

# LEGISLATIVE RESEARCH COMMISSION

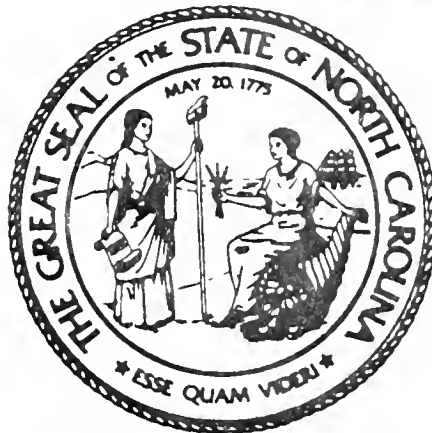
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REPORT

TO THE

1979

GENERAL ASSEMBLY OF NORTH CAROLINA



## PUBLIC SCHOOL LAWS

RALEIGH, NORTH CAROLINA

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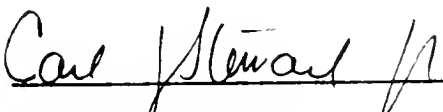
January 2, 1979

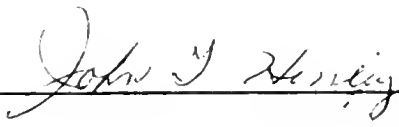
TO THE MEMBERS OF THE 1979 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1979 General Assembly of North Carolina on the matter of Public School Laws. The report is made pursuant to Resolution 98 (Senate Joint Resolution 848) of the 1977 General Assembly.

This report was prepared by the Legislative Research Commission Committee to Study Public School Laws and it is transmitted by the Legislative Research Commission to the members of the 1979 General Assembly for their consideration.

Respectfully submitted,

  
\_\_\_\_\_  
Carl J. Stewart, Jr.

  
\_\_\_\_\_  
John T. Henley

Co-Chairmen  
Legislative Research Commission

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## INTRODUCTION

The Legislative Research Commission, created by Article 6B of Chapter 120 of the General Statutes, is authorized pursuant to the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and consists of five Representatives and five Senators, who are appointed respectively by the Co-Chairmen. G.S. 120-30.10(a).

At the direction of the 1977 General Assembly, the Legislative Research Commission has undertaken studies of twenty-seven matters, which were arranged into ten groups according to related subject matter. See Appendix A for a list of the Commission members. Pursuant to G.S. 120-30.10(b) and (c), the Commission Co-Chairmen appointed committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and recommendations of the various committees to be reported to the Commission. In addition, one Senator and one Representative from each committee were designated Co-Chairmen. See Appendix B for a list of the committee members.

Senate Joint Resolution 848 (see Appendix C) directed the Legislative Research Commission to (i) study the issues related to revision of G.S. 115 as proposed by 1977 General Assembly Senate Bill 788; (ii) to pay particular attention to incorporation into the revision the 1977 General Assembly changes in G.S. Chapter 115; (iii) to study issues contained in House Bill 1453 and Senate Bill 846 relating to the fiscal functions of the State Board of Education; and (iv) to report to the 1979 General Assembly.

The preamble to SJR 848 states that: (i) the 1975 General Assembly directed revision of the North Carolina public school laws by the State Board of Education and a special Commission on Revision and Recodification (S.L. 1975, c. 888; S.B. 533); (ii) the recodification and revision efforts produced a lengthy report and resulted in the introduction on May 30, 1977, of a 256-page bill (S.B. 788) that would completely rewrite the public school laws, current G.S. Chapter 115; and (iii) the 1977 General Assembly will not have sufficient time to fully examine S.B. 788, particularly with respect to the changes made after the drafting of the proposed replacement for G.S. Chapter 115 in S.B. 788.

## REPORT OF THE COMMITTEE

### I. Senate Joint Resolution 848 (1977 Session)

Senate Joint Resolution 848 entitled "A Joint Resolution Directing the Legislative Research Commission to Complete the Recodification of North Carolina's Public School Laws" was approved and ratified on July 1, 1977. This joint resolution makes reference to the work of the special Commission on Revision and Recodification (S.L. 1975, C. 888; S.B. 533) and to the introduction on May 30, 1977, of the 256-page bill (S.B. 788) which grew out of the work of that Commission. It also noted that issues contained in House Bill 1453 and Senate Bill 846, which had been introduced in the 1977 General Assembly, should be studied in relationship to the overall recodification and revision of the public school laws.

Of special significance to this Committee in its work was the following sentence from the joint resolution: "The Committee shall pay particular attention to incorporation into the revision the 1977 General Assembly changes in General Statute Chapter 115." The magnitude of this particular task has convinced the members of this Committee that early action by the 1979 General Assembly on the proposed recodification and revision is essential in order to avoid a similar task at the close of the 1979 Session. This report summarizes the activities of the Committee, gives the necessary background information on the work of the original Commission, incorporates related documents as appendices where needed, makes recommendations, and suggests procedures that the full Legislative Research Commission may wish to transmit to the General Assembly in compliance with the requirement contained in Senate Joint Resolution 848 that such a report be made to the 1979 General Assembly. (Appendix C).

## II. Chapter 888 of the Session Laws of 1975 (S.B. 833)

The apparent intent of SBR 848 was to have the Legislative Research Commission study in depth the work of the Commission to Revise and Recodify the Public School Laws and to complete the work of that Commission by recommending to the General Assembly specific legislation necessary to achieve the purposes for which the original Commission had been established. To carry out its responsibilities for the Legislative Research Commission, this Committee began with a careful review of the legislation establishing the original Commission and of the activities of that Commission in carrying out the mandates of Chapter 888 of the Session Laws of 1975. (A copy of Chapter 888 of the Session Laws of 1975 is attached as Appendix D.)

The Commission, which consisted of six members of the General Assembly and nine members from the general public, was faced with a monumental task. At its initial meeting, Senator Ed Renfrow was named as Chairman of the Commission and the following statement of purpose was adopted:

"This Commission on Public School Laws of North Carolina shall make a complete, detailed review of Chapter 115 of the PUBLIC SCHOOL LAWS OF NORTH CAROLINA. This Commission will approach this task from the standpoint of making any and all necessary revisions in the PUBLIC SCHOOL LAWS OF NORTH CAROLINA and also serve as a recodification of all existing laws to consolidate and delete unclear statutes and duplication. The purpose of this Commission will be to address itself directly to all the issues at hand which affect public education and to make recodifications and revisions in the form of drafted legislation for consideration by the State Board of Education. The Commission shall also seek out and receive as much advice and input as possible from the general public, professional educators, education administrators, and all local and state agencies."

In accordance with its stated intent to seek out advice and input from all segments of the public, the Commission scheduled a public hearing to be held in each of the State's eight educational districts. Attendance at these eight public hearings totaled over 2,000 persons and statements or testimony was received from more than 100 persons. Testimony ranged from the specific and practical to the philosophical and political, but it unquestionably



provided to the Commission a sound conceptual framework for its future activity. Much of the later discussion and deliberation of the Commission dealt with questions and issues which were raised initially in one or more of the public hearings.

Chapter 888 required the Commission to complete its deliberations and to present its recommendations to the State Board of Education no later than the December, 1976, meeting of the State Board of Education. Beginning in January of 1977, after the schedule of public hearings in the eight educational districts had been completed, the Commission undertook an arduous schedule of meetings, involving both Committee work and full sessions. The Commission met for a minimum of two days per month, frequently for longer periods, and discussed in great detail each individual section of Chapter 115 of the General Statutes. The work of the Commission divided itself naturally into two parts: (1) development of recommendations for recodification and (2) development of recommendations pertaining to revision. Major assistance from Ms. Anne Dellinger of the staff of the Institute of Government at Chapel Hill in the recodification aspect enabled the Commission to devote most of its time to discussion of possible revisions in the law. In response to repeated testimony at all public hearings, the Commission spent a great deal of time and effort in developing proposed legislation to restructure educational governance at the state level.

The Commission made a preliminary report of its recommendations to the State Board of Education at that Board's December, 1976, meeting; and a final report was made to the Board at its January, 1977, meeting. Subsequent to receipt of the final report in March of 1977, the State Board of Education as it was then constituted reported to the Speaker of the House and to the Lieutenant Governor some sixty points in which the Board disagreed with the Commission's recommendations, either in whole or in part. A great many of

these points were minor in nature, but a number were substantive and represented basic disagreement with the thinking of the Commission. These substantive points of disagreement dealt almost exclusively with suggested changes in the educational governance structure.

