 teaching days of the 180 days of the school year.
- d. 'Term' shall have the same meaning as that of first semester or second semester.

(2) In all cases where pupils of a local school administrative unit of the public school system transfer to some other public school in another local school administrative unit or such pupils are compelled to leave the school in which they are enrolled because of some serious or permanent illness, or for any other good and valid reason, then such pupils or their parents shall be entitled to a refund of the fees and charges paid by them as follows:

- a. If the transfer or departure of the pupils from the school in which they are enrolled takes place within one month after enrollment, then all such fees and charges shall be refunded in full.
- b. If the transfer or leaving the school on the part of said pupils takes place after the first month and before the middle of the first semester, then one half of the fees for the first semester shall be refunded, and all fees and charges for the second semester shall be refunded.
- c. If the pupils transfer or leave the school after the middle of the first semester, then no first semester fees or charges shall be refunded.
- d. If the fees and charges on the part of such pupils have been paid for a year and such pupils transfer or leave the school at the end of the first semester or within the first month of the second semester, then all second semester fees and charges shall be refunded in full.
- e. If the fees and charges herein described and set forth have been paid for one year, and the pupils transfer or leave the school before the middle of the second semester, then one half of the second semester fees shall be refunded.
- f. The words 'fees' and 'charges' as used in this subsection shall not include any fees or charges paid for insurance or fees charged for expendable materials.
- g. If the pupils transfer or leave the school after the middle of the second semester, then no fees shall be refunded.
- h. If the amount of total refund as determined by this subsection shall be less than one dollar (\$1.00), no refund shall be paid.

(3) The principal shall be responsible for refunding fees and charges at the place of the collection of the fees and charges by check made payable to the parent or guardian of pupils leaving the school as noted in subdivision (2) above.

(c) Rental Fees for Textbooks Prohibited; Damage Fees Authorized. — No rental fees are permitted for the use of textbooks, but damage fees may be collected pursuant to the provisions of G.S. 115C-100.

"§§ 115C-385 to 115C-389: Reserved for future codification purposes.

"ARTICLE 27.

"Discipline.

**"§ 115C-390. School personnel may use reasonable force.** — Principals, teachers, substitute teachers, voluntary teachers, teacher aides and assistants and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. No local board of education or district committee shall promulgate or continue in effect a rule, regulation or bylaw which prohibits the use of such force as is specified in this section.

**"§ 115C-391. Suspension or expulsion of pupils.** — (a) Local boards of education shall adopt policies governing the conduct of students and shall cause these policies to be published and made available at the beginning of each school year to each student and his parents. Local boards of education shall also adopt policies, not inconsistent with the provisions of this section or the Constitutions of the United States and North Carolina, establishing procedures to be followed by school officials in suspending or expelling any pupil from school and shall cause such procedures to be published and made available at the beginning of each school year to each student and his parents.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) A local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose continued presence in school constitutes a clear threat to the safety and health of other students or employees. Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.

(e) A final decision of the local board of education pursuant to subsections (c) and (d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes.

**"§ 115C-392. Appeal of disciplinary measures.** — Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c).

**"§§ 115C-393 to 115C-397:** Reserved for future codification purposes.

"ARTICLE 28.

"Student Liability.

**"§ 115C-398. Damage to school buildings, furnishings, textbooks.** — (a) Students may be liable for damage to school buildings, furnishings and textbooks pursuant to the provisions of G.S. 115C-523, 115C-100 and 14-132.

**"§ 115C-399. Trespass on or damage to school bus.** — Any person who willfully trespasses upon or damages a school bus may be liable pursuant to the provisions of G.S. 14-132.2.

"ARTICLE 29.

"Protective Provisions and Maintenance of Student Records.

**"§ 115C-400. School personnel to report child abuse.** — Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in G.S. 7A-543 to 552.

**"§ 115C-401. School counseling inadmissible evidence.** — Information given to a school counselor to enable him to render counseling services may be privileged as provided in G.S. 8-53.4.

**"§ 115C-402. Student records; maintenance; contents.** — The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school.

The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained.

**"§§ 115C-403 to 115C-407:** Reserved for future codification purposes.

**"SUBCHAPTER VII.**

**"FISCAL AFFAIRS.**

**"ARTICLE 30.**

**"Financial Powers of the State Board of Education.**

**"§ 115C-408. Funds under control of the State Board of Education.** — The Board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Sec. 7 of Article IX of the State Constitution, and also excepting such local funds as may be provided by a county, city, or district.

**"§ 115C-409. Power to accept federal funds and aid.** — (a) The Board is authorized to accept, receive, use or reallocate to local school administrative units any federal funds, or aids, that may be appropriated now or hereafter by the federal government for the encouragement and improvement of any phase of the free public school program which, in the judgment of the Board, will be beneficial to the operation of the schools. However, the Board is not authorized to accept any such funds upon any condition that the public schools of this State shall be operated contrary to any provisions of the Constitution or statutes of this State.

(b) The State Board of Education or any other State agency designated by the Governor shall have the power and authority to provide library resources, textbooks, and other instructional materials purchased from federal funds appropriated for the funding of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362, effective April 11, 1965) or other acts of Congress for the use of children and teachers in private elementary and secondary schools in the State as required by acts of Congress and rules and regulations promulgated thereunder.

**"§ 115C-410. Power to accept gifts and grants.** — The Board is authorized to accept, receive, use, or reallocate to local school administrative units any gifts, donations, grants, bequests, or other forms of voluntary contributions.

**"§ 115C-411. Authority to invest school funds.** — The Board is authorized to direct the State Treasurer to invest in interest-bearing securities any funds which may come into its possession, and which it deems expedient to invest, as other funds of the State are now or may be hereafter invested.

**"§ 115C-412. Power to purchase at mortgage sales.** — The State Board of Education is authorized to purchase at public sale any land upon which it has a mortgage or deed of trust securing the purchase price, or any part thereof, and when any land so sold and purchased by the said Board of Education is a part of a drainage district theretofore constituted, upon which said land assessments have been levied for the maintenance thereof, such assessments shall be paid by the said State Board of Education, as if said land had been purchased or owned by an individual.

**"§ 115C-413. Power to adjust debts.** — The State Board of Education is hereby authorized and empowered to settle, compromise or otherwise adjust any indebtedness due it upon the purchase price of any land or property sold by it, or to cancel and surrender the notes, mortgages, trust deeds, or other evidence of indebtedness without payment, when, in the discretion of said Board, it appears that it is proper to do so. The Board of Education is further authorized and empowered to sell or otherwise dispose of any such notes, mortgages, trust deeds, or other evidence of indebtedness.

**"§ 115C-414. State Board as successor to powers of abolished commissions and boards. —** The Board shall succeed to all the powers and trusts of the president and directors of the Literary Fund of North Carolina; and to all the powers, functions, duties, and property of all abolished commissions and boards including the State School Commission, the State Textbook Commission, the Department of Human Resources, and the State Board of Commercial Education, including the power to take, hold and convey property, both real and personal, to the same extent that any corporation might take, hold and convey the same under the laws of this State.

**"§ 115C-415. Report on operation of State Literary Fund. —** The State Board of Education shall report to the General Assembly on the operation of the State Literary Fund.

**"§ 115C-416. Power to allot funds for teachers and other personnel. —** The Board shall have power to provide for the enrichment and strengthening of educational opportunities for the children of the State, and when sufficient State funds are available to provide first for the allotment of such a number of teachers as to prevent the teacher load from being too great in any school, the Board is authorized, in its discretion, to make an additional allotment of teaching personnel to local school administrative units of the State to be used either jointly or separately, as the Board may prescribe. Such additional teaching personnel may be used in the local school administrative units as librarians, special teachers, or supervisors of instruction and for other special instructional services such as art, music, physical education, adult education, special education, or industrial arts as may be authorized and approved by the Board. The salary of all such personnel shall be determined in accordance with the State salary schedule adopted by the Board.

In addition, the Board is authorized and empowered in its discretion, to make allotments of funds for clerical assistants for classified principals and for attendance counselors.

The Board is further authorized, in its discretion, to allot teaching personnel to local school administrative units for experimental programs and purposes.

**"§§ 115C-417 to 115C-421: Reserved for future codification purposes.**

"ARTICLE 31.

"The School Budget and Fiscal Control Act.

"Part 1. General Provisions.

**"§ 115C-422. Short title. —** This Article may be cited as 'The School Budget and Fiscal Control Act'.

**"§ 115C-423. Definitions. —** The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

- (1) 'Budget' is a plan proposed by a board of education for raising and spending money for specified school programs, functions, activities, or objectives during a fiscal year.
- (2) 'Budget resolution' is a resolution adopted by a board of education that appropriates revenues for specified school programs, functions, activities, or objectives during a fiscal year.
- (3) 'Budget year' is the fiscal year for which a budget is proposed and a budget resolution is adopted.
- (4) 'Fiscal year' is the annual period for the compilation of fiscal operations. The fiscal year begins on July 1 and ends on June 30.
- (5) 'Fund' is an independent fiscal and accounting entity consisting of cash and other resources together with all related liabilities, obligations, reserves, and equities which are segregated by appropriate accounting techniques for the purpose of carrying on specific activities or attaining certain objectives in accordance with established legal regulations, restrictions or limitations.

**"§ 115C-424. Uniform system; conflicting laws and local acts superseded. —** It is the intent of the General Assembly by enactment of this Article to prescribe for the public schools a

uniform system of budgeting and fiscal control. To this end, all provisions of general laws and local acts in effect as of July 1, 1976, and in conflict with the provisions of this Article are repealed except local acts providing for the levy or for the levy and collection of school supplemental taxes. No local act enacted or taking effect after July 1, 1976, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section.

"Part 2. Budget.

**"§ 115C-425. Annual balanced budget resolution.** — (a) Each local school administrative unit shall operate under an annual balanced budget resolution adopted and administered in accordance with this Article. A budget resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues, as those figures stand at the close of the fiscal year next preceding the budget year. The budget resolution shall cover one fiscal year.

(b) It is the intent of this Article that all moneys received and expended by a local school administrative unit should be included in the school budget resolution. Therefore, notwithstanding any other provisions of law, after July 1, 1976, no local school administrative unit may expend any moneys, regardless of their source (including moneys derived from federal, State, or private sources), except in accordance with a budget resolution adopted pursuant to this Article.

(c) Subsection (b) of this section does not apply to funds of individual schools, as defined in G.S. 115C-448.

**"§ 115C-426. Uniform budget format.** — (a) The State Board of Education, in cooperation with the Local Government Commission, shall cause to be prepared and promulgated a standard budget format for use by local school administrative units throughout the State.

(b) The uniform budget format shall be organized so as to facilitate accomplishment of the following objectives: (i) to enable the board of education and the board of county commissioners to make the local educational and local fiscal policies embodied therein; (ii) to control and facilitate the fiscal management of the local school administrative unit during the fiscal year; and (iii) to facilitate the gathering of accurate and reliable fiscal data on the operation of the public school system throughout the State.

(c) The uniform budget format shall require the following funds:

- (1) The State Public School Fund.
- (2) The local current expense fund.
- (3) The capital outlay fund.

In addition, other funds may be required to account for trust funds, federal grants restricted as to use, and special programs. Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations.

(d) The State Public School Fund shall include appropriations for the current operating expenses of the public school system from moneys made available to the local school administrative unit by the State Board of Education.

(e) The local current expense fund shall include appropriations sufficient, when added to appropriations from the State Public School Fund, for the current operating expense of the public school system in conformity with the educational goals and policies of the State and the local board of education, within the financial resources and consistent with the fiscal policies of the board of county commissioners. These appropriations shall be funded by revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7 of the Constitution, moneys made available to the local school administrative unit by the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, State money disbursed directly

to the local school administrative unit, and other moneys made available or accruing to the local school administrative unit for the current operating expenses of the public school system.

- (f) The capital outlay fund shall include appropriations for:
- (1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, athletic fields, administrative headquarters, and garages.
  - (2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance.
  - (3) The acquisition or replacement of furniture and furnishings, instructional apparatus, data-processing equipment, business machines, and similar items of furnishings and equipment.
  - (4) The acquisition of school buses as additions to the fleet.
  - (5) The acquisition of activity buses and other motor vehicles.
  - (6) Such other objects of expenditure as may be assigned to the capital outlay fund by the uniform budget format.

The cost of acquiring or constructing a new building, or reconstructing, enlarging, or renovating an existing building, shall include the cost of all real property and interests in real property, and all plants, works, appurtenances, structures, facilities, furnishings, machinery, and equipment necessary or useful in connection therewith; financing charges; the cost of plans, specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or incidental to the construction, reconstruction, enlargement, or renovation.

No contract for the purchase of a site shall be executed nor any funds expended therefor without the approval of the board of county commissioners as to the amount to be spent for the site; and in case of a disagreement between a board of education and a board of county commissioners as to the amount to be spent for the site, the procedure provided in G.S. 115C-431 shall, insofar as the same may be applicable, be used to settle the disagreement.

Appropriations in the capital outlay fund shall be funded by revenues made available for capital outlay purposes by the State Board of Education and the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, the proceeds of the sale of capital assets, the proceeds of claims against fire and casualty insurance policies, and other sources.

(g) Other funds shall include appropriations for such purposes funded from such sources as may be prescribed by the uniform budget format.

**"§ 115C-427. Preparation and submission of budget and budget message.** — (a) Before the close of each fiscal year, the superintendent shall prepare a budget for the ensuing year for consideration by the board of education. The budget shall comply in all respects with the limitations imposed by G.S. 115C-432.

(b) The budget, together with a budget message, shall be submitted to the board of education not later than May 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the educational goals fixed by the budget for the budget year, should set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in educational or fiscal policy.