Subsequent to the State Board of Education's report to the Speaker of the House and to the Lieutenant Governor, Senate Bill 788 was introduced on May 30, 1977. This bill incorporated many of the changes recommended by the State Board of Education, which left a number of inconsistencies in the remainder of the bill because the total bill had been developed on the assumption that governance changes would be made. Somewhat earlier, House Bill 1453 and Senate Bill 846 (identical bills) had been introduced. (A copy of House Bill 1453 is attached as Appendix E.) These bills would have incorporated the fiscal functions of the State Board of Education as an integral part of the elementary-secondary component of the Board's jurisdiction and would have established a separate fiscal operation to serve the community college component. The concept embodied in these bills was consistent with recommendations made by the Commission to the State Board of Education, in that the purposes of the bills could be carried out under a single board or under separate boards but was not consistent with the recommendations of the State Board of Education nor with Senate Bill 788 as it was introduced.

It is the function of this Committee to study Senate Bill 788 and House Bill 1453 (S.B. 846) as these bills were presented to the 1977 General Assembly and to report its findings and recommendations to the 1979 General Assembly.

### III. Activities of the Committee: Recommendations

At the first meeting of this Committee on March 30, 1978, the Committee heard from Dr. David Bruton, Chairman of the State Board of Education. Dr. Bruton, who had been asked to direct his remarks to the work of the

Committee required by Senate Joint Resolution 848, was accompanied by State Superintendent Craig Phillips, Controller Joe Porter, and other staff members from the office of the State Superintendent and the office of the Controller. The positions stated by Chairman Bruton were fully endorsed and concurred in by State Superintendent Phillips and Controller Porter.

Dr. Bruton praised the work of the original Commission and expressed the opinion that this work would have far-reaching, beneficial effect on education in North Carolina. He indicated at the outset that the report of the State Board of Education to the Speaker of the House and to the Lieutenant Governor in March of 1977 remained the official expression of the Board on matters being considered by the Committee. It had not seemed to him, he stated, that the best interests of public education would be served to attempt to redefine the Board's position on governance issues at a time when the Board was working hard to become a cohesive force speaking out for public education. He pointed out that everyone affected by Senate Bill 788 was still not in one hundred percent agreement on all issues related to governance but stressed that everyone to whom he had talked was in agreement that Senate Bill 788 afforded a far better legal structure for education than currently exists in Chapter 115 of the General Statutes, particularly in terms of codification and clarify of intent. He urged the Committee to pursue vigorously the task of revising Senate Bill 788 in such a manner as to eliminate elements of a controversial nature while retaining the numerous improvements which he believed to be contained in the bill. Both Superintendent Phillips and Controller Porter offered strong support to Dr. Bruton's position. (The full text of Dr. Bruton's remarks to the Committee is attached as Appendix B.)

Subsequent general concurrence by the Committee with Dr. Bruton's suggestions concerning a positive and unified approach to the work of the

Committee led to an early decision that such an approach precluded the use of House Bill 1453 (S.B. 846) in the final recommendations of the Committee. By common consent, further study of these bills by the Committee was dropped as a matter to be included in the report to the 1979 General Assembly. It was felt that these bills should appropriately be considered when overall, long-range governance changes are considered. Working from the basic premise that Senate Bill 788 was sound legislation which provided essential recodification and very desirable clarification and streamlining, the Committee sought to remove those features of the bill which might be considered controversial, even in those instances when the Committee tended to favor potentially controversial changes. It was generally agreed that changes of this sort could best be brought about by separate legislation which could be introduced at the initiative of individual legislators after revised Senate Bill 788 had been acted on by the full General Assembly.

At its various meetings between March 30, 1978, and December 1, 1978, the Committee accomplished the following:

- A. It gave serious consideration to the full recommendations of the original Renfrow Commission. With the exception of the recommendations pertaining to educational governance, which were omitted from consideration by mutual consent, the Committee gave conceptual endorsement to the work and findings of that Commission.
- B. It studied Senate Bill 788, section by section, and compared it with corresponding portions of Chapter 115 of the General Statutes of North Carolina. There was general agreement that the bill achieved very effective recodification and that information about the law is much more accessible in the newly codified format.
- C. It failed to be prepared and approved a cross-referencing document to highlight differences in Senate Bill 788 and existing Chapter 115.

This document was used as the basis for redrafting Senate Bill 788; and a similar cross-referencing instrument, together with the redrafted bill, are made a part of this report by incorporation.

- D. It reviewed each section contained in the proposed draft in the light of existing statutes to determine that substantive changes have occurred in the rewrite of the statutes. Substantive changes were determined to be minimal when viewed in the context of the magnitude of the task of the original Commission and the scope of this Committee's work.
- E. A second review of the drafted legislation was made in an attempt to insure that portions of the existing law had not been inadvertently omitted or duplicated.
- F. A final draft of legislation, including an appropriate cross-referencing instrument, was prepared and is submitted to the full Legislative Research Commission, with the unanimous recommendation of the Committee that it go to the General Assembly with total Commission backing on the first day of the 1979 General Assembly. It is further recommended that the legislation be acted on as expeditiously as possible in order that amendments offered during the 1979 Session can be keyed to proposed Chapter 115 rather than existing Chapter 115. Since the effective date of the proposed bill is July 1, 1979, early passage will allow for effective and orderly transition from current to proposed statutes and will further allow the full session for amendments or changes deemed necessary and desirable by the full General Assembly without creating the need for additional recodification at the close of the session to incorporate amendments to the former statutes.

#### IV. Additional Information and Comments

- A. The proposed legislation provides in Article I thereof that the act shall not in any way affect or repeal any local acts in conflict with the provisions of the new legislation.
- B. The proposed legislation incorporates all existing legislation pertaining to children with special needs into a slightly expanded version of the "Creech Bill," including sections for the deaf and blind.
- C. The article dealing with school transportation has been considerably shortened and clarified. The major substantive changes in the article makes the operation of a school transportation system mandatory rather than optional.
- D. The Committee believes that changes made in the "Fair Employment and Dismissal Statute" represent an improvement over existing General Statute 115-142. It is applicable to teachers, principals and supervisors. It provides generally for a new hearing procedure and does not provide for a professional review committee. The hearing procedure is to be commenced by the local superintendent's recommendation to the board to dismiss or demote a career employee. Before giving notice to the board, the superintendent must notify the employee of his intended recommendation. The employee may request a hearing before the local board or before a hearing officer designated by the State Board of Education. The Board may refuse to hear the matter. If the hearing is held before a hearing officer, either party may appeal the decision to the Superior Court. If the initial hearing is before the board, the employee may appeal the decision of the board to the hearing officer.

E. The Committee has also recommended that Article 30 of Chapter 115 of the General Statutes be repealed; and that the statutory reference to the Vocational Rehabilitation Services Division be moved to statutes concerning the Department of Human Resources in order to comply with the reorganization of State government. (A draft proposal to implement this recommendation is attached as Appendix I.)





LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Carl J. Stewart, Jr.  
Chairman

Senate President Pro Tempore  
John T. Henley, Chairman

Rep. Chris S. Barker, Jr.

Senator Dallas L. Alford, Jr.

Rep. A. Hartwell Campbell

Senator Cecil J. Hill

Repl John R. Gamble, Jr.

Senator Robert B. Jordan III

Rep. H. Parks Helms

Senator Russell Walker

Rep. Lura S. Tally

Senator Vernon E. White

Appendix B

COMMITTEE TO STUDY PUBLIC SCHOOL LAWS MEMBERS

Rep. Daniel T. Lilley  
Co-Chairman

Senator Edward Renfrow  
Co-Chairman

Rep. David H. Diamont

Sen. Jack Childers

Rep. James E. Ezzell, Jr.

Sen. George W. Marion, Jr.

Rep. W. Casper Holroyd, Jr.

Sen. Carolyn Mathis

Rep. Vernon G. James

Sen. Vernon E. White

Rep. Lura S. Tally\*

\*LRC Member Responsible for Study

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1977

RATIFIED BILL

RESOLUTION 98

SENATE JOINT RESOLUTION 848

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO COMPLETE THE RECODIFICATION OF NORTH CAROLINA'S PUBLIC SCHOOL LAWS.