**"§ 115C-428. Filing and publication of the budget; budget hearing.** — (a) On the same day that he submits the budget to the board of education, the superintendent shall file a copy of it in his office where it shall remain available for public inspection until the budget resolution is adopted. He may also publish a statement in a newspaper qualified under G.S. 1-597 to publish

legal advertisements in the county that the budget has been submitted to the board of education, and is available for public inspection in the office of the superintendent of schools. The statement should also give notice of the time and place of the budget hearing authorized by subsection (b) of this section.

(b) Before submitting the budget to the board of county commissioners, the board of education may hold a public hearing at which time any persons who wish to be heard on the school budget may appear.

**"§ 115C-429. Approval of budget; submission to county commissioners; commissioners' action on budget.** — (a) Upon receiving the budget from the superintendent and following the public hearing authorized by G.S. 115C-428(b), if one is held, the board of education shall consider the budget, make such changes therein as it deems advisable, and submit the entire budget as approved by the board of education to the board of county commissioners not later than May 15, or such later date as may be fixed by the board of county commissioners.

(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format.

(c) The board of county commissioners shall have full authority to call for, and the board of education shall have the duty to make available to the board of county commissioners, upon request, all books, records, audit reports, and other information bearing on the financial operation of the local school administrative unit.

(d) Nothing in this Article shall be construed to place a duty on the board of commissioners to fund a deficit incurred by a local school administrative unit through failure of the unit to comply with the provisions of this Article or rules and regulations issued pursuant hereto, or to provide moneys lost through misapplication of moneys by a bonded officer, employee or agent of the local school administrative unit when the amount of the fidelity bond required by the board of education was manifestly insufficient.

**"§ 115C-430. Apportionment of county appropriations among local school administrative units.** — If there is more than one local school administrative unit in a county, all appropriations by the county to the local current expense funds of the units, except appropriations funded by supplemental taxes levied less than countywide pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, must be apportioned according to the membership of each unit. County appropriations are properly apportioned when the dollar amount obtained by dividing the amount so appropriated to each unit by the total membership of the unit is the same for each unit. The total membership of the local school administrative unit is the unit's projected average daily membership for the budget year to be determined by and certified to the unit and the board of county commissioners by the State Board of Education.

**"§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.** — (a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations. At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, either board may refer the dispute to the clerk of superior court for arbitration within three days after the day of the joint meeting. The clerk shall render his decision on the matters in disagreement within 10

days after the day of the referral. The clerk of the superior court shall have the authority to subpoena or issue any orders necessary to have appear before him any member of a board of education and any member of a board of commissioners involved in the dispute and to require that the records of either board be presented to him for the purpose of arbitration of the issues.

(c) Within 10 days after the date of award, either board may appeal the clerk's award to the superior court division of the General Court of Justice. The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the appeal, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The issue submitted to the jury shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the local school administrative unit, and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose.

(d) If an appeal is taken to the appellate division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year. All papers and records relating to the case shall be considered a part of the record on appeal.

(e) If, in an appeal taken pursuant to this section, the final judgment of the General Court of Justice is rendered after the due date prescribed by law for property taxes, the board of county commissioners is authorized to levy such supplementary taxes as may be required by the judgment, notwithstanding any other provisions of law with respect to the time for doing acts necessary to a property tax levy. Upon making a supplementary levy under this subsection, the board of county commissioners shall designate the person who is to compute and prepare the supplementary tax receipts and records for all such taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date of the levy, and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent ( $\frac{3}{4}$  of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed.

**"§ 115C-432. The budget resolution; adoption; limitations; tax levy; filing.** — (a) After the board of county commissioners has made its appropriations to the local school administrative unit, or after the appeal procedure set out in G.S. 115C-431 has been concluded, the board of



education shall adopt a budget resolution making appropriations for the budget year in such sums as the board may deem sufficient and proper. The budget resolution shall conform to the uniform budget format established by the State Board of Education.

(b) The following directions and limitations shall bind the board of education in adopting the budget resolution:

- (1) If the county budget ordinance allocates appropriations to the local school administrative unit pursuant to G.S. 115C-429(b), the school budget resolution shall conform to that allocation. The budget resolution may be amended to change allocated appropriations only in accordance with G.S. 115C-433.
- (2) Subject to the provisions of G.S. 115C-429(d), the full amount of any lawful deficit from the prior fiscal year shall be appropriated.
- (3) Contingency appropriations in a fund may not exceed five percent (5%) of the total of all other appropriations in that fund. Each expenditure to be charged against a contingency appropriation shall be authorized by resolution of the board of education, which resolution shall be deemed an amendment to the budget resolution, not subject to G.S. 115C-429(b) and G.S. 115C-433(b), setting up or increasing an appropriation for the object of expenditure authorized. The board of education may authorize the superintendent to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditure shall be reported to the board of education at its next regular meeting and recorded in the minutes.
- (4) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.
- (5) The sum of estimated net revenues and appropriated fund balances in each fund shall be equal to appropriations in that fund.
- (6) No appropriation may be made that would require the levy of supplemental taxes pursuant to a local act or G.S. 115C-501 to G.S. 115C-511 in excess of the rate of tax approved by the voters, or the expenditure of revenues for purposes not permitted by law.
- (7) In estimating revenues to be realized from the levy of school supplemental taxes pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, the estimated percentage of collection may not exceed the percentage of that tax actually realized in cash during the preceding fiscal year, or if the tax was not levied in the preceding fiscal year, the percentage of the general county tax levy actually realized in cash during the preceding fiscal year.
- (8) Amounts to be realized from collection of supplemental taxes levied in prior fiscal years shall be included in estimated revenues.
- (9) No appropriation may be made to or from the capital outlay fund to or from any other fund, except as permitted by G.S. 115C-433(d).

(c) If the local school administrative unit levies its own supplemental taxes pursuant to a local act, the budget resolution shall make the appropriate tax levy in accordance with the local act, and the board of education shall notify the county or city that collects the levy in accordance with G.S. 159-14.

(d) The budget resolution shall be entered in the minutes of the board of education, and within five days after adoption, copies thereof shall be filed with the superintendent, the school finance officer and the county finance officer. The board of education shall file a copy of the budget as approved and a copy of the budget resolution with the Controller of the State Board of Education.

**"§ 115C-433. Amendments to the budget resolution; budget transfers.** — (a) Subject to the provisions of subsection (b) of this section, the board of education may amend the budget resolution at any time after its adoption, in any manner, so long as the resolution as amended continues to satisfy the requirements of G.S. 115C-425 and G.S. 115C-432.

(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that (i) increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or (2), or (ii) increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: Provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ten percent (10%).

(c) The board of education may by appropriate resolution authorize the superintendent to transfer moneys from one appropriation to another within the same fund, subject to such limitations and procedures as may be prescribed by the board of education or State or federal law or regulations. Any such transfers shall be reported to the board of education at its next regular meeting and shall be entered in the minutes.

(d) The board of education may amend the budget to transfer money to or from the capital outlay fund to or from any other fund, with the approval of the board of county commissioners, to meet emergencies unforeseen and unforeseeable at the time the budget resolution was adopted. When such an emergency arises, the board of education may adopt a resolution requesting approval from the board of commissioners for the transfer of a specified amount of money to or from the capital outlay fund to or from some other fund. The resolution shall state the nature of the emergency, why the emergency was not foreseen and was not foreseeable when the budget resolution was adopted, what specific objects of expenditure will be added or increased as a result of the transfer, and what objects of expenditure will be eliminated or reduced as a result of the transfer. A certified copy of this resolution shall be transmitted to the board of county commissioners for (its) approval and to the boards of education of all other local school administrative units in the county for their information. The board of commissioners shall act upon the request within 30 days after it is received by the clerk to the board of commissioners or the chairman of the board of commissioners, after having afforded the boards of education of all other local school administrative units in the county an opportunity to comment on the request. The board of commissioners may either approve or disapprove the request as presented. Upon either approving or disapproving the request, the board of commissioners shall forthwith so notify the board of education making the request and any other board of education that exercised its right to comment thereon. Upon receiving such notification, the board of education may proceed to amend the budget resolution in the manner indicated in the request. Failure of the board of county commissioners to act within the time allowed for approval or disapproval shall be deemed approval of the request. The time limit for action by the board of county commissioners may be extended by mutual agreement of the board of county commissioners and the board of education making the request. A budget resolution amended in accordance with this subsection need not comply with G.S. 115C-430.

**"§ 115C-434. Interim budget.** — In case the adoption of the budget resolution is delayed until after July 1, the board of education shall make interim appropriations for the purpose of paying salaries and the usual ordinary expenses of the local school administrative unit for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim appropriations so made and expended shall be charged to the proper appropriations in the budget resolution.

"Part 3. Fiscal Control.

**"§ 115C-435. School finance officer.** — Each local school administrative unit shall have a school finance officer who shall be appointed or designated by the superintendent of schools and approved by the board of education, with the school finance officer serving at the pleasure of the superintendent. The duties of school finance officer may be conferred on any officer or employee of the local school administrative unit or, upon request of the superintendent, with approval by the board of education and the board of county commissioners, on the county finance officer. In counties where there is more than one local school administrative unit, the duties of finance officer may be conferred on any one officer or employee of the several local school administrative units by agreement between the affected superintendents with the concurrence of the affected board of education and the board of county commissioners. The position of school finance officer is hereby declared to be an office that may be held concurrently with other appointive, but not elective, offices pursuant to Article VI, Sec. 9, of the Constitution.

**"§ 115C-436. Duties of school finance officer.** — (a) the school finance officer shall be responsible to the superintendent for:

- (1) Keeping the accounts of the local school administrative unit in accordance with generally accepted principles of governmental accounting, the rules and regulations of the State Board of Education, and the rules and regulations of the Local Government Commission.
- (2) Giving the preaudit certificate required by G.S. 115C-441.
- (3) Signing and issuing all checks, drafts, and State warrants by the local school administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the local school administrative unit.
- (4) Preparing and filing a statement of the financial condition of the local school administrative unit as often as requested by the superintendent, and when requested in writing, with copy to the superintendent, by the board of education or the board of county commissioners.
- (5) Performing such other duties as may be assigned to him by law, by the superintendent, or by rules and regulations of the State Board of Education and the Local Government Commission.

All references in other portions of the General Statutes or local acts to school treasurers, county treasurers, or other officials performing any of the duties conferred by this section on the school finance officer shall be deemed to refer to the school finance officer.

(b) The State Board of Education has authority to issue rules and regulations having the force of law governing procedures for the disbursement of money allocated to the local school administrative unit by or through the State. The Local Government Commission has authority to issue rules and regulations having the force of law governing procedures for the disbursement of all other moneys allocated or accruing to the local school administrative unit. The State Board of Education and the Local Government Commission may inquire into and investigate the internal control procedures of a local school administrative unit with respect to moneys under their respective jurisdictions, and may require any modifications in internal control procedures which may be necessary or desirable to prevent embezzlements or mishandling of public moneys.

**"§ 115C-437. Allocation of revenues to the local school administrative unit by the county.** — Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by such procedures as may be

mutually agreeable to the board of education and the board of county commissioners, but if no such agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds which carry specific restrictions binding upon the county as recipient, the board of commissioners must inform the local school administrative unit in writing of those restrictions.

**"§ 115C-438. Provision for disbursement of State money.** — The deposit of money in the State treasury to the credit of local school administrative units shall be made in monthly installments, and additionally as necessary, at such time and in such a manner as may be most convenient for the operation of the public school system. Before an installment is credited, the school finance officer shall certify to the Controller of the State Board of Education the expenditures to be made by the local school administrative unit from the State Public School Fund during the month. This certification shall be filed on or before the fifth day following the end of the month preceding the period in which the expenditures will be made. The Controller shall determine whether the moneys requisitioned are due the local school administrative unit, and upon determining the amount due, shall cause the requisite amount to be credited to the local school administrative unit. Upon receiving notice from the State Treasurer of the amount placed to the credit of the local school administrative unit, the finance officer may issue State warrants up to the amount so certified.

The Controller may withhold money for payment of salaries for administrative officers of local school administrative units if any report required to be filed with State school authorities is more than 30 days overdue.

Money in the State Public School Fund and State bond moneys shall be released only on warrants drawn on the State Treasurer, signed by such local official as may be required by the Controller of the State Board of Education.

**"§ 115C-439. Facsimile signatures.** — The board of education may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The board shall charge the finance officer or some other bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them.

**"§ 115C-440. Accounting system.** — (a) System Required. — Each local school administrative unit shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget resolution as originally adopted and subsequently amended.

(b) Basis of Accounting. — Local school administrative units shall use the modified accrual basis of accounting in recording transactions.

(c) Encumbrance Systems. — Except as otherwise provided in this subsection, no local school administrative unit is required to record or show encumbrances in its accounting system. The Local Government Commission, in consultation with the State Board of Education, shall establish regulations, based on total membership of the local school administrative unit or some other appropriate criterion, setting forth which units are required to maintain an accounting system that records and shows the encumbrances outstanding against each category of expenditure appropriated in the budget resolution. Any other local school administrative unit may record and show encumbrances in its accounting system.

(d) Commission Regulations. — The Local Government Commission, in consultation with the State Board of Education, may prescribe rules and regulations having the force of law as to:

- (1) Features of accounting systems to be maintained by local school administrative units.
- (2) Bases of accounting, including identifying in detail the characteristics of a modified accrual basis and identifying what revenues are susceptible to accrual.
- (3) Definitions of terms not clearly defined in this Article.

These rules and regulations may be varied according to the size of the local school administrative unit, or according to any other criteria reasonably related to the purpose or complexity of the financial operations involved.

**"§ 115C-441. Budgetary accounting for appropriations.** — (a) Incurring Obligations. — No obligation may be incurred by a local school administrative unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

'This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of finance officer)'

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(b) Disbursements. — When a bill, invoice, or other claim against a local school administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if he determines the amount to be payable, the budget resolution includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education.

(c) Board of Education Approval of Bills, Invoices, or Claims. — The board of education may, as permitted by this subsection, approve a bill, invoice, or other claim against the local school administrative unit that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget resolution, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The board of education shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. — A local school administrative unit may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository, by a bank wire transfer from

an official depository, or by a warrant on the State Treasurer. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or signed by the chairman or some other member of the board pursuant to subsection (c) of this section. The certificate shall take substantially the following form:

'This disbursement has been approved as required by the School Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of finance officer)'

No certificate is required on payroll checks or drafts or on State warrants.

(e) Penalties. — If an officer or employee of a local school administrative unit incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby.

**"§ 115C-442. Fidelity bonds.** — (a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ten thousand dollars (\$10,000) nor more than two hundred fifty thousand dollars (\$250,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit.

(b) The State Board of Education shall provide for adequate and appropriate bonding of school finance officers and such other employees as it deems appropriate with respect to the disbursement of State funds. When it requires such bonds, the State Board of Education is authorized to place the bonds and pay the premiums thereon.

(c) The treasurer of each individual school and all other officers, employees and agents of each local school administrative unit who have custody of public school money in the normal course of their employment or agency shall give a true accounting bond with sufficient sureties in an amount to be fixed by the board of education. The premiums on these bonds shall be paid by the local school administrative unit. Instead of individual bonds, a local school administrative unit may provide for a blanket bond to cover all officers, employees, and agents of the local school administrative unit required to be bonded, except the finance officer. The finance officer may be included within the blanket bond if the blanket bond protects against risks not protected against by the individual bond.

**"§ 115C-443. Investment of idle cash.** — (a) A local school administrative unit may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the board of education may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the board of education. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Moneys may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Local Government Commission may approve. Investment deposits shall be secured as provided in G.S. 115C-444(b).

(c) Moneys may be invested in the following classes of securities, and no others:

- (1) Obligations of the United States of America.
- (2) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.

- (3) Obligations of the State of North Carolina.
- (4) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Secretary of the Local Government Commission may impose.
- (5) Shares of any savings and loan association organized under the laws of this State and shares of any federal savings and loan association having its principal office in this State, to the extent that the investment in such shares is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.
- (6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks.
- (7) Any form of investment allowed by law to the State Treasurer.
- (8) Any form of investment allowed by G.S. 159-30 to local governments and public authorities.

(d) Investment securities may be bought, sold, and traded by private negotiation, and local school administrative units may pay all incidental costs thereof and all reasonable cost of administering the investment and deposit program. Securities and deposit certificates shall be in the custody of the finance officer who shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the finance officer.

(g) It is the intent of this Article that the foregoing provisions of this section shall apply only to those funds received by the local school administrative unit as required by G.S. 115C-437. The county finance officer shall be responsible for the investment of all county funds allocated to the local school administrative unit prior to such county funds actually being remitted to the school finance officer as provided by G.S. 115C-437.

**"§ 115C-444. Selection of depository, deposits to be secured.** — (a) Each board of education shall designate as the official depositories of the local school administrative unit one or more banks or trust companies in this State. It shall be unlawful for any money belonging to a local school administrative unit or an individual school to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 115C-443(b).

(b) Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-443(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local school administrative unit because of the default or insolvency of the depository.

**"§ 115C-445. Daily deposits.** — Except as otherwise provided by law, all moneys collected or received by an officer, employee or agent of a local school administrative unit or an individual school shall be deposited in accordance with this section. Each officer, employee and agent of a

local school administrative unit or individual school whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the board of education gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer or individual school treasurer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer, employee or agent collecting or receiving any taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer, employee or agent shall be audited at least annually.

**"§ 115C-446. Semiannual reports on status of deposits and investments.** — Each school finance officer shall report to the Secretary of the Local Government Commission on January 1 and July 1 of each year, or such other dates as the Secretary may prescribe, the amounts of money then in his custody and in the custody of treasurers of individual schools within the local school administrative unit, the amount of deposits of such money in depositories, a list of all investment securities and time deposits held by the local school administrative unit and individual schools therein, and a description of the surety bonds or investment securities securing demand and time deposits. If the Secretary finds at any time that any moneys of a local school administrative unit or an individual school are not properly deposited or secured, or are invested in securities not eligible for investment, he shall notify the officer in charge of the moneys of the failure to comply with law. Upon such notification, the officer shall comply with the law within 30 days, except as to the sale of securities not eligible for investment which shall be sold within nine months at a price to be approved by the Secretary. The Local Government Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year.

**"§ 115C-447. Annual independent audit.** — Each local school administrative unit shall have its accounts and the accounts of individual schools therein audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor who audits the accounts of a local school administrative unit shall also audit the accounts of its individual schools. The auditor shall be selected by and shall report directly to the board of education. The audit contract shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The financial statements accompanying the auditor's report shall be prepared in conformity with generally accepted accounting principles. The auditor shall file a copy of the audit report with the Secretary of the Local Government Commission, the Controller of the State Board of Education, the board of education and the board of county commissioners, and shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government Commission for his approval. It shall be unlawful for any local school administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the local school administrative unit having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a board of education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a misdemeanor and upon conviction thereof may be



fined not more than one thousand dollars (\$1,000), or imprisoned for not more than one year, or both, in the discretion of the court.

The State Auditor, in consultation with the State Board of Education, shall have authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited.

**"§ 115C-448. Special funds of individual schools.** — (a) The board of education shall appoint a treasurer for each school within the local school administrative unit that handles special funds. The treasurer shall keep a complete record of all moneys in his charge in such form and detail as may be prescribed by the finance officer of the local school administrative unit, and shall make such reports to the superintendent and finance officer of the local school administrative unit as they or the board of education may prescribe. Special funds of individual schools shall be deposited in an official depository of the local school administrative unit in special accounts to the credit of the individual school, and shall be paid only on checks or drafts signed by the principal of the school and the treasurer. The board of education may, in its discretion, waive the requirements of this section for any school which handles less than three hundred dollars (\$300.00) in any school year.

(b) Nothing in this section shall prevent the board of education from requiring that all funds of individual schools be deposited with and accounted for by the school finance officer. If this is done, these moneys shall be disbursed and accounted for in the same manner as other school funds except that the check or draft shall not bear the certificate of preaudit.

(c) For the purposes of this section, 'special funds of individual schools' includes by way of illustration and not limitation funds realized from gate receipts of interscholastic athletic competition, sale of school annuals and newspapers, and dues of student organizations.

**"§ 115C-449. Proceeds of insurance claims.** — Moneys paid to a local school administrative unit pursuant to contracts of insurance against loss of capital assets through fire or casualty shall be used to repair or replace the damaged asset, or if the asset is not repaired or replaced, placed to the credit of the capital outlay fund for appropriation at some future time.

**"§ 115C-450. School food services.** — School food services shall be included in the budget of each local school administrative unit and the State Board of Education shall provide for school food services in the uniform budget format required by G.S. 115C-426.

**"§ 115C-451. Reports to State Board of Education.** — The State Board of Education shall have authority to require local school administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

**"§ 115C-452. Fines and forfeitures.** — The clear proceeds of all penalties and forfeitures and of all fines collected in the General Court of Justice in each county shall be remitted by the clerk of the superior court to the county finance officer, who shall forthwith determine what portion of the total is due to each local school administrative unit in the county and remit the appropriate portion of the amount to the finance officer of each local school administrative unit. Fines and forfeitures shall be apportioned according to the projected average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State Board of Education pursuant to G.S. 115C-430.

**"§§ 115C-453 to 115C-457:** Reserved for future codification purposes.

"ARTICLE 32.

"Loans from State Literary Fund.

**"§ 115C-458. Loans by State Board from State Literary Fund.** — The State Literary Fund includes all funds derived from the sources enumerated in Sec. 6, Article IX, of the Constitution, and all funds that may be hereafter so derived, together with any interest that may accrue thereon. This Fund shall be separate and distinct from other funds of the State.

The State Board of Education, under such rules and regulations as it may deem advisable, not inconsistent with the provisions of this Article, may make loans from the State Literary

Fund to the counties for the use of local boards of education under such rules and regulations as it may adopt and according to law for the purpose of aiding in the erection and equipment of school plants, maintenance buildings and transportation garages. No warrant for the expenditure of money for such purposes shall be issued except upon the order of the Superintendent of Public Instruction with the approval of the State Board of Education.

**"§ 115C-459. Terms of loans.** — Loans made under the provisions of this Article shall be payable in 10 installments, shall bear interest at a uniform rate determined by the State Board of Education not to exceed six percent (6%), payable annually, and shall be evidenced by the note of the county, executed by the chairman, the clerk of the board of county commissioners, and the chairman and secretary of the local board of education, and deposited with the State Treasurer. The first installment of such loan, together with the interest on the whole amount then due, shall be paid by the local board on the tenth day of February after the tenth day of August subsequent to the making of such loan, and the remaining installments, together with the interest, shall be paid on the tenth day of February of each subsequent year until all shall have been paid.

**"§ 115C-460. How secured and paid.** — At the January meeting of the board of education, before any installment shall be due on the next tenth day of February, the local board of education shall set apart out of the school funds an amount sufficient to pay such installment and interest to be due, and shall issue its order upon the treasurer of the county or city school fund therefor, who, prior to the tenth day of February, shall pay over to the State Treasurer the amount then due. Upon failure of any local school administrative unit to pay any installment of principal or interest, or any part of either, when due, the State Treasurer, upon demand of the State Board of Education, shall bring action against the local board of education and board of county commissioners to compel the levy and collection of sufficient taxes to pay said installment of principal and accrued interest. The State Board of Education may accept payment of any or all of said notes and the interest accrued thereon before maturity.

**"§ 115C-461. Loans by county board to school districts.** — The county board of education, from any sum borrowed under the provisions of this Article, may make loans only to districts that shall have levied a local tax sufficient to repay the installments and interest on said loan for the purpose of building schoolhouses in the district, and the amount so loaned to any district shall be payable in 10 annual installments, with interest thereon at the same rate the county board of education is paying, payable annually. Any amount loaned under the provisions of this law shall be a lien upon the total local tax funds produced in the district. Whenever the local taxes may not be sufficient to pay the installments and the interest, the county board of education must supply the remainder out of the current expense fund, and shall make provision for the same when the county budget is made and presented to the commissioners.

All loans hereafter made to such districts shall be made upon the written petition of a majority of the committee of the district asking for the loan and authorizing the county board to deduct a sufficient amount from the local taxes to meet the indebtedness to the county board of education. Otherwise, the county board of education shall have no lien upon the local taxes for the repayment of this loan; Provided, this lien shall not lie against taxes collected or hereafter levied to pay interest and principal on bonds issued by or on behalf of the district.

**"§ 115C-462. State Board of Education authorized to accept funding or refunding bonds of counties for loans; approval by Local Government Commission.** — In any case where a loan has heretofore been made from the State Literary Fund or from any special building fund of the State to a county and such county has heretofore or shall hereafter authorize the issuance of bonds for the purpose of funding or refunding interest on or the principal of all or a part of the notes evidencing such loan, the State Board of Education is hereby authorized to accept funding or refunding bonds or notes of such county in payment of interest on or the principal of the notes evidencing such loan: Provided, however, that the issuance of such funding or refunding bonds shall have been approved by the Local Government Commission.

**"§ 115C-463. Issuance of bonds as part of general refunding plan.** — In any case where the funding or refunding of interest on or the principal of such notes shall constitute a part of a refunding plan or program of the county, and the terms of such funding or refunding shall be accepted by a sufficient number of the holders of the county's obligation to put same into effect, the State Board of Education may authorize the acceptance of such funding or refunding bonds or notes upon the same terms and conditions, both as to principal and interest, as have been agreed upon by a sufficient number of the other holders of the county's obligations to put same into effect.

**"§ 115C-464. Validating certain funding and refunding notes of counties.** — The notes of any county held by the State Board of Education which were heretofore issued in exchange for and for the purpose of refunding and retiring notes evidencing loans made from the State Literary Fund pursuant to Article 24 of Chapter 136 of the Public Laws of 1923, or from special building funds pursuant to either Chapter 147 of the Public Laws of 1921, or Article 25 of Chapter 136 of the Public Laws of 1923, or Chapter 201 of the Public Laws of 1925, or Chapter 199 of the Public Laws of 1927, are hereby declared to be valid existing indebtedness of said county incurred by said county for the maintenance of the school term as required by the Constitution of North Carolina, notwithstanding any lack of authority for the issuance of said notes or error or omission or irregularity in the acts done or proceedings taken to provide for their issuance, and said notes held by the State Board of Education are hereby authorized to be refunded with bonds issued pursuant to the County Finance Act, being Chapter 81 of the Public Laws of 1927, as amended.

**"§ 115C-465. Special appropriation from fund.** — The State Board of Education may annually set aside and use out of the funds accruing in interest to the State Literary Fund, a sum not exceeding seventeen thousand five hundred dollars (\$17,500) to be used for giving directions in the preparation of proper plans for the erection of school buildings in providing inspection of such buildings as may be erected in whole, or in part, with money borrowed from said fund, and such other purposes as said Board may determine to secure the erection of a better type of school building and better administration of said fund.