Whereas, the 1975 General Assembly directed revision of the North Carolina public school laws by the State Board of Education and a special Commission on Revision and Recodification (S.L. 1975, c. 888; S.B. 533); and

Whereas, the recodification and revision effort produced a lengthy report and resulted in the introduction on May 30, 1977, of a 256-page bill (S.B. 788) that would completely rewrite the public school laws, current G.S. Chapter 115; and

Whereas, the 1977 General Assembly will not have sufficient time to fully examine S.B. 788, particularly with respect to the changes in G.S. Chapter 115 made after the drafting of the proposed replacement for G.S. Chapter 115 in S.B. 788;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10, et seq., is directed to study the issues related to revision of G.S. Chapter 115 as proposed by 1977 General Assembly Senate Bill 788. The commission shall pay particular attention to incorporation into the revision the 1977

General Assembly changes in G.S. Chapter 115. The commission shall also study the issues contained in House Bill 1453 and Senate Bill 846 relating to the fiscal functions of the State Board of Education.

Sec. 2. The commission shall report to the 1979 General Assembly.

Sec. 3. This resolution shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

JAMES C. GREEN, SR.

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James C. Green

President of the Senate

CARL J. STEWART, JR.

---

Carl J. Stewart, Jr.

Speaker of the House of Representatives

S. B. 533

## CHAPTER 888

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION TO REVISE AND RECODIFY CHAPTER 115 OF THE GENERAL STATUTES, ENTITLED "ELEMENTARY AND SECONDARY EDUCATION".

Whereas, Article IX, Section 5, of the State Constitution provides that the State Board of Education shall supervise and administer the free public school system; and

Whereas, the General Statutes relating to the public school laws of North Carolina are out of date and need revision; and

Whereas, the General Statutes relating to the public schools are being revised from time to time on a piecemeal basis without a thorough study being made of the entire public school laws to determine what effect such revisions may have on other sections of these laws; and

Whereas, the North Carolina General Assembly looks to the State Board of Education for revisions in the Statutes relating to the public school laws; Now, therefore,

*The General Assembly of North Carolina enacts*

**Section 1.** The North Carolina State Board of Education shall, upon ratification of this act, provide for a revision of the public school laws, Chapter 115 of the General Statutes, in a manner which will best serve the needs and interests of the public schools of this State.

**Sec. 2.** In order to accomplish the revision of the public school laws a special commission on revision and recodification comprised of 15 members shall be appointed. This commission shall consist of six members of the North Carolina General Assembly, three of whom shall be appointed by the Lieutenant Governor, and three of whom shall be appointed by the Speaker of the House of Representatives. Of the remaining nine members, five members shall be appointed by the North Carolina State Board of Education and four members shall be appointed by the Superintendent of Public Instruction. Included in the five members appointed by the North Carolina State Board of Education shall be one classroom teacher, one local superintendent of schools, one local school board member, one county commissioner and one member of the public at-large. Included in the four members appointed by the Superintendent of Public Instruction shall be one school principal, one local school board member one county commissioner, and one member of the public-at-large.

**Sec. 3.** The State Board of Education shall select from the membership of the commission one member who shall serve as the commission's chairman. The State Board of Education shall provide the required administrative and clerical assistance necessary to facilitate the operations of this commission and such other supportive services as may be required. There is hereby appropriated from the General Fund to the State Board of Education for fiscal year 1975-1976 the sum of twenty-five thousand dollars (\$25,000) and for the fiscal year 1976-1977 the sum of twenty five thousand dollars (\$25,000) to meet the necessary expenses of the special commission.

**Sec. 4.** The special commission on revision and recodification shall complete its deliberations and present its recommendations to the North Carolina State Board of Education no later than the regularly scheduled meeting of the State Board of Education for December, 1976.

The State Board of Education shall prepare a revision of the public school laws and shall present the proposed revision to the North Carolina General Assembly no later than March 15, 1977.

**Sec. 5.** This act shall become effective upon ratification and, if it is deemed necessary by the chairman of the State Board of Education, a special session of the board shall be called in order to accomplish the purposes of this legislation.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1977



HOUSE BILL 1453\*

Short Title: Fiscal Functions - St. Bd. Ed. (Public)

Sponsors: Representative Ned Smith.

Referred to: Education.

June 10, 1977

A BILL TO BE ENTITLED

AN ACT TO UNIFY THE PROGRAM AND FISCAL FUNCTIONS OF THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G. S. 115-11(4) is hereby rewritten to read as follows:

"All functions of the board pertaining to elementary and secondary education, including both program and fiscal affairs, shall be carried out under the direction of the State Superintendent as the constitutional administrative head of the public school system."

115-11(5)

Sec. 2. G. S. ~~115-12~~ is hereby repealed.

Sec. 3. G.S. 115-12 is hereby amended by adding a second sentence at the end thereof to read as follows:

"As the chief administrative officer, the Superintendent of Public Instruction shall be responsible for the supervision and management of all matters pertaining to elementary and secondary education coming under the jurisdiction of the board."

Sec. 4. G.S. 115-14(1) is hereby amended by deleting the period at the end of the first sentence thereof and adding

1 the following:

2 ", including those necessary for supervision and administration  
3 of the fiscal affairs of the board."

4 Sec. 5. Article 4 of Chapter 115 is hereby given the  
5 title "Fiscal Affairs of the State Board of Education".

6 Sec. 6. G.S. 115-16(a) is hereby rewritten to read as  
7 follows:

8 "§ 115-16. Superintendent of Public Instruction to be  
9 administrator of fiscal affairs.--(a) The Superintendent of  
10 Public Instruction is constituted the executive administrator of  
11 the board in the supervision and management of the fiscal affairs  
12 of the board that pertain to elementary/secondary education. It  
13 shall be his duty, under the direction of the board, to  
14 administer the funds provided for the operation of the elementary  
15 and secondary schools of the State in accordance with standards  
16 determined by the board and always within the total funds  
17 appropriated therefor. To assist him in carrying out his  
18 responsibilities under this act, the State Superintendent, with  
19 the advice and consent of the board, shall employ as a member of  
20 his staff a controller, and shall assign to the controller such  
21 specific functions as the superintendent and the board may deem  
22 necessary."

23 Sec. 7. G.S. 115-16(b) is hereby amended by deleting  
24 the word "Controller" as the last word in the first sentence  
25 thereof and substituting therefor the words "Superintendent of  
26 Public Instruction".

27 Sec. 8. G.S. 115-17 is hereby amended by rewriting the  
28

1 subtitle and first sentence thereof to read as follows:

2 "§ 115-17. Fiscal duties defined.--The Superintendent of  
3 Public Instruction, under the direction of the board, shall  
4 perform the following duties:".

5 Sec. 9. G.S. 115-17(3) is hereby rewritten to read as  
6 follows:

7 "(3) He shall certify to each administrative unit the teacher  
8 allotment as determined by the board in accordance with the  
9 provisions of G.S. 115-59. The superintendent of each local  
10 administrative unit shall then certify to the State  
11 Superintendent the names of the persons employed as teachers and  
12 principals by school. The State Superintendent shall then  
13 determine for teachers and principals the certificate rating and  
14 salary rating in accordance with the salary schedule adopted by  
15 the board. He shall then determine, in accordance with the  
16 schedule of salaries established, the total cost of salaries for  
17 teachers and principals for each administrative unit, for  
18 inclusion in the State budget for the current fiscal year."

19 Sec. 10. G.S. 115-17(10) is hereby repealed.

20 Sec. 11. G.S. 115-17(11) is hereby repealed.

21 Sec. 12. G.S. 115-17(12) is hereby repealed.

22 Sec. 13. G.S. 115A is amended by inserting following  
23 Article 3 a new Article 3A entitled "Fiscal Duties of President",  
24 to read as follows:

25 "§ 115A-26A. Fiscal responsibilities of the president.--The  
26 President of the Department of Community Colleges and Technical  
27 Institutes is constituted the executive administrator of the  
28 board in the supervision and management of the fiscal affairs of



1 the board in matters pertaining to the Department of Community  
2 Colleges and Technical Institutes. It shall be his duty, under  
3 the direction of the board, to administer the funds provided for  
4 the operation of community colleges and technical institutes of  
5 the State in accordance with standards determined by the board  
6 and always within the total funds appropriated therefor. To  
7 assist him in carrying out his responsibilities under this act,  
8 the President of the Community College System, with the advice  
9 and consent of the board, shall employ as a member of his staff a  
10 vice-president for fiscal affairs and shall assign to him such  
11 specific functions as the president and the board may deem  
12 necessary."

13 Sec. 14. This act shall become effective on July 1,  
14 1977.

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REMARKS TO LEGISLATIVE RESEARCH COMMISSION  
COMMITTEE TO STUDY PUBLIC SCHOOL LAW  
by Dr. David Bruton, Chairman, State Board of Education  
March 30, 1978

Let me begin by expressing appreciation to the Committee to Study Public School Law for the contribution it has made to public education. The leadership of Senator Renfrow and the days and weeks given by each member of that Commission are examples of citizen action at its best. As the first major revision of the school statutes since our state program was first legislated in 1931 and 1933, the task given to that Commission provided a real challenge. This work was needed badly, and the final product of your study of the Commission's work will mean much to our school system.