**"§ 115C-466. Loans not granted in accordance with G.S. 115C-458.** — The State Board of Education, under such rules and regulations as it may adopt, may make loans from the State Literary Fund to any local board of education, when the State Board of Education finds as a fact that it is not practicable for a loan to be granted in accordance with the provisions of G.S. 115C-458, for the purpose of aiding in the erection and equipment of public school plants. Such a loan shall not constitute a credit obligation of the county. No warrant for the expenditure of money for a loan authorized under the provisions of this section shall be issued except upon the approval of the State Board of Education, and after a finding of fact by said Board that it is not practicable for a loan to be granted in accordance with the provisions of G.S. 115C-458, and that a dire emergency exists in the local school administrative unit applying for such loan. Loans made under the provisions of this section shall be made in accordance with the terms specified in G.S. 115C-459 and shall be evidenced by the note of the local board of education, executed by the chairman and the secretary of said board. The first installment of such loan, together with the interest then due, shall be paid by the local board of education on or before the tenth day of June in the fiscal year following the fiscal year in which the loan was made, and succeeding installments, together with accrued interest, shall be paid one each on or before the tenth day of June of each successive fiscal year until all amounts due on said loan shall have been paid. The provisions of G.S. 115C-460 shall not apply to loans made pursuant to the provisions of this section.

**"§ 115C-467. Pledge of nontax revenues to repayment of loans from State Literary Fund.** — Any local board of education obtaining a loan from the State Literary Fund under the provisions of G.S. 115C-466 may, with the approval of the board of county commissioners,

pledge to the repayment of such loan any available nontax revenues, including but not limited to, fines, penalties, and forfeitures.

"§§ 115C-468 to 115C-472: Reserved for future codification purposes.

"ARTICLE 33.

"Assumption of School District Indebtedness by Counties.

"§ 115C-473. **Method of assumption; validation of proceedings.** — The county board of education, with the approval of the board of commissioners, and when the assumption of such indebtedness is approved at an election as hereinafter provided, if such election is required by the Constitution, may include in the debt service fund in the school budget all outstanding indebtedness for school purposes of every city, town, school district, school taxing district, township, city administrative unit or other political subdivision in the county, hereinafter collectively called 'local districts', lawfully incurred in erecting and equipping school buildings necessary for the school term. The election on the question of assuming such indebtedness shall be called and held in accordance with the provisions of Chapter 159 of the General Statutes, known as 'The Local Government Finance Act', insofar as the same may be made applicable, and the returns of such election shall be canvassed and a statement of the result thereof prepared, filed and published as provided in the Local Government Finance Act. No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 30 days after the publication of such statement of result. When such indebtedness is taken over for payment by the county as a whole and the local districts are relieved of their annual payments, the county funds provided for such purpose shall be deducted from the debt service fund prior to the division of such fund among the schools of the county as provided in Article 31 of this Chapter.

The assumption, as herein provided, by any county, at any time prior to the 28th day of February, 1951, of the indebtedness of local districts for school purposes and all proceedings had in connection therewith are hereby in all respects ratified, approved, confirmed, and validated: Provided, that nothing herein shall prevent counties and local taxing districts from levying taxes to provide for the payment of their debt service requirements if they have not been otherwise provided for.

"§ 115C-474. **Taxes levied and collected for bonds assumed to be paid into school debt service fund of county; discharge of sinking fund custodian.** — In any county where the bonds of a local district have been assumed under the provisions of this Article, all taxes levied and collected for the purpose of paying the principal of and interest on said bonds, or for creating a sinking fund for the retirement of said bonds, shall be deposited in the school debt service fund of the county. The custodian of all moneys and other assets of a sinking fund created for the retirement of said bonds is hereby authorized to turn over such moneys and assets to the county treasurer, the county sinking fund commissioner or other county officer charged with the custodianship of sinking funds, and such custodian shall thereby be discharged from further responsibility for administration of and accounting for such sinking fund.

"§ 115C-475. **Allocation to district bonds of taxes collected.** — The collections of taxes levied for debt service on all taxable property of a county in which local district bonds have been assumed shall be proportionately allocated to each issue of such bonds.

"§§ 115C-476 to 115C-480: Reserved for future codification purposes.

"ARTICLE 34.

"Refunding and Funding Bonds of School Districts.

"§ 115C-481. **School district defined.** — The term 'school district' as used in this Article shall be deemed to include any special school taxing district, local tax district, special charter district, city administrative unit or other political subdivision of a county by which or on behalf

of which bonds have been issued for erecting and equipping school buildings, or for refunding the same, and such bonds are outstanding.

**"§ 115C-482. Continuance of district until bonds are paid.** — Notwithstanding the provisions of any law which affect the continued existence of a school district or the levy of taxes therein for the payment of its bonds, such school district shall continue in existence with its boundaries unchanged from those established at the time of issuance of its bonds, unless such boundaries shall have been extended and thereby embrace additional territory subject to the levy of such taxes, until all of its outstanding bonds, together with the interest thereon, shall be paid.

**"§ 115C-483. Funding and refunding of bonds authorized; issuance and sale or exchange; tax levy for repayment.** — The board of commissioners of the county in which any such school district is located is hereby authorized to issue bonds at one time or from time to time for the purpose of refunding or funding the principal or interest of any bonds of such school district then outstanding. Such refunding or funding bonds shall be issued in the name of the school district and they may be sold or delivered in exchange for or upon the extinguishment of the obligations or indebtedness refunded or funded. Except as otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of Chapter 159 of the General Statutes, the Local Government Finance Act. The tax-levying body or bodies authorized by law to levy taxes for the payment of the bonds, the principal or interest of which shall be refunded or funded, shall levy annually a special tax on all taxable property in such school district sufficient to pay the principal and interest of said refunding or funding bonds as the same become due.

**"§ 115C-484. Issuance of bonds by cities and towns; debt statement; tax levy for repayment.** — In case the governing body of any city or town is the body authorized by law to levy taxes for the payment of the bonds of such district, whether the territory embraced in such district lies wholly or partly within the corporate limits of such city or town, such governing body of such city or town is hereby authorized to issue bonds at the time or from time to time for the purpose of refunding or funding the principal or interest of any bonds then outstanding which were issued by or on behalf of such school district. Except as otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of the Local Government Bond Act, relating to the issuance of refunding and funding bonds under that act, and the provisions of the Local Government Finance Act, except in the following respects:

- (1) The bonds shall be issued in the name and on behalf of the school district by the governing body of such city or town.
- (2) It shall not be necessary to include in the ordinance authorizing the bonds, or in the notice required to be published after the passage of the ordinance, any statement concerning the filing of a debt statement, and, as applied to said bonds, G.S. 159-54 and G.S. 159-55 (the Local Government Bond Act,) shall be read and understood as if they contained no requirements in respect to such matters.
- (3) The governing body of such city or town shall annually levy and collect a tax ad valorem upon all the taxable property in such school district sufficient to pay the principal and interest of such refunding or funding bonds as the same become due.

**"§§ 115C-485 to 115C-489:** Reserved for future codification purposes.

#### "ARTICLE 35.

#### "Voluntary Endowment Fund for Public Schools.

**"§ 115C-490. Creation of endowment funds; administration.** — Any local board of education is hereby authorized and empowered upon the passage of a resolution to create and establish a permanent endowment fund which shall be financed by gifts, donations, bequests or

other forms of voluntary contributions. Any endowment fund established under the provisions of this Article shall be administered by the members of such board of education who, ex officio, shall constitute and be known as 'The Board of Trustees of the Endowment Fund of the Public Schools of County or City or Town' (in which shall be inserted the name of the county, city or town). The board of trustees so established shall determine its own organization and methods of procedure.

**"§ 115C-491. Boards of trustees public corporations; powers and authority generally, investments.** — Any board of trustees created and organized under this Article shall be a body politic, public corporation and instrumentality of government and as such may sue and be sued in matters relating to the endowment fund and shall have the power and authority to acquire, hold, purchase and invest in all forms of property, both real and personal, including, but not by way of limitation, all types of stocks, bonds, securities, mortgages and all types, kinds and subjects of investments of any nature and description. The board of trustees of said endowment fund may receive pledges, gifts, donations, devises and bequests, and may in its discretion retain such in the form in which they are made, and may use the same as a permanent endowment fund. The board of trustees of any endowment fund created hereunder shall have the power to sell any property, real, personal or choses in action, of the endowment fund, at either public or private sale. The board of trustees shall be responsible for the prudent investment of any funds or moneys belonging to the endowment fund in the exercise of its sound discretion without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

**"§ 115C-492. Expenditure of funds; pledges.** — It is not the intent that such endowment fund created hereunder shall take the place of State appropriations or any regular appropriations, tax funds or other funds made available by counties, cities, towns or local school administrative units for the normal operation of the public schools. Any endowment fund created hereunder, or the income from same, shall be used for the benefit of the public schools of the county, city or town involved and to supplement regular and normal appropriations to the end that the public schools may improve and increase their functions, may enlarge their areas of service and may become more useful to a greater number of people. The board of trustees in its discretion shall determine the objects and purposes for which the endowment fund shall be spent. Nothing herein shall be construed to prevent the board of trustees of any such endowment fund established hereunder from receiving pledges, gifts, donations, devises and bequests and from using the same for such lawful school purposes as the donor or donors designate: Provided, always, that the administration of any such pledges, gifts, donations, devises and bequests, or the expenditure of funds from same, will not impose any financial burden or obligation on the State of North Carolina or any subdivisions of government of the State. The board of trustees may, with the consent of the donor of any pledges, transfer and assign such pledges as security for loans. This consent by the donor may be made at the time of the pledge or at any time before said pledges are paid off in full. It is the purpose of this provision to enable the board of trustees to have the immediate use of funds which the donor may desire to pledge as payable over a period of years.

**"§ 115C-493. When only income from fund expended.** — Where the donor of said pledges, gifts, donations, devises and bequests so provides, the board of trustees shall keep the principal of such gift or gifts intact and only the income therefrom may be expended.

**"§ 115C-494. Property and income of board of trustees exempt from State taxation.** — All property received, purchased, contributed or donated to the board of trustees for the benefit of any endowment fund created hereunder and all donations, gifts and bequests received or otherwise administered for the benefit of said endowment fund, as well as the principal and income from said endowment fund, shall at all times be free from taxation, of any nature whatsoever, within the State.

**"§§ 115C-495 to 115C-499:** Reserved for future codification purposes.

**"SUBCHAPTER VIII.  
"LOCAL TAX ELECTIONS.**

**"ARTICLE 36.**

**"Voted Tax Supplements for School Purposes.**

**"§ 115C-500. Superintendents must furnish boundaries of special taxing districts.** — It shall be the duty of superintendents to furnish tax lists at tax listing time the boundaries of each taxing district as provided in G.S. 115C-276(m).

**"§ 115C-501. Purposes for which elections may be called.** — (a) To Vote a Supplemental Tax.— Elections may be called by the local tax-levying authority to ascertain the will of the voters as to whether there shall be levied and collected a special tax in the several local school administrative units, districts, and other school areas, including districts formed from contiguous counties, to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget. When supplementary funds are authorized by the carrying of such an election, such funds may be used to employ additional teachers other than those allotted by the State, to teach any grades or subjects or for kindergarten instruction, to establish and maintain approved summer schools, to make the contribution to the Teachers' and State Employees' Retirement System of North Carolina for such teachers, or for any object of expenditure: Provided, that elections may be called to ascertain the will of the voters of an entire county, as to whether there shall be levied and collected a special tax on all the taxable property within the county for the purposes enumerated in this subsection. In such event, the supplemental tax shall be apportioned among the local school administrative units in the county pursuant to G.S. 115C-430.

(b) To Increase a Supplemental Tax Rate. — Elections may be called in any school area which has previously voted a supplemental tax of less than the maximum for the purpose of increasing the rate of tax previously voted but not to exceed the maximum.

(c) To Enlarge City Administrative Units. — Elections may be called in any districts, or other school areas, of a county administrative unit to ascertain the will of the voters in such districts or other school areas, as to whether an adjoining city administrative unit shall be enlarged by consolidating such districts, or other school areas, with such city administrative unit, and whether after such enlargement of the city administrative unit there shall be levied in such other districts, or other school area or areas, so consolidated with the city administrative unit the same school taxes as shall be levied in the other portion of the city administrative unit.

(d) To Supplement and Equalize Educational Advantages. — Elections may be called in any area of a county administrative unit which is enclosed in one common boundary line to ascertain the will of the voters as to whether there shall be levied and collected a special tax to supplement and equalize the standards on which the schools in such areas are operated, and at the same time repeal any special taxes heretofore voted by any parts of such area.

(e) To Abolish a Special School Tax. — Elections may be called in any local school administrative unit, district or other school area which has previously voted a supplemental tax, to ascertain the will of the people as to whether such tax shall be abolished.

(f) To Vote School Bonds. — Boards of county commissioners are authorized as provided by law to call elections to ascertain the will of the voters as to whether bonds for school purposes may be issued.

(g) To Provide a Supplemental Tax on a Countywide Basis after Petition for Consolidation of City or County Administrative Units. — Elections may be called for an entire county on the question of a special tax to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget, where the boards of education of all the city administrative units in said county have petitioned the county board of education for a consolidation with the county administrative unit pursuant to the provisions of the first paragraph of G.S. 115C-70(a)

and prior to the approval of said petitions by the county and State boards of education. In which event, and provided the petitions so specify, if said election for a countywide supplemental tax fails to carry, said petitions may be withdrawn and any existing supplemental tax theretofore voted in any of the city administrative units involved or in the county administrative unit shall not be affected. If the vote for the countywide supplemental tax carries, said tax shall not be levied unless and until the consolidation of the units involved shall be completed according to the requirements of the first paragraph of G.S. 115C-70(a).

(h) To Annex or Consolidate Areas or Districts from Contiguous Counties and to Provide a Supplemental School Tax in Such Annexed Areas or Consolidated Districts. — An election may be called in any districts or other school areas, from contiguous counties, as to whether the districts in one county shall be enlarged by annexing or consolidating therewith any adjoining districts, or other school area or areas from an adjoining county, and if a special or supplemental school tax is levied and collected in the districts of the county to which the territory is to be annexed or consolidated, whether upon such annexation or consolidation there shall be levied and collected in the territory to be annexed or consolidated the same special or supplemental tax for schools as is levied and collected in the districts in the other county. If such election carries, the said special or supplemental tax shall be collected pursuant to G.S. 115C-511 and remitted to the local school administrative unit on whose behalf such special and supplemental tax is already levied: Provided, that notwithstanding the provisions of G.S. 115C-508, if the notice of election clearly so states, and the election shall be held prior to August 1, the annexation or consolidation shall be effective and the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next preceding such elections.

**"§ 115C-502. Maximum rate and frequency of elections.** — (a) A tax for supplementing the public school budget shall not exceed fifty cents (50¢ ) on the one-hundred-dollar (\$100.00) value of property subject to taxation by the local school administrative unit: Provided, that in any local school administrative unit, district, or other school area having a total population of not less than 100,000 said local annual tax that may be levied shall not exceed sixty cents (60¢ ) on one-hundred-dollar (\$100.00) valuation of said property.

(b) If a majority of those who vote in any election called pursuant to the provisions of this Article do not vote in favor of the purpose for which such election is called, another election for the same purpose shall not be called for and held in the same local school administrative unit, district, or area until the lapse of six months after the prior election. However, the foregoing time limitation shall not apply to any election held in a local school administrative unit, district, or other school area which is larger or smaller than the local school administrative unit, district, or area in which the prior election was held, or to any election held for a different purpose than the prior election.

**"§ 115C-503. Who may petition for election.** — Local boards of education may petition the board of county commissioners for an election in their respective local school administrative units or for any school areas therein.

In county administrative units, for any of the purposes enumerated in G.S. 115C-501, the school committee of a district, or a majority of the committees in an area including a number of districts, or a majority of the qualified voters who have resided for the preceding 12 months in a school area less than a district, and which area is adjacent to a city unit or a district to which it is desired to be annexed and which can be included in a common boundary with said unit or district, or the committee of a district formed from portions of two or more contiguous counties, may petition the county board of education for an election.

The school committee of a district, or the majority of the committees in an area including a number of districts, or a majority of the qualified voters who have resided for the preceding 12 months in a school area less than a district, and which area, district, districts or territory is adjacent to a district or districts in a contiguous county to which it is desired to be annexed or



consolidated, and with the approval of the county board of education of the contiguous county to which it is desired to be annexed or consolidated, may petition the county board of education for an election.

**"§ 115C-504. Necessary information in petitions.** — The petition for an election shall contain such of the following information as may be pertinent to the proposed election:

- (1) Purpose for calling the proposed election.
- (2) A legally sufficient description of the area, by metes and bounds or otherwise, in which the election is requested.
- (3) The maximum rate of tax which is proposed to be levied. This subdivision shall not apply to a petition for an election to enlarge a city administrative unit.
- (4) If the petition is for an election to enlarge a city administrative unit, it shall state therein that, if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement, such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and that there shall thereafter be levied in such area so consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit, including any tax to provide for the payment of school bonds theretofore issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.
- (5) If the petition for an election is to supplement and equalize educational advantages, and if any school districts in the area in which it is proposed to vote such a tax have heretofore voted a supplementary tax, the petition and the notice of election shall state that in the event such election is carried, it will repeal all local taxes heretofore voted in any district except those in effect for debt service in any district, unless such debt service obligation is assumed by the county or otherwise provided for.

**"§ 115C-505. Boards of education must consider petitions.** — The board of education to whom the petition requesting an election is addressed shall receive the petition and give it due consideration. If, in the discretion of the board of education, the petition for an election shall be approved, it shall be endorsed by the chairman and the secretary of the board and a record of the endorsement shall be made in the minutes of the board. Petitions for an election to enlarge a city administrative unit shall be subject to the approval and endorsement of both county and city boards of education which are therein affected.

Local boards of education shall have no discretion in granting an election to abolish a special school tax in any local school administrative unit, or district, or other school area, which has previously voted a supplemental tax, whenever a majority of the qualified voters residing in said local school administrative unit, district or school area shall petition for an election. When such a petition, showing the proper number of names of qualified voters, is presented to a board of education, it is hereby made mandatory that such petition shall be granted and the election held. If at the election a majority of those in the district who have voted thereon have voted 'against local tax', the tax shall be deemed revoked and shall not be levied: Provided, that in Alexander, Anson, Beaufort, Buncombe, Carteret, Catawba, Chatham, Chowan, Cleveland, Craven, Currituck, Davidson, Duplin, Franklin, Gates, Greene, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Lenoir, Martin, Mecklenburg, Moore, Nash, Onslow, Pamlico, Pitt, Randolph, Richmond, Robeson, Rockingham, Transylvania, Vance, Wake, Warren and Wilkes Counties, petition of twenty-five percent (25%) of the number of voters in the election creating

said special tax district, said petition to be signed by qualified voters residing in such special tax district, shall be sufficient.

The provisions of this section as to abolishing local tax districts shall not be applied when such local tax district is in debt in any sum whatever, or has obligated or committed its resources in any contractual manner: Provided, that no election for revoking a local tax in any local tax district shall be ordered and held in the district within less than one year from the date of the election at which the tax was voted and the district established, nor at any time within less than one year after the date of the last election on the question of revoking the tax in the district; and no petition seeking to revoke a school tax shall be approved by a board of education more often than once a year.

If the petition for an election in an area containing a number of districts is signed by the school committeeman of at least a majority of the school districts within a proposed special school taxing area, the board of education in such administrative unit shall endorse such petition and the election shall be held.

**"§ 115C-506. Action of board of county commissioners or governing body of municipality.**

— Petitions requesting special school elections and bearing the approval of the board of education of the local school administrative unit shall be presented to the board of county commissioners, and it shall be the duty of said board of county commissioners to call an election and fix the date for the same: Provided, that the board of education requesting the election may, for any reason deemed sufficient by said board which shall be specified and recorded in the minutes of the board, withdraw the petition before the close of the registration books, and if the petition be so withdrawn, the election shall not be held unless by some other provision of law the holding of such election is mandatory. In the case of a city administrative unit in any incorporated city or town and formed from portions of contiguous counties, said petition shall be presented to the governing body of the city or town situated within, coterminous with, or embracing such city administrative unit, and the election shall be ordered by said governing body, and said governing body shall perform all the duties pertaining to said election performed by the board of county commissioners in elections held under this Article.

**"§ 115C-507. Rules governing elections.** — All elections under this Chapter shall be held and conducted by the appropriate county or municipal board of elections.

If the purpose of the election is to enlarge a city administrative unit, the notice of election shall include the following: a statement of the purpose of the election; a legal description of the area within which the election is to be held; and a statement that if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and there shall thereafter be levied in such area so consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit, including any tax levy to provide for the payment of school bonds theretofore issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.

The notice of the election shall be given as provided in G.S. 163-33(8) and in addition include a legal description of the area within which the election is to be held, and, if any additional tax is proposed to be levied, the maximum rate of tax to be levied which shall not exceed the maximum prescribed by this Article, and the purpose of the tax.

No new registration of voters is required, but the board of elections, in its discretion, may use either Method A or Method B set forth in G.S. 163-288.2 in activating the voters in the territory.

The ballot in such election shall contain the words 'FOR local tax and AGAINST local tax' except when the election is held under subsection (c) of G.S. 115C-501, in which case the ballots shall contain the words 'FOR enlargement of the \_\_\_\_\_ City Administrative Unit

and school tax of the same rate', and 'AGAINST enlargement of the \_\_\_\_\_ City Administrative Unit and school tax of the same rate'.

The elections shall be held in accordance with the applicable provisions of Chapter 163 and the expense of the election shall be paid by the board of education of the administrative unit in which the election is held, provided that when territory is proposed to be added to a city administrative unit, that unit shall bear the expense.

No election held under this Article shall be open to question except in an action or proceeding commenced within 30 days after the board of elections has certified the results.

**"§ 115C-508. Effective date; levy of taxes.** — (a) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of the enlargement of a city administrative unit, such enlargement shall become effective July 1 next following such election; and thereafter there shall be levied and collected in the area consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit.

(b) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of a supplemental tax, or in favor of the increase of a supplemental tax, or in favor of a tax to supplement and equalize educational advantages, the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next following such election.

**"§ 115C-509. Conveyance of school property upon enlargement of city administrative unit.** — Before any election is called to enlarge a city administrative unit, if any school property is located in the area proposed to be consolidated with the city administrative unit, the board of education of such city administrative unit and the board of education of the county administrative unit concerned shall agree with each other as to the school property to be conveyed and transferred to the board of education of the city administrative unit if a majority of the voters voting in the election vote in favor of such enlargement. And, if such enlargement is authorized by such election, the board of education of the county administrative unit shall, within 10 days after July 1 next following such election, convey and transfer to the board of education of the city administrative unit the property so agreed to be conveyed and transferred.

**"§ 115C-510. Elections in districts created from portions of contiguous counties.** — Districts already created and those that may be created from portions of two or more contiguous counties may hold elections under this Article to be incorporated or to vote a special local tax therein for the purposes enumerated in G.S. 115C-501.

Elections for either purpose must be initiated by petitions from the portion of each county included in the district, or the proposed district. In districts already created, the majority of the committeemen must sign the petition. In proposed districts, the petition must be signed by fifteen percent (15%) of the registered voters who reside in the area. When the petitions shall have been approved by each of the boards of education of such contiguous counties, they shall then be presented by each of said boards of education to their respective boards of county commissioners.

The boards of commissioners of each of the contiguous counties, in compliance with the provisions of this Article relating to the conduct of local tax elections, then shall call upon the county board of elections to hold an election in that portion of the proposed district lying in its county. Election returns shall be made from each portion of the proposed district to the board of commissioners ordering the election in that portion, and the returns shall be canvassed and recorded as required in this Article for local tax districts.

If a majority of the voters who vote thereon in each of the counties shall vote in favor of the tax, or for incorporation, the election shall be determined to have carried in the whole district, and shall be so recorded in the records of the board of county commissioners in each county in which the district is located.

If the proposition submitted to the voters in the election is a question of incorporating the district, the ballots for this election shall have printed thereon the words 'For incorporation' and 'Against Incorporation'. If the election for incorporation is carried, the district is thereby incorporated and shall possess all the authority of incorporated districts.

In case the election carried in each portion of the proposed district, the several county boards of education concerned shall each pass a formal order consolidating the territory into one joint local tax district, which shall be and become a body corporate by the name and style of \_\_\_\_\_ 'Joint Local Tax School District of \_\_\_\_\_ Counties'. The county board of education having the largest school census and the largest area in the part of the joint local tax district lying in its county shall determine the location of the schoolhouse; but if the largest census and largest area do not both lie in the same county, then the county boards shall jointly select the site for the building; and in case of a disagreement they shall submit the question to a board of arbitration consisting of three members, one member to be named by each board of education if three counties are concerned, or if there are but two counties, then each board shall choose one member and the two so named shall select the third member. The decision of this board of arbitration shall be binding on all county boards of education concerned.

The school committee shall consist of five members, three of whom shall be appointed by the board of education of the county in which the building is to be situated and two to be appointed by the other county or counties, but the terms of office shall be so arranged that not more than two members will retire in any one year. The committee shall officially exercise such corporate powers as are conferred by this section. This committee shall have all the powers and duties of committees of local tax districts, and in addition thereto it shall adopt a corporate seal and have the power to sue and be sued in its corporate name. The committee shall have the power to determine the rate of local taxes to be levied in said joint district, not exceeding the rate authorized by the voters of the district, and when the committee shall have so determined the rate of local taxes to be levied in said joint district and shall have certified same to the boards of commissioners of the several counties from which said joint district is created, the said boards of county commissioners, and each of them, shall levy said rate of local taxes within the portion of said joint district lying within their respective counties; and the taxes so levied shall be collected in the several counties as other taxes are collected therein, and shall be paid over by the officers collecting the same to the treasurer or other fiscal agent of the county in which the schoolhouse is located, or is to be located, to be by him placed to the credit of the joint district.

The committee shall have as full authority to call and hold elections for the voting of bonds of the district as is conferred upon boards of education and boards of commissioners. In calling the election for a bond issue, no petition of the county board of education shall be necessary; but the election shall be called and held by the school committee of the incorporated local tax school district under as ample authority as is conferred upon both county boards of education and boards of commissioners. When bonds of the district have been voted under authority of this section, they shall be issued subject to the limitations of the Local Government Finance Act in the corporate name of the district, signed by the chairman and secretary of the school committee, sold by the school committee, and the proceeds thereof deposited with the treasurer of the county board of education of the county in which the school building is, or is to be, located, to be placed to the credit of the joint district, and the taxes for the payment of principal and interest shall be levied and collected as provided hereinabove for the levy and collection of local taxes: Provided, that certified copies of the bond orders and resolutions shall be recorded on the minutes of the board of commissioners of each county constituting a part of the joint school district.

The building of all schoolhouses in such joint local tax districts shall be effected by the county board of education of the county in which the building is to be located under authority of law governing the erection of school buildings by county boards of education. It shall be

lawful for the boards of education in the other county or counties to contribute to the cost of the building in proportion to the number of children shown by the official census to be resident within that part of the joint district lying within each county respectively. If the building is to be erected from moneys borrowed from the State Literary Fund or from county taxation, then each county board of education shall contribute to its construction in the proportion set out above and pay over its contribution to the treasurer of the county board having control of the erection of the building: Provided, it shall be lawful for the county board that controls the erection of the building to borrow from the State and lend to the district the full amount of the cost of the building in cases where the entire amount, or part of the amount, is to be repaid by the district from district funds.

All district funds of a joint local tax district shall be kept distinct from all other funds, placed to the credit of the district, and expended as other local tax or district bond funds are lawfully disbursed.