The statement of the Board as presented to you several months ago remains the official expression by the Board on these matters. As you know, there are several new members on the Board. Frankly, we have been so busy with other matters that these issues have not yet been placed before the new Board. I have felt that we needed some time to feel our way and become a more cohesive group before we attempted a redefinition of the Board's position on these issues. Thus, my remarks will be somewhat limited. I have brought Dr. Phillips and Mr. Porter with me. I hope the question period that follows will amplify these remarks.

First, let me speak to Articles 2, 3, and 4, and governance. Your original recommendations required some constitutional changes which have not been placed before the people of North Carolina. These Articles deal with governance, and I don't have to tell you that there is wide difference of opinion on this subject in North Carolina and across the country. A quick search of the statutes

of other states gives one an insight into the diversity of structures among the states. Even the federal government is getting into the act with the current debate over a separate Department of Education. Let me say that I would not recommend our present governance structure, if I were designing a system anew in a political vacuum. Your work has stimulated serious and wholesome debate on this issue. This has been good. Members of this Commission, Dr. Phillips, and other key legislators have spoken out, as they should have. Most of the discussion has been centered on the roles and responsibilities of the State Board of Education and the State Superintendent, with references to the community college system and the controller's office.

I feel that a better structure can be built than that which we now have, and we must continue to work on it. Your task was limited by the fact that you were to look at elementary and secondary education. Thus, you could not address fully G.S. 115A concerning the community college system, nor all the laws pertaining to higher education. Federal and state laws are changing the scope of services required of the public elementary and secondary schools. Examples are P.L. 94-142 at the federal level, and the Creech Bill here in our State legislation. The matter of governance of programs for very young children is another example of things to come. We need a comprehensive look at the governance of education in North Carolina. Many of our current arrangements have simply grown like Topsy.

There are other reasons why I would be reluctant to see us place a major focus on the basic governance changes at this time and run the risk of serious division of opinion among our people. It is my clear conviction that we already have too much division among our people about our schools, and we need to work hard to rebuild confidence and togetherness. There is, I believe, a rising tide of positive feeling toward public education. We must build upon this renewed commitment.

As you know, we have several new program thrusts now being implemented in the elementary and secondary schools. Examples of these are the testing program, the primary reading program, and the community school program. All of these have Governor Hunt's strong support and will require the cooperative efforts of all of us if they are to reach their real potential. I would hate to see anything divert our attention from these and other exciting possibilities for improving our instructional programs for all of our children.

I should mention that the Board is now involved in developing an improved funding formula for the community college system.

These and other issues cause me to question the timeliness of tackling the fundamental question of governance structure at this time. Some of you have strong convictions about this, and I encourage you to think seriously with us about our mutual responsibilities in this area.

It would seem to me that as you develop your recommendations with respect to the governance of public education, that you would want in every way possible to include in the statutes provisions and challenges for our state government as well as local units of government to include a responsive public school system as central to our efforts to develop our state and its people. This surely includes the opportunity for our young people to receive a solid emphasis on the basic academic skills, a realistic and responsive guidance program, and an effective system of vocational education--in short to use the language of our Competency Testing Statutes, the opportunity "to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society." I am simply trying to say that our governance structure ought to facilitate in Aycock's phrase "Every child shall have the right to burgeon out all that is within him."

Up to this point I have talked to you in broad, general terms. It is now necessary that I switch from the general to the specific as I point out some areas of concern related to Articles 2, 3, and 4 of Senate Bill 788. These articles, as you are aware, were written by the original Renfrow Commission on the basic premise that certain constitutional amendments would be approved prior to the effective date of the legislation. Since the Constitution has not been amended, it becomes necessary that you re-write portions of Articles 2, 3, and 4 of Senate Bill 788 before that bill can be enacted into law. Much of the remainder of what I will say to you pertains to our suggestions regarding matters which should be considered in re-writing these articles.

Article 2 of Senate Bill 788 is entitled "State Board of Education" and consists of General Statutes 115C-7, 115C-8, and 115C-9. Section 115C-7 deals with the "appointment of board" and in its present format does not conform to requirements of the State Constitution. It is our recommendation that section 115C-7 of Senate Bill 788 be replaced in its entirety (except for the title) with section 115-2 of existing Chapter 115, which reads as follows:

"The general supervision and administration of the free public school system shall be vested in the State Board of Education, to 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.

"The provisions of this section shall not affect the terms of office of the members of the State Board of Education as now constituted."

Section 115C-8, "Organization and Internal Procedures of the Board," basically tracks similar provisions in existing Chapter 115. We would recommend retention of 115C-8 of Senate Bill 788 in the final draft to be submitted to the 1979 General Assembly, primarily because it is clearer and better organized but does not make substantive changes in the existing law. For the sake of consistency with the State Constitution, we would recommend that the last sentence of 115C-8(a) which now reads "The Superintendent of Public Instruction shall serve as secretary to the board" be changed to read "The Superintendent of Public Instruction shall serve as secretary and chief administrative officer of the board."

Section 115C-9, "Powers and duties generally," apparently is not intended to make substantial changes in existing powers and duties of the State Board. We would recommend, however, that section 115C-9 of Senate Bill 788 be replaced in its entirety by existing General Statute 115-11 (copy attached).

It is my considered opinion that the existing law (General Statute 115-11) will be better understood by all concerned and will therefore better serve the needs of the public school system than would the similar version set forth in 115C-9 of Senate Bill 788. Acceptance by the committee of these recommendations would certainly not preclude future amendments to specific sections of this Article.

Article 3 of Senate Bill 788 consists of sections 115C-10, 115C-11, 115C-12, and 115C-13 and is entitled "State Superintendent and Department of Public Instruction." The Article as it currently exists is invalid in that suggested constitutional changes did not occur.

Sections 115C-10, "Superintendent of Public Instruction," and 115C-11, "Superintendent's contract; removal," will need to be replaced by a single article specifying that the State Superintendent shall be elected as provided for in the State Constitution, Article 3.

Section 115C-12, "Office and salary" should be re-written to take into account legislation enacted by the 1977 session of the General Assembly pertaining to salaries of the Council of State. I would also recommend that the first sentence read: "The Superintendent of Public Instruction shall maintain an office in Raleigh."



Section 115C-13, "Powers and duties generally," includes all substantive matters contained in General Statute 115-14 and General Statute 115-15, with the single exception of a single paragraph contained in General Statute 115-14(4), which reads as follows: "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." I would recommend the retention of section 115C-13 of Senate Bill 788 in its present format, except that I would recommend including the above cited provision of General Statute 115-14(4) as an added section 115C-13(a)(10).

Article 4 of Senate Bill 788 consists of sections 115C-14, 115C-15, and 115C-16 and is entitled "Office of the Controller." While this article is not contingent on any change in the State Constitution, it is my opinion that the study of the Controller's Office initiated by the State Board of Education and currently being conducted by the Arthur Anderson Company should be completed before major legislative changes are made in the office of the Controller. It is my recommendation that Article 4 as it currently exists in Chapter 115 of the General Statutes be substituted for Article 4 in Senate Bill 788. This action would enable both the State Board of Education and the General Assembly to assess more accurately than is now possible the specific changes that may need to be made in this article by the 1979 or a later General Assembly.

I would be less than honest if I left you with the impression that everyone who will be affected by the final version of Senate Bill 788 is in 100 percent agreement on every issue that has been raised in connection with this legislation. This is certainly not the case. However, I do believe

that communication regarding the issues is far better than before, and there are substantially fewer areas of disagreement than was formerly true. Because this is the case and because we believe that much has already been accomplished to bring about an effective and amicable working relationship in the governance of public education at the State level, we are united in our belief that now is not the time to push hard to implement differing philosophical concepts. I make these recommendations to you in the sincere belief that the people of North Carolina will be better served by the gradual implementation of necessary changes, after enactment of Senate Bill 788 as well as before enactment. I urge you to give thoughtful consideration to these proposals, and I pledge to you my assistance in the months ahead as you continue to prepare for the 1979 session of the General Assembly.