The county board of education and county superintendent of schools of the county in which the schoolhouse is located shall have as full and ample control over the joint school and the district as it has in the case of other local tax districts, subject only to the limitations of this section.

The committee of the joint school district shall prepare a budget annually in accordance with the law governing budgets in which the committee will indicate objects and items of expenditure which are proposed to be made from the collection of the special tax of the district. This budget shall show the proportionate part of the expense to be contributed by each county, which part shall be ascertained on the basis of the proportions of the total district school census living in each respective county. When this budget is completed by the committee of the joint district, a copy of it shall be filed with the county board of education of each county, and it shall be the duty of each board of education, if it approves the district budget, to incorporate it in the county budget to be submitted to the board of commissioners of each county. Each of the several county boards of education is hereby directed to pay over its proportionate part of the district budget, when and as collected, to the treasurer of the board of education of the county in which the school plant is located for the purposes for which it has been levied and collected.

All districts formed from portions of contiguous counties before the ratification of this Article are hereby authorized and empowered to exercise all the powers and privileges conferred by this Article.

**"§ 115C-511. Levy and collection of taxes.** — (a) If a local school administrative unit or district has voted a tax to operate schools of a higher standard than that provided by State and county support, the board of county commissioners of each county in which the local school administrative unit is located is authorized to levy a tax on all property having a situs in the local school administrative unit for the purpose of supplementing the local current expense fund, the capital outlay fund, or both.

(b) Before April 15 of each year, the tax supervisor of each county in which the local school administrative unit is located shall certify to the superintendent of schools an estimate of the total assessed value of property in the county subject to taxation on behalf of the local school administrative unit and any districts therein pursuant to this Article. The board of education, in the budget it submits to the board of county commissioners, shall request the rate of ad valorem tax it wishes to have levied on its behalf as a school supplemental tax, not in excess of the rate approved by the voters. The board of county commissioners may approve or disapprove this request in whole or in part, and may levy such rate of supplemental tax as it may find to be in the best interests of the taxpayers and the public schools, not in excess of the rate requested by the board of education. Upon approving a supplemental tax levy pursuant to this section, the board of county commissioners shall cause the school supplemental tax to be computed for all property subject thereto. The taxes thus computed shall be shown separately on the county tax receipts for the fiscal year, and the county shall collect the school

supplemental tax in the same manner that county taxes are collected. Collections shall be remitted to the local school administrative unit within 10 days after the close of each calendar month. Partial payments shall be proportionately divided between the county and the local school administrative unit. The board of county commissioners may, in its discretion, deduct from the proceeds of the school supplemental tax the actual additional cost to the county of levying, computing, billing, and collecting the tax.

(c) It shall be unlawful for any part of a tax levied pursuant to this Article to be used for any purpose other than those purposes authorized by the election in the unit or district.

"§§ 115C-512 to 115C-516: Reserved for future codification purposes.

**"SUBCHAPTER IX.**

**"PROPERTY.**

**"ARTICLE 37.**

**"School Sites and Property.**

"§ 115C-517. **Acquisition of sites.** — Local boards of education may acquire suitable sites for schoolhouses or other school facilities either within or without the local school administrative unit; but no school may be operated by a local school administrative unit outside its own boundaries, although other school facilities such as repair shops, may be operated outside the boundaries of the local school administrative unit. Whenever any such board is unable to acquire or enlarge a suitable site or right-of-way for a school, school building, school bus garage or for a parking area or access road suitable for school buses or for other school facilities by gift or purchase, condemnation proceedings to acquire same may be instituted by such board under the provisions of Article 2, Chapter 40 of the General Statutes, and the determination of the local board of education of the land necessary for such purposes shall be conclusive: Provided, that not more than a total of 50 acres shall be acquired by condemnation for any one site for a schoolhouse or other school facility as aforesaid.

"§ 115C-518. **Sale, exchange or lease of school property, easement and rights-of-way.** —

(a) When in the opinion of any local board of education, the use of any building, building site, or other real property owned or held by such board is unnecessary or undesirable for public school purposes, the board may sell such property at public auction. Such sale shall be held on the property to be sold or at the courthouse door in the county in which such property is located, and shall be advertised and otherwise conducted as is prescribed by statute for judicial sales of real property. The sale shall then remain open for 10 days to permit the making of an upset bid. The resale of such property following such upset bid, and the procedure therefor shall be as prescribed by statute for judicial sales of real property. If the time for making an upset bid shall expire without such bid having been made, the board may confirm the sale if it deems the highest bid to be an adequate price. Upon confirmation of the sale by the board, the chairman and the secretary of the board shall execute a deed to the purchaser of the property upon his compliance with his bid. Confirmation of the sale by the clerk of the superior court shall not be required. The proceeds of the sale shall be paid to the treasurer of the school fund of such local school administrative unit, and shall be used either to reduce the bonded indebtedness of such local school administrative unit or for capital outlay purposes.

(b) When in the opinion of any local board of education, the use of any property, other than real property, owned or held by such board is unnecessary or undesirable for public school purposes, the board may sell such property either through the facilities of the North Carolina Department of Administration or at public auction.

If the property is to be sold at public auction, the sale shall be held at that place within that local school administrative unit and at that time which are designated by the board. A notice of sale shall be published at least once, not less than seven nor more than 15 days before the date of the sale, in a paper of general circulation in the county where the personal property is to be sold. The notice of sale shall adequately identify the property to be sold so as to acquaint

prospective bidders with the nature and location of the property and shall set out the date, time, place and terms of sale.

The personal property shall be present at the time and place of the sale, unless the board determines that the nature, condition or use of the property makes it impractical to have the property present. If the property is not to be present at the time and place of sale, reasonable opportunity shall be afforded to prospective buyers to inspect the property prior to the sale, and the notice of sale shall include notice of the time and place where an inspection of the property may be made.

The board shall designate the person to conduct the sale. If the person conducting the sale is an officer or employee of the board, he shall receive no additional compensation for his services in conducting the sale; any other person shall receive such fee as may be agreed upon with the board but in no case to exceed five percent (5%) of the proceeds of the sale.

The sale may be postponed when there are no bidders; or when in the judgment of the person conducting the sale the number of prospective bidders is substantially decreased by inclement weather or by other casualty; or when the person designated to conduct the sale is unable to hold the sale because of illness or other good reason; or when other good cause exists. If the sale is postponed, the board shall readvertise and schedule and hold the sale at a later time, subject to the same conditions governing the originally scheduled sale.

Title to the property so sold shall not pass by reason of such sale until the sale has been confirmed by the board and the purchaser has complied with the terms of his bid. The proceeds of such sale shall be paid to the treasurer of the school fund of such local school administrative unit.

(c) If in the opinion of the board the highest bid at any sale or resale of real or personal property sold pursuant to the provisions of this section is not adequate, such bid may be rejected and the property may again be advertised for sale as provided in this section, or may be sold by the board at a private sale for a price in excess of the highest bid at such public sale so long as such private sale is consummated within a period of one year from the date of the initial public offering.

Any sale of real property at private sale made prior to May 1, 1959, is hereby validated, so long as the real property so sold was first advertised for sale at public auction as provided by this section and the price received therefor was in excess of the highest bid received at such public offering.

(d) In the acquisition by it of any property for public school purposes any local board of education may exchange therefor, as full or partial payment therefor, any property owned or held by it, without compliance with the provisions of this section: Provided, that for at least 10 days before any exchange of real property shall be consummated, the terms of such proposed exchange shall be filed in the office of the superintendent of schools of such local school administrative unit and in the office of the clerk of the superior court in the county in which such property is located, and a notice thereof published one or more times in any newspaper having a general circulation in the local school administrative unit at least 10 days before the consummation of said exchange.

(e) When in the opinion of any local board of education, the use of any property owned or held by it is unnecessary or undesirable for public school purposes, but the sale of such property is not practicable or in the public interest, such board may in its discretion enter into an agreement with any other person, firm or corporation for the lease of such property to such person, firm or corporation for a term not in excess of one year, upon such terms and conditions as the board shall deem advisable and in the public interest. Upon a two-thirds vote of the board that such is in the public interest and with the approval of the board's tax levying authority, the board may enter into an agreement for the lease of such property for a term in excess of one year but for not more than 10 years: Provided, however, the proceeds of such lease authorized herein shall be used either to reduce the bonded indebtedness of such local school

administrative unit or for capital outlay purposes. Nothing in this subsection shall invalidate any local act authorizing the lease of any such property or in any way limit the authority of local boards of education to enter into leases with other governmental units pursuant to G.S. 160A-274.

(f) In addition to the foregoing, local boards of education are hereby authorized and empowered, in their sound discretion, to grant easements to any public utility, municipality or quasi-municipal corporation to furnish utility services to school property, with or without compensation except the benefits accruing by virtue of the location of the said public utility, and to dedicate portions of any lands owned by such boards as rights-of-way for public streets, roads or sidewalks, with or without compensation except the benefits accruing by virtue of the location or improvement of such public streets, roads or sidewalks.

(g) Sale, lease, exchange and joint use of governmental property by a local school administrative unit is subject to the provisions of G.S. 160A-274.

**"§ 115C-519. Deeds to property.** — All deeds to school property shall, after registration, be delivered to the superintendent of the local school administrative unit in which the property is located and he shall provide a safe place for preserving all such deeds.

**"§ 115C-520. Vehicles owned by boards of education.** — All school buses, trucks, automobiles and other motor vehicles owned by local boards of education and used for transporting pupils to and from school or used by other school personnel in the performance of their work, shall be exempt from taxation, but all such vehicles shall be duly registered in the Department of Motor Vehicles as provided in G.S. 20-84.

**"§ 115C-521. Erection of school buildings.** — (a) It shall be the duty of local boards of education to provide classroom facilities adequate to meet the requirements of G.S. 115C-47(j) and 115C-301.

(b) It shall be the duty of the boards of education of the several local school administrative school units of the State to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus. The needs and the cost of such buildings, equipment, and apparatus, shall be presented each year when the school budget is submitted to the respective tax-levying authorities. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same.

Upon determination by a local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for such school, then such local board of education is authorized to acquire and utilize as temporary classrooms for the operation of such school, relocatable or mobile classroom units, which units and method of use shall meet the approval of the School Planning Division of the State Board of Education, and which units shall comply with all applicable requirements of the North Carolina State Building Code and of the local building and electrical codes applicable to the area in which such school is located. The acquisition and installation of such units shall be subject in all respects to the provisions of Chapter 143 of the General Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards of education and the delivery and installation upon school sites of classroom trailers as a single building unit or of relocatable or mobile classrooms delivered in less than four units or sections.

(c) The building of all new schoolhouses and the repairing of all old schoolhouses shall be under the control and direction of, and by contract with, the board of education in which such building and repairing is done. Boards of education shall not invest any money in any new building that is not built in accordance with plans approved by the State Superintendent to structural and functional soundness, safety and sanitation, nor contract for more money than is



made available for its erection. All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor: Provided, that this subsection shall not prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of said board.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, the State Board of Education, under such rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of said loan or grant, until such completed buildings, erected or repaired, in whole or in part, from such loan or grant funds, shall have been approved by a designated agent of the State Board of Education.

Upon such approval by the State Board of Education, the State Treasurer is authorized to pay the balance of the loan or grant to the treasurer of the local school administrative unit for which said loan or grant was made.

(d) Local boards of education shall make no contract for the erection or repair of any school building unless the site upon which it is located is owned in fee simple by the said board: Provided, that the board of education of a local school administrative unit, with the approval of the board of county commissioners is authorized to appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of said boards, whereby children from the administrative unit making such appropriations shall be entitled to attend the school so established.

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

**"§ 115C-522. Provision of equipment for buildings.** — (a) It shall be the duty of local boards of education to purchase or exchange all supplies, equipment and materials in accordance with contracts made by or with the approval of the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of such unit to provide payment therefor, or unless surplus funds are on hand to pay for same, and in order to protect the State purchase contracts, it is hereby made the duty upon the part of the governing authorities of such local units to pay for such purchases promptly in accordance with the terms of the contract of purchase.

(b) It shall be the duty of the local boards of education to provide suitable school furniture and apparatus, as provided in G.S. 115C-521(b).

(c) It shall be the duty of local boards of education and tax-levying authorities to provide suitable supplies for the school buildings under their jurisdictions. These shall include, in addition to the necessary instructional supplies, proper window shades, blackboards, reference books, library equipment, maps, and equipment for teaching the sciences.

Likewise, it shall be the duty of said boards of education and boards of county commissioners to provide every school with a good supply of water, approved by the Department of Human Resources, and where such school cannot be connected to water-carried sewerage facilities, there shall be provided sanitary privies for the boys and for the girls according to specifications of the Commission for Health Services. Such water supply and sanitary privies shall be considered an essential and necessary part of the equipment of each public school and may be paid for in the same manner as desks and other essential equipment of the school are paid for.

**"§ 115C-523. Care of school property.** — It shall be the duty of every teacher and principal in charge of school buildings to instruct the children in the proper care of public property, and it is their duty to exercise due care in the protection of school property against damage, either by defacement of the walls and doors or any breakage on the part of the pupils, and if they shall fail to exercise a reasonable care in the protection of property during the day, they may be held financially responsible for all such damage, and if the damage is due to carelessness or negligence on the part of the teachers or principal, the superintendent may hold those in charge of the building responsible for the damage, and if it is not repaired before the close of a term, a sufficient amount may be deducted from their final vouchers to repair the damage for which they are responsible.

If any child in school shall carelessly or willfully damage school property, the teacher or principal shall report the damage to the parent, and if the parent refuses to pay the cost of repairing the same, the teacher or principal shall report the offense to the superintendent of schools.

It shall be the duty of all principals to report immediately to their respective superintendents any unsanitary condition, damage to school property or needed repair.

**"§ 115C-524. Repair of school property.** — (a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all committeemen, principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

Notwithstanding the provisions of G.S. 115C-263 and G.S. 115C-264, local boards of education shall have authority to adopt rules and regulations by which school buildings, including cafeterias and lunchrooms, may be used for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. No liability shall attach to any board of education, individually or collectively, for personal injury suffered by reason of the use of such school property.

**"§ 115C-525. Fire prevention.** — (a) **Duty of Principal Regarding Fire Hazards.** — The principal of every public school in the State shall have the following duties regarding fire hazards during periods when he is in control of a school:

- (1) Every principal shall make certain that all corridors, halls, and tower stairways which are used for exits shall always be kept clear and that nothing shall be permitted to be stored or kept in corridors or halls, or in, on or under stairways that could in any way interfere with the orderly exodus of occupants. The principal shall make certain that all doors used for exits shall be kept in good working condition. During the occupancy of the building or any portion thereof by the public or for school purposes, the principal shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.
- (2) Every principal shall make certain that no electrical wiring shall be installed within any school building or structure or upon the premises and that no alteration or addition shall be made in any existing wiring, except with the

authorization of the superintendent. Any such work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the board of education and approved by the Commissioner of Insurance.

- (3) Every principal shall make certain that combustible materials necessary to the curriculum and for the operation of the school shall be stored in a safe and orderly manner.
- (4) Every principal shall make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, shall be stored in an orderly manner in a well-ventilated place.
- (5) Every principal shall make certain that all trash and rubbish shall be removed from the school building daily. No trash or rubbish shall be permitted to accumulate in a school attic, basement or other place on the premises.
- (6) Every principal shall cooperate in every way with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections required by G.S. 115C-525(b).

It shall further be the duty of the principal to bring to the attention of the local superintendent of schools the failure of the building inspector, electrical inspector, county fire marshal, or other person to make the inspections required by G.S. 115C-525(b). It shall further be the duty of the principal to call to the attention of the superintendent of schools all recommendations growing out of the inspections, in order that the proper authorities can take steps to bring about the necessary corrections.

(b) Inspection of Schools for Fire Hazards; Removal of Hazards. — Every public school building in the State shall be inspected every four months in accordance with the following plan: Provided, that the periodic inspections herein required shall be at least 90 days apart:

- (1) Each school building shall be inspected to make certain that none of the fire hazards enumerated in G.S. 115C-525(a)(1) through (5) exist, and to insure that all heating, mechanical, electrical, gas, and other equipment and appliances are properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. Following each inspection, the persons making the inspection shall furnish to the principal of the school a written report of conditions found during inspection, upon forms furnished by the Commissioner of Insurance, and the persons making the inspection shall also furnish a copy of the report to the superintendent of schools; the superintendent shall keep such copy on file for a period of three years. In addition to the periodic inspections herein required, any alterations or additions to existing school buildings or to school building utilities or appliances shall be inspected immediately following completion.
- (2) The board of county commissioners of each county shall designate the persons to make the inspections and reports required by subdivision (1) of this subsection. The board may designate any city or county building inspector, any city or county fire prevention bureau, any city or county electrical inspector, the county fire marshal, or any other qualified persons, but no person shall make any electrical inspection unless he shall be qualified as required by G.S. 153A-351.1 and Section 7 of Chapter 531 of the 1977 Session Laws. Nothing in this section shall be construed as prohibiting two or more counties from designating the same persons to make the inspections and reports required by subdivision (1) of this subsection. The board of county commissioners shall compensate or provide for the

compensation of the persons designated to make all such inspections and reports. The board of county commissioners may make appropriations in the general fund of the county to meet the costs of such inspections, or in the alternative the board may add appropriations to the school current expense fund to meet the costs thereof: Provided, that if appropriations are added to the school current expense fund, such appropriations shall be in addition to and not in substitution of existing school current expense appropriations.

- (3) It shall be the duty of the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education to prescribe any additional rules and regulations which they may deem necessary in connection with such inspections and reports for the reduction of fire hazards and protection of life and property in public schools.
- (4) It shall be the duty of each principal to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection are immediately removed or corrected, if such removal or correction can be accomplished by the principal. If such removal or correction cannot be accomplished by the principal, it shall be the duty of the principal to bring the matter to the attention of the superintendent.
- (5) It shall be the duty of each superintendent of schools to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection and not removed or corrected by the principals as required by subdivision (4) of this subsection are removed or corrected, if such removal or correction can be brought about within the current appropriations available to the superintendent. Where any removal or correction of a hazard will require the expenditure of funds in excess of current appropriations, it shall be the duty of the superintendent to bring the matter to the attention of the appropriate board of education, and the board of education in turn shall bring the same to the attention of the board of county commissioners, in order that immediate steps be taken, within the framework of existing law, to remove or correct the hazard.

(c) **Liability for Failure to Perform Duties Imposed by G.S. 115C-288 and 115C-525(a) or 115C-525(b).** — Any person willfully failing to perform any of the duties imposed by G.S. 115C-288, 115C-525(a) or 115C-525(b) shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) in the discretion of the court.

**"§ 115C-526. Reward for information leading to arrest of persons damaging school property.** — Local boards of education are authorized and empowered to offer and pay rewards in an amount not exceeding three hundred dollars (\$300.00) for information leading to the arrest and conviction of any persons who willfully deface, damage, destroy or commit acts of vandalism or larceny of, the property belonging to the public school system under the jurisdiction of and administered by any local board of education.

**"§ 115C-527. Use of schools and other public buildings for political meetings.** — The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G.S. 163-96, for the express purpose of biennial precinct meetings and county and district conventions: Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities.

**"§§ 115C-528 to 115C-532: Reserved for future codification purposes.**

## "ARTICLE 38.

## "State Insurance of Public School Property.

"§ 115C-533. **Duty of State Board to operate insurance system.** — The State Board shall have the duty to manage and operate a system of insurance for public school property.

"§ 115C-534. **Duty to insure property.** — (a) The board of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall:

- (1) Insure and keep insured to the extent of not less than seventy-five percent (75%) of the current insurable value as determined by the insurer and the insured of each of its insurable buildings against fire, lightning and the perils embraced in extended coverage.
- (2) Insure and keep insured adequately the equipment and contents of said building.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a).

(c) Willful failure to comply with the provisions of (a) and (b) above, is declared a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days. Every 24 hours without such insurance constitutes a separate offense.

"§ 115C-535. **Authority and rules for organization of system.** — The State Board of Education is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school property. The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The Board shall employ a director, safety inspectors, engineers and other personnel with suitable training and experience, which in its opinion is necessary to insure and protect effectively public school property, and it shall fix their compensation with the approval of the Personnel Commission.

"§ 115C-536. **Public School Insurance Fund; decrease of premiums when fund reaches 5% of total insurance in force.** — There shall be set up in the books of the State Treasurer a fund to be known and designated as the 'Public School Insurance Fund', which fund hereafter in G.S. 115C-535 to G.S. 115C-542 is referred to as 'the Fund.' In order to provide adequate reserves against losses which may be incurred on account of the risks insured against as provided in G.S. 115C-535 to G.S. 115C-542 and to provide payment for such losses as may be incurred therein, there is hereby appropriated to the Fund the sum of two million dollars (\$2,000,000), which shall be paid from and charged to the State Literary Fund as set up and defined in this Chapter. When the reserves in the Fund shall be increased by the payment of premiums by the governing boards of local school administrative school units, or otherwise, to the extent of one million dollars (\$1,000,000), there shall be transferred from the Fund back to the State Literary Fund the sum of one million dollars (\$1,000,000) and when the Fund shall again be increased to the extent of another one million dollars (\$1,000,000), there shall be transferred therefrom back to the State Literary Fund an additional sum of one million dollars (\$1,000,000) in full reimbursement of the sum of two million dollars (\$2,000,000), which is authorized to be transferred from the State Literary Fund by the provisions hereof. All funds paid over to the State Treasurer for premiums on insurance by the governing boards of local school administrative units and all money received from interest or from loans and deposits and from any other source connected with the insurance of the property hereinafter referred to shall be held by the State Treasurer in the Fund for the purpose of paying all fire, lightning, windstorm, hail and explosion losses for which the said Fund shall be liable and the expenses necessary for the proper conduct of the insurance of said property, together with such premiums for reinsurance of such part of said insurance as the State Board of Education may deem necessary to reinsure, as provided for in G.S. 115C-535 to G.S. 115C-542. The State

Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

When the fund herein provided for reaches the sum of five percent (5%) of the total insurance in force, then annually thereafter the State Board of Education shall proportionately decrease the premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent (5%) of the total insurance in force, and in the event in the judgment of the State Board of Education the income from the investments of the Fund are sufficient to maintain the same at five percent (5%) of the total insurance in force, no premium shall be charged for the ensuing year: Provided, that no building or property insured shall cease to pay premiums until five annual payments of premiums have been made whether or not through such payments the Fund shall be increased beyond five percent (5%) of the total insurance in force, unless such building or property shall cease to be insurable within the meaning of G.S. 115C-535 to G.S. 115C-542 within such five-year period.

**"§ 115C-537. Insurance of property by local boards; notice of election to insure and information to be furnished; outstanding policies.** — All local boards of education may insure all property within their units against the direct loss or damage by fire, lightning, windstorm, hail or explosions resulting by reason of defects in equipment in public school buildings and other public school properties in the Fund hereinbefore set up and provided for. Any property covered by an insurance policy in effect on the date when the property of a unit is insured in the Fund shall be insured by the Fund as of the expiration of the policy. Each local board shall give notice of its election to insure in the Fund at least 30 days prior to such insurance becoming effective and shall furnish to the State Board of Education a full and complete list of all outstanding fire insurance policies, giving in complete detail the name of the insurers, the amount of the insurance and expirations thereof. While the said insurance policies remain in effect, the Fund shall act as coinsurer of the properties covered by such insurance to the same extent and in the same manner as is provided for coinsurance under the provisions of the standard form of fire insurance as provided by law, and in the event of loss shall have the same rights and duties as required by participating insurance companies.

**"§ 115C-538. Inspections of insured public school properties.** — The State Board of Education shall provide for periodic inspections of all public school properties in the State of North Carolina insured under the provisions hereof, the said inspections for safety of buildings and particularly school buildings, against the loss or damage from fire and explosions. The inspections shall be the basis for offering such engineering advice as may be thought to be necessary to safeguard the children in the public schools from death and injury from school fires or explosions and to protect said school properties from loss, and the local boards of education shall be required so far as possible, and reasonable, to carry out and put into effect such recommendations in respect thereto as may be made by the State Board of Education.

**"§ 115C-539. Information to be furnished prior to insuring in Fund; providing for payment of premiums.** — Local boards of education shall at least 30 days before insuring in the Fund, furnish to the State Board of Education a complete and detailed list of all school buildings and contents thereof and other insurable school property, together with an estimate of the present value of the said property. Valuation for purposes of insuring in the Fund shall be reached by agreement in accordance with the procedure hereinafter set up for adjustment of losses. Local boards of education and the tax-levying authority shall be required to provide for the payment of premiums for insurance on the school properties of each local school administrative unit, respectively, to the extent of not less than seventy-five percent (75%) of the current insurable value of the said properties, including the insurance in fire insurance companies and the insurance provided by the Fund as set out herein.

**"§ 115C-540. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payment thereof.** — The State Board of Education shall determine the annual premium rate to be charged for insurance of

school properties as herein provided, which said rate shall not, however, be in excess of the rates fixed by law for insurance of such properties in effect on May 31, 1948, and such rates shall be adjusted from time to time so as to provide insurance against damage or loss resulting from fires, lightning, windstorm, hail or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units at the lowest cost possible in keeping with the payment of cost of administration of G.S. 115C-535 to G.S. 115C-542, and the creation of adequate reserves to pay losses which may be incurred. The State Board of Education shall furnish to each local school administrative unit annually and, at such times as changes may require, a certificate showing the amount of insurance carried on each item of insurable property. The said insurance shall not lapse but shall remain in force until the local board of education requests that said insurance be cancelled or until such property becomes uninsurable in the manner set out in G.S. 115C-542. From time to time the local board of education shall be notified as to the amount of the premiums required to be paid for said insurance and the amounts thereof shall be provided for in the annual budget of such schools. The tax-levying authorities shall provide by taxation or otherwise a sum sufficient to pay the required premiums thereon.

The local board of education shall within 30 days from notice thereof pay to the State Board of Education the premiums on such insurance, and in the event that there are no funds on hand at such time with which to make said payment, the same shall be paid out of the first funds available to such school board. Delayed payments shall bear interest at the rate of six percent (6%) per annum.

**"§ 115C-541. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local school administrative units; disbursement of funds. —** In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units, the Fund shall pay the loss in the same proportion as the amount of insurance carried bore to the valuation of the property at the time it was insured, but not exceeding the amount which it would cost to repair or replace the property with material of like quality within a reasonable time after such loss, not in excess of the amount of insurance provided for said property, and not in excess of the amount of such loss which the Fund is required to pay in participation with fire insurance companies having policies of insurance in force on said properties at the time of the loss or damage, and the Fund shall not be liable for a greater proportion of any loss than the amount of insurance thereon shall bear to the whole insurance covering the property against the peril involved.