I see in the future the need to build on what you are doing. I know that you have been somewhat handicapped in your study of the statutes because you were directed to study only the statutes affecting elementary and secondary schools. It is impossible to do what needs to be done to some of these statutes without getting over into 115A affecting the community college system and into statutes affecting higher education. I would hope that your report could be the beginning of a long-range study of the governance of public education K-graduate school to the end that we might build a system of public education K-graduate school that is commensurate with the needs and the future of our great state. I assure you that the State Board of Education will cooperate and be part of an effort of developing an educational system that will respond to the growth and development of our people. I hope you will not feel that you have not gone as far as you should if you develop within your report a system that will work for the time being, but will lead us to an extensive study of all the statutes, policies, and regulations affecting all of education to the end

that these might be revised, updated, and made more responsive. We must build a framework that North Carolina can afford, that will respond to our state's needs, and that will assure adequate educational opportunities for every citizen. Again, I thank you for the job you have done, for the leadership you have given, and for what I know will be your continued commitment and leadership as we move forward together.



PROPOSED CHAPTER 115C  
PUBLIC SCHOOL LAWS

AN ACT TO REWRITE THE ELEMENTARY AND SECONDARY EDUCATION LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is hereby repealed in its entirety.

Sec. 2. A new Chapter to be designated Chapter 115C of the General Statutes is hereby enacted as follows:

"CHAPTER 115C.

"Elementary and Secondary Education.

"SUBCHAPTER I.

"General Provisions.

"ARTICLE 1.

"Preliminary Provisions.

"§ 115C-1. General and uniform system of schools.--As required by the Constitution of North Carolina, the General Assembly shall provide for a general and uniform system of free public schools in which equal opportunities shall be provided for all students.

"§ 115C-2. Non-discrimination policy.--It is the policy of the State Board of Education and of local boards of education of the State of North Carolina not to discriminate among students on the basis of race, sex, national origin, or handicap.

In the employment of professional and all other personnel for

the public schools, neither the State Board of Education nor local boards of education shall discriminate on the basis of race, sex, national origin, or handicap. No person shall, on these bases, be denied the right to receive training for the purpose of becoming a teacher, to engage in practice teaching in any administrative unit, or to be issued a certificate by the State Board of Education, if he is able and qualified to carry out the duties of the position for which he applies or seeks training.

"§ 115C-3. Access to information and public records.--In accordance with Chapter 132 of the General Statutes, all rules, regulations and public records of the State Board of Education, the Department of Public Instruction, and local boards of education shall be available for examination and reproduction on payment of fees by any person.

"§ 115C-4. Open meetings.--All official meetings of the State Board of Education and of local boards of education shall be open to the public in accordance with the provisions of N.C.G.S. 143-318.1 through N.C.G.S. 143-318.7.

"§ 115C-5. Rule-making procedure.--As an agency of the State, the State Board of Education is subject to the North Carolina Administrative Procedures Act, N.C.G.S. 150A-1 to N.C.G.S. 150A-64. The State Board of Education's procedures for rule-making, promulgation of rules, and the handling of contested matters shall be set forth in those sections. Local boards of education are exempt from the Administrative Procedure Act.

"§ 115C-6. Saving clauses.--(a) Continuation of existing law.

The provisions of this Chapter, insofar as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by the act enacting this Chapter of any statute or part thereof shall not revive any statute or part thereof previously repealed or suspended. The provisions of this title shall not affect title to, or ownership of, any real or personal property vested before the effective date of this title. This act shall not in any way affect or repeal any local acts in conflict with the terms of this act.

(b) Existing rights and liabilities. The provisions of this Chapter shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of statutes repealed by the act enacting this Chapter.

"§ 115C-7 to 115C-9: Reserved for future codification purposes.

"SUBCHAPTER II.

"Administrative Organization.

"ARTICLE 2.

"The State Board of Education.

"§ 115C-10. Administration of school system vested in State Board of Education.--The general supervision and administration of the free public school system shall be vested in the State Board of Education, to 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.

The provisions of this section shall not affect the terms of office of the members of the State Board of Education as now constituted.

"§ 115C-11. Organization 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. The secretary shall notify each member of the date, time and purpose of every regular meeting by letter directed to each member at his home post office address and deposited in the Raleigh Post Office at least seven days before the meeting.

(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. The secretary shall notify each member of the date, time and purpose of every special meeting by letter directed to each member at his home post office address and deposited in the Raleigh Post Office at least three days before the 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 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 rules and regulations not inconsistent herewith, to govern their 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 voting and present or a majority, whichever is greater. 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. §§5C-10, 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 generally.--The powers and duties of the State Board of Education are defined as follows:

(1) General Supervision and Administration. The Board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Section 7 of Article IX of the State Constitution, and also excepting such local funds as may be provided by a county, city or district.

(2) Successors to Powers of President of State School Fund and to Boards or Commissions. The Board shall succeed to all the powers and trusts of the president and directors of the State School Fund as set forth in Section 6 of Article IX of the State Constitution 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 to same under the laws of this State.

(3) Investments. 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.

(4) 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 State 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.

(5) 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. 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.

(6) 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.

(7) Acceptance of Federal Funds and Aid. The Board is

authorized to accept, receive, use or reallocate to local school 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.

(8) Acceptance of Gifts and Grants. The Board is authorized to accept, receive, use or reallocate to local school units any gifts, donations, grants, bequests, or other forms of voluntary contributions.

(9) 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.

(10) Power to Provide Library Resources, Textbooks and Other Instructional Materials to Private Schools. 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.

(11) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreement 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 local 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.

(12) Power to Allot Special Teaching Personnel and Funds for Clerical Assistants to Principals. The Board shall have power to provide for the enrichment and strengthening of educational opportunities for 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 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 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 administrative units for experimental programs and purposes.

(13) Power to Make Provisions for Sick Leave. The State Board of Education shall adopt a uniform policy for sick leave and shall provide funds for sick leave for certain public school employees whose positions are supported by State funds at the rate of .83 days per month of the employment period.

(14) 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 which shall be recommended by the State Superintendent of Public Instruction. The standard course of study shall be reviewed by the Board biennially.
- (d) To formulate rules and regulations for the enforcement of the compulsory attendance laws.
- (e) To report to the General Assembly on the operation of the State School fund as set forth in Section 6, Article IX of the State Constitution.
- (f) To manage and operate a system of insurance for public school property.
- (g) 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.

(15) Education Research. The Board is authorized to sponsor or conduct educational 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.

(16) Liability Insurance. The Board is authorized to purchase insurance to protect Board members from liability incurred in the exercise of their duties as members of the Board.

"§ 115C-13 to 115C-14: Reserved for future codification purposes.

### "ARTICLE 3.

#### "State Superintendent of Public Instruction.

"§ 115C-15. Chief Administrative Officer of the State Board of Education.--As provided in Article IX, Section 4(2), of the State Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. The Superintendent shall be elected as provided in Article III, Section 7(1), of the State Constitution and shall serve as a member of the Council of State as provided in Article III, Section 8, of that Constitution.

"§ 115C-16. Office and Salary of State Superintendent of Public Instruction.--(a) The State Superintendent shall keep his central administrative office in the Education Building in Raleigh. He is authorized, in his discretion, to establish a regional service office in each of the eight educational districts established by the General Assembly as provided in

Article IX, Section 4(1), of the State Constitution.

(b) His salary shall be the same as for Court of Appeals Judges as set by the General Assembly in the Budget Appropriations Act.

"§ 115C-17. Administrative duties.--It shall be the duty of the State 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 the State Personnel Act.

(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.

"§ 115C-18. Duties as Secretary to the State Board of Education.--As secretary to the Board, it shall be the duty of the State 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.

(b) 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-19 to 115C-21: Reserved for future codification purposes.

#### "ARTICLE 4.

##### "Powers and Duties of Controller.

"§ 115C-22. Controller to be Administrator of Fiscal Affairs.--

(a) Executive Administrator. 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) Fiscal Affairs of 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) Workmen's compensation as applicable to school employees.
- (5) Sick leave.
- (6) All fiscal matters embraced in the following functions:
  - a. The Public School Fund.
  - b. State Board of Education.
  - c. Vocational Education.
  - d. Purchase of free textbooks.
  - e. Vocational textile training school.
  - f. Administration of the State School Plant Construction Improvement and Repair Fund.
- (7) The administration of such federal funds as may be made available by acts of Congress for the use of public schools.
- (8) Administration of all State funds derived from the

sale and rental of textbooks in the public schools.

(9) The operation of plant, and other auxiliary agencies under the administration of the Board.

(10) Administration of the Public School Insurance Fund.

"§ 115C-23. Duties of controller defined.--The controller, under the direction of the Board shall perform the following duties:

(a) 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:

- (1) State appropriation for maintenance of the public school term.
- (2) State appropriation and any other funds provided for the purchase and rental of public school textbooks.
- (3) State school fund 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.
- (4) State and federal funds for vocational education and other funds as may be provided by act of Congress for assistance to the educational program.
- (5) Vocational rehabilitation funds.
- (6) State appropriation for the maintenance of the Board and its office personnel and including all employees serving under the Board.

(7) Any miscellaneous funds within the jurisdiction of the Board not included in the above.

(b) 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 administrative unit.

(c) He shall certify to each administrative unit the teacher allotment as determined by the Board. The superintendents of the administrative units shall then certify to the State Superintendent the names of the persons employed as teachers and principals by the districts. The State 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 administrative unit for teachers and principals to be included in the State budget for the current fiscal year.

(d) 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 administrative unit:

(1) That funds are lawfully available for the payment

of such requisition; and

(2) Where the order covers salary payment to any employee or employees, that the amount thereof is within the salary schedule or salary rating of the particular employee.

(e) He shall procure, through the Department of Administration, a contract or contracts for the purchase of the estimated needs and requirements of the several administrative units, covering the items of janitor's 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.

(f) 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.

(g) He shall, in cooperation with the State Auditor, cause to be made an annual audit of the State school funds disbursed by local administrative units and all other funds which by law are committed to the administration of the Board.

(h) 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.

(i) 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 the State Personnel Act.

(j) He shall report directly to the Board upon all matters coming within his supervision and management.

(k) He shall furnish to the State Superintendent such information relating to fiscal affairs as may be necessary in the administration of his official duties.

(l) He shall perform such other duties as may be assigned to him by the Board from time to time.

"§ 115C-24 to 115C-26: Reserved for future codification purposes.

#### "ARTICLE 5.

##### "Local Boards of Education.

"§ 115C-27. Designation of board.--A five-member board of education shall be elected in each administrative unit to supervise the public schools and to enforce the school law.

"§ 115C-28. Eligibility for board membership; holding other offices.--(a) 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 any 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.

(b) Who may vote. The board of education of each administrative unit shall be elected by the voters of the unit at large.

(c) Method of election; terms. Elections to the board of education shall be conducted on a nonpartisan basis biennially at the time of the primary election. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes and local acts amendatory thereto. Members shall be elected to four-year terms of office and the terms shall be staggered so that as close to one-half of the terms as possible shall expire every two years.

(d) Conduct of election. The county board of elections under the direction of the State Board of Elections shall make all necessary provisions for elections of boards of education.

(e) Qualification of members. Persons elected to boards of education must qualify, unless temporarily excused by the board for good reason, by taking the oath of office on the first Monday in December following the election. Unexcused failure to qualify at that time shall create a vacancy, to be filled as set out in subsection (f) below.

(f) Vacancies. When a vacancy is created in the membership of a board of education by death, resignation, failure to qualify, or otherwise, the remaining members of the board shall appoint a person to serve until the next election of members of the board. At the time of the next election the remaining unexpired term of office in which the vacancy occurs shall be filled by election.

"§ 115C-29. Compensation of board members.--The tax-levying

authority for an administrative unit shall fix the compensation and expense allowances paid members of the board of education according to the provisions of G.S. 153A-92.

"§ 115C-30. Removal of board members.--A local board of education may remove one of its members from office following his conviction of a crime of moral turpitude or upon the board's decision that he is incapable of or is not discharging his duties. A member of the board may initiate removal by making a motion at a board meeting calling for an investigation of the conduct of a named member. The motion, which shall specify the allegations of misconduct to be investigated, must be passed by a majority of the membership of the board.

If the motion passes, the secretary of the board shall see that written notice of the motion, a copy of the charges, and written notice of the time and place of the removal hearing are delivered to the member at least 10 days before the hearing. At the removal hearing the member shall have the right to be heard in person and by counsel in his defense. He shall have the right to present and examine evidence and to present and cross-examine witnesses. If the board, by a two-thirds vote of the entire board, finds the charges to be true, it shall declare the office vacant. The board's decision must be based on substantial evidence and a statement describing the evidence relied on shall be entered in the minutes of the board. The vacancy shall be filled according to the provisions of G.S. 115C-28(f).

"§ 115C-31. Board a body corporate.--Each local board of education shall be a body corporate by the name of 'The \_\_\_\_\_ County Board of Education' or 'The \_\_\_\_\_ City Board of Education'. The board of education shall be capable of purchasing and holding real and personal property, of erecting and repairing school buildings, of selling and transferring school property for school purposes, and of prosecuting and defending suits for or against the corporation or its employees acting within the scope of their employment.

"§ 115C-32. Organization of board.--Local boards of education shall meet in regular monthly sessions and in special session upon the call of the chairman or secretary as often as the business of the administrative unit requires.

At the first meeting of the board following the election of new members, the board shall elect one of its members as chairman and another member as vice-chairman. The chairman shall preside at the board's meetings, and in the event of his absence, the vice-chairman shall preside. The superintendent of schools shall serve as non-voting secretary to the board and shall be responsible for the minutes of the board. When the position of superintendent is vacant, the board may designate one of its members to be responsible for the minutes of the board.

"§ 115C-33. Liability insurance and immunity.--By securing liability insurance that complies with the conditions set out below, a board of education waives its governmental immunity from liability for death or injury to person or property caused by the negligence or tort of an agent or employee of the board acting

within the scope of his authority or the course of his employment. Immunity is waived only to the extent that the board is indemnified by insurance for the negligence or tort and only with respect to a claim arising after the board has procured liability insurance pursuant to this section and during the time the insurance is in force.

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 board of education against any and all liability for damages for death or injury to persons or property caused by the negligence or tort of an agent or employee of the board of education or of a particular school acting within the scope of his authority or the course of his employment. By entering into such an insurance contract with a local board of education a company or corporation waives any defense based on the governmental immunity of the board.

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

A person sustaining damages, or in case of death, his personal representative, may sue a board of education insured under this section for the recovery of damages in any court of competent jurisdiction within the county where the board of education is located.

Nothing in this section deprives a board of education of any

defense to an action for damages other than the defense of governmental immunity, or affects any defense that the board may have at common law or by virtue of any statute. Nothing in this section relieves a person sustaining damages or the personal representative of a decedent of the duty to give notice, of the claim to the board of education or to begin a civil damage action within the time prescribed or limited by statute.

In an action brought under this section, it shall not be necessary for the plaintiff to allege and to prove the existence of liability insurance on the part of the board; and no pleading that relates to a defendant board's liability insurance shall be read or mentioned in the presence of the trial jury. If the defendant board of education raises an issue as to the existence of liability insurance, the extent of its coverage or any other issue arising out of the contract of insurance, before the board may be subject to liability, all insurance issues must be heard and determined by the judge without resort to a jury at a time prior to the term at which the case is calendared for trial before a jury. Appeals from the ruling of the judge on an insurance issue must be exhausted before the trial of the principal action. If a verdict is returned and judgment is to be entered against the board, the board must file with the court immediately upon its request a certificate setting forth the amount of the board's insurance in effect at the time of the event giving rise to the suit.

The provisions of this section do not apply to claims for damages caused by the negligence or torts of persons driving

public school buses and public school transportation service vehicles, the operating cost of which are paid from the State School Fund. This section is fully applicable to the ownership and operation of school activity buses belonging to a local board of education.

"§ 115C-34. 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 and property that is due to or should be applied to the support and maintenance of schools.

(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-35. Judicial functions of the board.--(a) Investigations. A board of education may decide to investigate and conduct hearings concerning any matter within the jurisdiction of its lawful powers, and the board may issue subpoenas to compel the attendance of witnesses who will not appear before it voluntarily. The sheriff or his deputies shall serve these subpoenas without payment of any fees. The chairman of the board of education or the member presiding over a hearing may administer oaths to persons appearing before the board as witnesses. A person who has been served with a subpoena and who

willfully and without legal excuse fails to appear before a board of education to testify in a matter under investigation shall be guilty of a misdemeanor and subject to a fine of no more than fifty dollars (\$50.00) or imprisonment of 30 days or less.

(b) Appeals. In appeals other than those provided in G.S. 115C-233 any person may appeal from the decision of the superintendent to the board of education, and from the decision of any other school employee first to the superintendent and then to the board of education. The board shall give written notice of hearing to all parties concerned and shall see that a record is made of the hearing that is properly entered in the minutes of the board. The board may designate a panel of three or more of its members to hear and decide an appeal, reserving the right in its discretion to set aside the panel's decision and rehear the appeal.