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties of the local school administrative units, to the property insured, when an agreement as to the extent of such loss or damage cannot be arrived at between the State Board of Education and the local officials having charge of the said property, the amount of such loss or damage shall be determined by three appraisers; one to be named by the State Board of Education, one by the local board of education having charge of the property, and the two so appointed shall select a third, all of whom shall be disinterested persons, and qualified from experience to appraise and value such property: Provided, however, if the appraisers appointed by the State Board of Education and the local board of education shall fail for 15 days to agree upon the third appraiser, then, on request of the State Board of Education or the local board of education having charge of the property, such third appraiser shall be selected by the resident judge of the superior court of the judicial district in which the property is located. The appraisers so named shall file their written report with the State Board of Education and with the local board of education having such property in charge. The costs of the appraisal shall be paid by the Fund. Upon the determination of the loss by the appraisers, the State Board of Education shall pay the amount of such loss or damage to school property in the control of the local school administrative unit to its treasurer,

upon proper warrant of the State Board of Education. Said funds shall be paid out by the treasurer of said units, as provided by this Chapter for the disbursement of the funds of such unit.

**"§ 115C-542. Maintenance of inspection and engineering service; cancellation of insurance.** — The State Board of Education is authorized and empowered to maintain an inspection and engineering service deemed by it appropriate and necessary to reduce the hazards of fire in public school buildings insured in the Fund as hereinbefore provided, and to expend for such purpose not in excess of ten percent (10%) of the annual premiums collected from the local school authorities. The State Board of Education is hereby authorized and empowered to cancel any insurance on any school property when, in its opinion, because of dilapidation and depreciation such property is no longer insurable. Before cancellation, the local board of education shall be given at least 30 days notice, and in the event said property can be restored to insurable condition, the State Board of Education may make such orders with respect to the continuance of such coverage as may be deemed proper: Provided, that the findings and results of the inspection of local school property by the agents of the Board shall be reported to local boards of education and to the board of county commissioners of such units as carry insurance with the State 30 days before budget-making time in order that all school property shall be properly taken care of and made safe from fire hazards.

**"§§ 115C-543 to 115C-546:** Reserved for future codification purposes.

#### **"SUBCHAPTER X.**

#### **"PRIVATE AND PROPRIETARY SCHOOLS.**

#### **"ARTICLE 39.**

#### **"Nonpublic Schools.**

#### **"Part 1. Private Church Schools and Schools of Religious Charter.**

**"§ 115C-547. Policy.** — In conformity with the Constitutions of the United States and of North Carolina, it is the public policy of the State in matters of education that 'No human authority shall, in any case whatever, control or interfere with the rights of conscience,' or with religious liberty and that 'religion, morality and knowledge being necessary to good government and the happiness of mankind ... the means of education shall forever be encouraged.'

**"§ 115C-548. Attendance; health and safety regulations.** — Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance: Provided, however, that such school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

**"§ 115C-549. Standardized testing requirements.** — Each private church school or school of religious charter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, two, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

**"§ 115C-550. High school competency testing.** — To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each private church school or school of religious charter shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure



selected by the chief administrative officer of such school, to all students enrolled and regularly attending the 11th grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

**"§ 115C-551. Voluntary participation in the State programs.** — Any such school may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

**"§ 115C-552. New school notice requirements; termination.** — (a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school's owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school.

**"§ 115C-553. Duly authorized representative.** — The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor.

**"§ 115C-554. Requirements exclusive.** — No school, operated by any church or other organized religious group or body as part of its religious ministry, which complies with the requirements of this Part shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.

"Part 2. Qualified Nonpublic Schools.

**"§ 115C-555. Qualification of nonpublic schools.** — The provisions of this Part shall apply to any nonpublic school which has one or more of the following characteristics:

- (1) It is accredited by the State Board of Education.
- (2) It is accredited by the Southern Association of Colleges and Schools.
- (3) It is an active member of the North Carolina Association of Independent Schools.
- (4) It receives no funding from the State of North Carolina.

**"§115C-556. Attendance health and safety regulations.** — Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance: Provided, however, that such school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

**"§ 115C-557. Standarized testing requirements.** — Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, two, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

**"§ 115C-558. High School Competency Testing.** — To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the 11th grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

**"§ 115C-559. Voluntary participation in the State programs.** — Any such school may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

**"§ 115C-560. New school notice requirements; termination.** — (a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school's owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school.

**"§ 115C-561. Duly authorized representative.** — The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor.

**"§ 115C-562. Requirements exclusive.** — No qualifying nonpublic school, which complies with the requirements of this Part, shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.

**"§§ 115C-563 to 115C-567:** Reserved for future codification purposes.

"ARTICLE 40.

"Proprietary Schools.

**"§ 115C-568. Definitions.** — As used in this Article:

- (1) 'Correspondence school' means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the pupil and the school, usually through printed or typewritten matter sent by the school and written responses by the pupil.
- (2) 'Persons' means any individual, association, partnership or corporation, and includes any receiver, referee, trustee, executor, or administrator as well as a natural person.
- (3) 'Private business school' or 'business school' or 'school' means an educational institution privately owned and operated by an owner, partnership or corporation, offering business courses for which tuition is charged, in such subjects as typewriting, manual or machine shorthand, filing and indexing, receptionist's duties, key-punch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, salesmanship, personality development, leadership training, public speaking, real estate, insurance, traffic management, business psychology, economics, business management, and other related subjects of a similar

character or subjects of general education when they contribute value to the objective of the course of study. Classes in any of the subjects herein referred to which are taught or coached in homes or elsewhere to five or less students are not included in the term 'school' and shall be exempt from the requirements of this Article.

- (4) 'Private trade school' means an educational institution privately owned and operated by an owner, partnership or corporation, offering classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, technical, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations.

**"§ 115C-569. Exemptions.** — It is the purpose of this Article to include all private schools operated for profit: provided, that the following schools shall be exempt from the provisions of this Article:

- (1) Nonprofit schools conducted by bona fide eleemosynary or religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing board in this State.
- (5) Any established university, professional, or liberal arts college, public or private high school approved by the Department of Public Instruction, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules and regulations prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all business schools, trade schools, or correspondence schools or branch schools, as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards.

**"§ 115C-570. State Board of Education to administer Article; issuance of diplomas by schools; investigation and inspection; regulations and standards.** — (a) The State Board of Education, acting by and through the Superintendent of Public Instruction, shall have authority to administer and enforce this Article and to issue licenses to private schools and educational institutions, as the same are defined herein, whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such private school or educational institution may by and with the approval of the State Board issue certificates and diplomas.

(c) The State Board, acting by and through the Superintendent of Public Instruction, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be

available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools or branch schools and by inspections made by authorized representatives of the State Board of Education, the State Board of Education shall have general supervision over business, trade and correspondence schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the licensed business, trade and correspondence schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Education is authorized to issue such regulations and standards not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

**"§ 115C-571. License required application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications. —**

(a) No person shall operate, conduct or maintain or offer to operate in this State a private school or educational institution as defined herein unless a license is first secured from the State Board of Education issued in accordance with the provisions of this Article and the rules and regulations promulgated by the Board under the authority of G.S. 115C-570. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each private school approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the Superintendent of Public Instruction for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school or branch school, for which a license is sought:

- (1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
- (2) The general field of instruction.
- (3) The place or places where such instruction will be given.
- (4) A specific listing of the equipment available for instruction in each field.
- (5) The qualifications of instructors and supervisors.
- (6) Financial resources available to equip and to maintain the school or classes.
- (7) Such additional information as the State Board may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being true and correct in content and policy. The school bulletin shall contain the following information:
  - a. Identifying data, such as volume number and date of publication.
  - b. Names of the institution and its governing body, officials and faculty.
  - c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
  - d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
  - e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
  - f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the

grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.

- g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
- h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
- i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.
- j. A description of the available space, facilities and equipment.
- k. A course outline for each course for which approval is requested, showing subjects or units in the course, type of skill or skill to be learned, and approximate time and clock hours to be spent on each subject or unit.
- 1. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board as provided herein, a license shall be issued to the applicant when it is shown to the satisfaction of said Board that said applicant, school, programs of study or courses are found to have met the following criteria:

- (1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.
- (2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.
- (3) Education and experience qualifications of director, administrators and instructors are adequate.
- (4) The institution maintains a written record of the previous education and training of the student.
- (5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.
- (6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course and indicating that training was satisfactorily completed.
- (7) Adequate records as prescribed by the State Board of Education are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.
- (8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Education may require such evidence of compliance as is deemed necessary.
- (9) The school is financially sound and capable of fulfilling its commitments for training.

- (10) The school does not exceed its enrollment limitation as established by the State Board of Education.
- (11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.
- (12) The school's administrators, directors, owners and instructors are of good reputation and character.
- (13) Such additional criteria as may be deemed necessary by the State Board.

(d) Any license issued shall be restricted to the programs of instruction or courses specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the State Superintendent for approval of additional programs of instruction or courses in which it is desired to offer instruction during the effective period of the license.

**"§ 115C-572. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.** — (a) All licenses issued shall expire on June 30 next following the date of issuance.

(b) Licenses shall be renewable annually on July 1: Provided, an application for the renewal of the license has been filed in the form and manner prescribed by the State Board and the renewal fee has been paid: Provided, further that the school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is issued to any school by the State Board of Education on the basis of its application, it shall be the responsibility of said school to notify immediately said Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators.

**"§ 115C-573. Commercial Education Fund established; refund of fees.** — The fees and licenses collected under this section shall be placed in a special fund to be designated the 'Commercial Education Fund' and shall be used under the supervision and direction of the State Board of Education for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked.

**"§ 115C-574. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.** — (a) The State Board, acting by and through the Superintendent of Public Instruction, shall have the authority to refuse to issue a license and to suspend or revoke a license theretofore issued but before denying any such license, including the renewal thereof, and before suspending or revoking any license theretofore issued, he shall afford the applicant or holder of any such license an opportunity to be heard in connection therewith in person or by counsel and at least 30 days prior to the date set for a hearing on any such matter shall notify in writing the applicant for or the holder of any such license of the date of said hearing and assign therein the grounds for the action contemplated to be taken and as to which inquiry shall be made on the date of such hearing.

(b) The action of the State Board acting by and through the Superintendent of Public Instruction in refusing to grant a license or to renew a license, or in suspending or revoking a license, shall be subject to judicial review in all respects according to the provisions and procedure set forth in Chapter 150A of the General Statutes of North Carolina.

(c) The State Board, acting by and through the Superintendent of Public Instruction, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

- (1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules and regulations promulgated thereunder.

- (2) That the applicant for or holder of such a license has knowingly presented to the State Board of Education false or misleading information relating to approval.
- (3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Education to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Education under the provisions of this Article.
- (4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.
- (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.
- (6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.
- (7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board.
- (8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.
- (9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.

**"§ 115C-575. Private schools advisory committee; appointment; duties.** — (a) In the administration of this Article, the Superintendent of Public Instruction shall appoint an advisory committee composed of not less than five members who shall serve at his will and pleasure and who are fairly representative of the types of private schools or educational institutions operated, conducted and maintained within this State, whose duties shall be to advise the Superintendent of Public Instruction regarding the criteria to be used in formulating standards and the rules and regulations thereunder to be prescribed for the administration of this Article and the management and operation of the schools subject to the provisions hereof including the development of programs of instruction to be pursued in each type of institution subject to this Article.

(b) The terms of the members shall be set by the Superintendent of Public Instruction.

**"§ 115C-576. Execution of bond required; filing and recording; actions upon bond.** — (a) Before the State Board of Education shall issue such license the person, partnership, association of persons, or corporation shall execute a bond in the sum of one thousand dollars (\$1,000), signed by a solvent guaranty company authorized to do business in the State of North Carolina, or by two solvent individual sureties, payable to the State of North Carolina, and approved as to solvency by the clerk of the superior court of the county in which such school or branch school will be located and conduct its business, conditioned that the principal in said bond will carry out and comply with each and every contract, made and entered into by said school or branch school, acting by and through its officers and agents with any student who desires to enter such school or branch school and to take any courses offered therein and will pay back to such student all amounts collected in tuition and fees in case of failure on the part of the parties obtaining a license from the State Board of Education to open and conduct a business school,

trade school or a correspondence school, to comply with its contracts to give the instructions contracted for, and for full period evidenced by such contract. Such bond shall be filed with the clerk of the superior court of the county in which the school or branch school executing the bond is located, and shall be recorded by such clerk in a book provided for that purpose.

(b) The requirement herein specified for giving the aforesaid bond of one thousand dollars (\$1,000) shall apply to all business, trade or correspondence schools, or any branches thereof operating in North Carolina, and the State Board of Education shall not issue any license to any person, firm or corporation to operate any of the aforesaid schools until said bond has been given and notice of the approval of same by the clerk of the superior court has been filed with said Board of Education. Operator bonds of one thousand dollars (\$1,000) each shall be required for each branch of such business, trade, correspondence schools, or any branch thereof operated within the State by any person, partnership or corporation.

(c) In any and all cases where the party receiving the license from the State Board of Education fails to comply with any contract made and entered into with any student, or with the parents or guardian of said student, then the State of North Carolina upon the relation of said student, parent or guardian entering into the contract shall have a cause of action against the principal and sureties on the bonds herein provided for the full amount of payments made to such person, with six percent (6%) interest from the date of payment of said amount. For a violation of its contract with a student, or for other good cause, the State Board of Education is authorized to revoke the license issued to the offending school.

**"§ 115C-577. Operating school without license or bond made misdemeanor.** — Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a business school, a trade school or a correspondence school, or branch school as defined in this Article, without first having obtained the license herein required, and without first having executed the bond required, shall be guilty of a misdemeanor and be punishable by a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) or 30 days imprisonment, or both, at the discretion of the court, and each day said school continues to be open and operated shall constitute a separate offense.

**"§ 115C-578. Contracts with unlicensed schools and evidences of indebtedness made null and void.** — All contracts entered into by business, trade or correspondence schools, or branch school, as defined in this Article, with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article.

**"§§ 115C-579 to 115C-583: Reserved for future codification purposes."**

**Sec. 2.** Chapter 78 of the 1981 Session Laws is hereby repealed.

**Sec. 3.** This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 20th day of May, 1981.