An appeal shall lie from a decision of the board or its panel to the superior courts of the State. Unless the court finds the record insufficient, the scope of review in superior court shall be limited to the record of the hearing.

(c) Contempt power. The board may request the superior court of the district to cite for contempt any person engaging in disorderly conduct or creating a disturbance that disrupts the board in the transaction of official business.

"§ 115C-36. Powers and duties generally.--All powers and duties respecting public schools not expressly conferred or imposed on another official are conferred to the local board of education. The board shall supervise and have general control of



all public school matters, provide an adequate school system, and enforce the school law within its administrative unit. In order to perform these duties the board has the following specific authority, in addition to its general authority:

(1) to submit budgets, in accordance with the provisions of G.S. 115C-313, to the local tax-levying authority requesting funds to provide an adequate school system;

(2) to employ a superintendent, according to the provisions of Article 13 of this Chapter;

(3) to employ school personnel upon the recommendation of the superintendent and to supervise the general operation of the school system;

(4) to hear appeals from any person from the decisions of the school superintendent;

(5) to assign pupils to schools within the unit;

(6) to provide for the efficient teaching of the curriculum set by the State Board of Education and the General Assembly;

(7) to establish and regulate the school calendar in accordance with the provisions of G.S. 115C-56;

(8) to regulate extracurricular activities in accordance with the regulations of the State Board of Education;

(9) to sponsor or conduct educational research and to provide for in-service training for school personnel;

(10) to provide a school transportation system;

(11) to provide a school food service;

(12) to regulate fees, charges, and solicitations in the public schools. 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. All schedules of fees, charges, and solicitations approved by local boards of education shall be reported to the State Superintendent of Public Instruction;

(13) to accept and administer federal or private funds. In administering such funds a board of education may contract with, cooperate with, and carry out projects with private elementary and secondary schools, community groups, and nonprofit corporations, and may enter into agreements with other boards of education. The board shall file a report with the State Board of Education briefly describing the project and the contractual or cooperative arrangement. When requested, the board shall furnish additional information to the State Board of Education about programs conducted pursuant to this section;

(14) to acquire and dispose of real and personal property for the administrative unit;

(15) to protect the administrative unit's assets;

(16) to develop policies and rules pertaining to the selection, procurement, and distribution of supplementary textbooks, instructional materials, and library books.

"§ 115C-37. Certain conduct prohibited.--(a) No member of a

board of education shall accept gifts for personal use or benefit from any person, group, or entity doing, or desiring to do, business with the administrative unit. Contributions, not otherwise prohibited by law, may be accepted by persons seeking election to a board of education without violating the provisions of this subsection.

(b) Under the provisions of Article 31 of Chapter 14 of the General Statutes, members of boards of education are officials subject to criminal penalties for misconduct. The prohibited conduct and the penalties prescribed are:

- (1) buying or selling the office, a misdemeanor;
- (2) acting in an official capacity before qualifying, a misdemeanor;
- (3) willfully failing to discharge one's duties, a misdemeanor. In its discretion, the court may remove the official from office;
- (4) failing to make or swearing falsely to official reports, a misdemeanor;
- (5) failing to deliver documents or other property at conclusion of one's term, a misdemeanor;
- (6) contracting for one's own benefit, a misdemeanor;
- (7) speculating in claims against counties, cities, or the State, a misdemeanor punishable by a five hundred dollar (\$500.00) fine, six months' imprisonment, or both;

- (8) acting as agent for one furnishing supplies to schools or other State institutions, a misdemeanor punishable by removal from office and a fifty dollar (\$50.00) to five hundred (\$500.00) fine, imprisonment, or both;
- (9) buying school supplies from a member of the board who has a pecuniary interest therein, a misdemeanor, requires removal from office;
- (10) making private use of a publicly owned vehicle or improving one's private vehicle at State expense, a misdemeanor. According to G.S. 14-3, the penalty for a general misdemeanor may include a fine, imprisonment up to two years, or both.

(c) A member of a board of education who votes to incur a debt or pay out funds in violation of law is personally liable for the full amount of the debt or payment.

"§ 115C-38 to 115C-40: Reserved for future codification purposes.

### "SUBCHAPTER III.

#### "School Districts and Units.

#### "ARTICLE 6.

#### "Organization of Schools.

"§ 115C-41. 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,

Tyrell, 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,  
Rowan, Stanly, Union.

Seventh District

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

Eighth District

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

"§ 115C-42. Administrative units classified.--Each county of  
the State shall be classified as a county 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 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 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-43. Merger of units in same county.--(a) 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.

(b) 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 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 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 school administrative units involved.

(c) 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 for 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.

(d) 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 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 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-44. 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 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 plans shall contain provisions covering those items listed in G.S. 115C-43(b) (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 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 called for the purpose of approving these matters. Such referendums, if held, shall be held under the provisions governing elections as set forth in G.S. 115C-37|. 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-37|.

(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. ||5C-37|. The petition must be submitted to the board of county commissioners within 10 days following the public hearing required by G.S. ||5C-43(b) on the proposed plan of merger. The board of county commissioners shall have authority to have such an election conducted by the board of elections of its county under the provisions set forth in G.S. ||5C-37|.

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

"§ ||5C-45. Administrative units formed from contiguous counties.--School administrative units may be formed out of portions 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 administrative units 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. ||5C-43 should be followed as far as applicable.

"§ 115C-46. 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 non-tax district, that is, a territorial division of a county administrative unit under the control of the county board of education, or a city administrative unit under the control of a city board of education, but having no special local tax fund voted by the people for supplementing State and county funds;

(2) the local tax district, that is, a territorial division of a county administrative unit under the control of the county board of education, or a city administrative unit under the control of a city board of education but 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, that is, a territorial division of a county administrative unit under the control of a county board of education which is established for administrative purposes and which consists of one or more local tax districts, non-tax areas or both, or bond districts of the county administrative unit.

"§ 115C-47. Creation and modification of districts by State Board.--The State Board of Education, upon the recommendation of

the county board of education, shall create in any county 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 section 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.

"§ 115C-48. Consolidation of districts and discontinuance of schools.--(a) County boards of education shall have the power and authority to consolidate schools located in the same district and 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.

(b) Provision shall not be made by a county 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 State 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 shall make provision for the operation of such school.

(c) The provisions of this section shall not deprive any city or county 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-267 through G.S. 115C-274.

"6 115C-49. Enlarging tax districts and city units by attaching contiguous property.--The county boards of education with the approval of the State Board of Education may transfer from non-tax territory and attach permanently to local tax districts or to city administrative units, real property contiguous to said local tax districts or city administrative units, upon the written petition of the owners thereof and the taxpayers of the family or 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; and 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-50. School system defined.--The school system of each county and city administrative unit shall consist of kindergarten and twelve grades, and shall be graded on the basis of a school term of not less than 180 days. For purposes of implementing federally funded programs, the term 'secondary school' shall be applicable to grades seven through twelve.

"§ 115C-51 to 115C-53: Reserved for future codification purposes.

#### "SUBCHAPTER IV.

#### "Education Program.

"ARTICLE 7.

"General Education.

"Part I. Courses of study.

"§ 115C-54. Required curriculum.--(a) The State Superintendent shall prepare and present to the State Board of Education for its approval a course of study to be taught in all of the schools of the State of North Carolina. Revisions and additions to the approved course of study may be made from time to time upon the recommendation of the State Superintendent. The State Board of Education shall adopt a course of study for all the schools of the State. The course of study shall prescribe a minimum program of study to be taught in all of the schools of the State, an outline of the textbooks and other instructional materials recommended for use, together with suggested teaching methods as guidance for the teachers.

(b) The approved course of study shall be directed toward, but not limited to the acquisition of skills, attitudes and understanding of all students in the following:

- (1) language arts, including reading, writing, spelling, oral and written English and literature;
- (2) citizenship education, including Americanism, history and government of the United States and of North Carolina, the free enterprise system, its history, theory, and practice in the United States;
- (3) mathematics and science education, including instruction in the conservation of natural resources;



- (4) health and physical education, including safety, personal, and community health, harmful or illegal drugs and alcohol;
- (5) cultural arts education, including music and art; and
- (6) vocational education.

(c) Standards and supervision. All courses of study taught in the schools of the State shall be subject to the supervision of the State Department of Public Instruction and shall be operated in accordance with the minimum standards recommended by the State Board of Education.

(d) Each local board of education shall require that all subjects in the required courses of study, except foreign languages, be taught in the English language: Provided, that nothing in this section shall preclude the teaching of students in a language other than English when such instruction will enhance the educational advancement of the student.

"§ 115C-55. School health education program to be developed and administered.--(a) 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.

(b) 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.

(c) The development and administration of this program shall be the responsibility of each local education administrative unit in the State, a local school health education coordinator for each county, the State Department of Public Instruction, and a State School Health Education Advisory Committee.

(d) Each existing local educational 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.

(e) The State 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 Public Instruction shall be assigned responsibilities as set forth in this section.

(f) A State School Health Advisory Committee is hereby established.

(1) 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 section; and encourage development of higher education programs which would benefit health education in the public schools.

- (2) 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).
- (3) 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, North Carolina

Department of Human Resources; The Chief, State Health Planning and Development Agency, North Carolina 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.

- (4) The appointed members of the advisory committee shall serve for a term of three years; except that in the case of the initial appointments, the representative of the North Carolina Pediatric Society, one of the representatives of a local school administration unit, the representative of the North Carolina Association for Health, Physical Education, and Recreation, and the member of the North Carolina General Assembly shall be appointed for a term of two years; and the representatives of the North Carolina Nurses' Association, the North Carolina Dental Society, the North Carolina Congress of Parents and Teachers, Inc.; and the North Carolina Public Health Association shall be appointed for a term of one year. Each of these computations shall be made as of July 1, 1977. Thereafter, each succeeding term shall be for 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.

"Part 2. School Calendar.

"§ 115C-56. Length of school day.--(a) The length of the school day shall be determined by the several local boards of education for all public schools in their respective 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 term for pupils. There shall be operated in every school in the State a uniform school term for instructing pupils of 180 days: Provided, that the State Board of Education or the board of education of any administrative unit with the approval of the State Board of Education, may suspend the operation of any school or schools 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

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.

(c) Term of employment for teachers and other school personnel. The term of employment for teachers and other school personnel shall be in accordance with the provisions of Subchapter V of Chapter 115C. In adopting the school calendar, each local board of education shall specify the date on which the ten months term of employment begins and ends for teachers and other school personnel and shall provide for the following in the calendar:

- (1) 180 day school term. A school term for pupils of 180 days, based on a five-day work week.
- (2) Annual leave. 1.25 days of annual leave for each month of employment, which leave shall be taken at a time designated by the board of education at a time other than days when students are scheduled to be in attendance. Annual leave days shall not be used to extend the term of employment and shall not be cumulative from one fiscal year to another fiscal year except as provided in this Article.

- (3) Legal holidays. Legal holidays included within the calendar shall be the same or an equivalent number of calendar holidays occurring within the period of employment as those designated by the State Personnel Council for State employees. Veteran's Day (November 11) shall not be included as one of the days within the 180 day school term for pupils.
- (4) Additional work days. 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 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.
- (5) Annual leave for 12-month employees.
- a. Classified principals shall earn annual leave at the same rate and in the same manner as provided for other school employees with annual leave to be taken as provided by the employing board of education; provided, that such leave may be accumulated up to 15 days



and taken within the first 60 days of the next ensuing fiscal year.

b. Superintendents and other employees on an annual basis. The salaries of superintendents and others 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 the same rate of annual vacation leave and legal holidays as set out in subdivisions (2) and (3) above, said annual leave to be taken as determined by each local board of education, provided that such leave may be cumulated up to 15 days and taken within the first 60 days of the next ensuing fiscal year.

c. Other school employees. Other school employees paid on an hourly or other 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. Included within the term of employment shall be provided for

full-time employees the same rate of annual vacation leave and legal holidays as set out in subdivisions (2) and (3) above and said vacation leave shall be taken under policies determined by each local board of education.

"Part 3. Textbooks.

"§ 115C-57. Textbook needs are determined by course of study.--When the State Board of Education has adopted, upon the recommendation of the State 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 Article shall be used by the public schools of the State.

"§ 115C-58. 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-59. Appointment of Textbook Commission.--Within 90 days 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; one member

shall be appointed from each of the eight education districts. Six of these members shall be teachers or principals in the elementary grades; five shall be teachers or principals in the high school grades; and one shall be a superintendent of a local administrative unit. One of these members shall be the parent of an elementary student, grades K-6, at the time of appointment and the other 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 State 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. §38-5(a). Such compensation shall be paid from funds available to the State Board of Education.

"§ 115C-60. Commission to evaluate books offered for adoption.--The members of the commission who are teachers or principals in the elementary grades shall evaluate all textbooks offered for adoption in the elementary grades. The members who are teachers or principals 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-61. 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 request for bids, notification to publishers of calls for adoption, execution and delivery of contracts, requirement of performance bonds, cancellation causes, and such other material matters as may affect the validity of the contracts.

"§ 115C-62. 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-63. Continuance and discontinuance of contracts with the 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 of 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-64. 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-65. 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 court 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-66. Publishers to register.--Any publisher who submits books for adoption shall register in the office of the State 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-67. Sale of books at lower prices 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-68. 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's public school system and to carry out the provisions of this Article;

(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-69. State Board of Education authorized to discontinue handling supplementary and library books.--The State Board of Education is not required to adopt, purchase, warehouse, or distribute supplementary texts or library books or both.

"§ 115C-70. 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 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 these 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 school administrative units, may be used for the above-stated purposes.

"§ 115C-71. 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-72. 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 Article shall be paid quarterly as collected to the State Board of Education.

"§ 115C-73. Duties and authority of superintendents of local



administrative units.--The superintendent of each administrative unit shall administer the provisions of this Article and the rules and regulations of the board insofar as they apply to his unit. The superintendent of each 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 monies may be accounted for properly. If any principal or teacher fails to comply with the provisions of this section, the superintendent shall withhold the 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 provisions of this section have been complied with.

"§ 115C-74. 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 school administrative unit in which the child is enrolled or, in the case of basic textbooks, from the State Board of Education.

"Part 4. High School Competency Testing.

"§ 115C-75. 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 Article 32 of Chapter 115 of the General Statutes possess those skills and that knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship. This Article has three purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society, (ii) to provide a means of identifying the strengths and weaknesses in the education process, and (iii) to establish additional means for making the education system accountable to the public for results.

"§ 115C-76. Competency Test Commission.--(a) The Governor shall appoint a Competency Test Commission on or before July 1, 1977, 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 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 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 a 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-77. Duties of Commission.--(a) No later than January 1, 1978, the Competency Test Commission shall recommend to the State Board of Education tests or other measuring devices that may be used to measure those skills and knowledge thought necessary to enable an individual to function independently and successfully in assuming the responsibilities of citizenship.

(b) After tests have been approved by the State Board of Education and administered, for informational and research purposes only, to all eleventh grade students in the public and nonpublic high schools of the State during the spring semester of 1978, the Competency Test Commission shall review the summaries of these test results.

(c) No later than July 1, 1978, the Competency Test Commission

shall provide the State Board of Education with written recommendations as to the adoption of the tests that were administered for research and informational purposes and as to the minimum levels of performance that it believes should be expected of graduating high school seniors.

(d) After the adoption of tests and minimum graduation standards by the State Board of Education, the tests shall be administered annually to all eleventh grade students in the public school beginning in the fall of 1978. 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.

(e) 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-78. Duties of State Superintendent of Public Instruction.--The State 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-79. 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-80. Duties of local school boards.--Local school boards 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-81. 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 State 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-82. Provisions for nonpublic schools.--The State Board of Education may require the implementation of the testing program contemplated by this Part in nonpublic schools supervised by it pursuant to the provisions of Article 32 of Chapter 115C of the General Statutes.

"Part 5. Statewide Testing Program.

"§ 115C-83. 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 first statewide testing program shall be conducted prior to the end of the 1977-78 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-84. 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-85. Appointment of Testing Commission.--(a) On or before July 1, 1977, 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 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 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-86. 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-87. 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-88. Duties of State Superintendent of Public Instruction.--The State 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-89. 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 systems are encouraged to continue to develop local testing programs designed to diagnose student needs further.

"§ 115C-90. 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-91. Provisions for nonpublic schools.--The State Board of Education may require the implementation of the testing program contemplated by this Part in nonpublic schools supervised by it pursuant to the provisions of Article 32 of Chapter 115C of the General Statutes.

"Part 6. Interstate Compact on Education.

"§ 115C-92. Enactment of compact; purpose and policy.--The compact for education is hereby entered into and enacted into law, with all jurisdictions legally joining therein, in the form

substantially as follows:

(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 are supplied in significant part by persons educated in other states.

"§ 115C-93. 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.

"§ 115C-94. Establishment and definition of 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 10 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.

"§ 115C-95. Powers and authority of the commission.--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 function pursuant to this compact.

"§ 115C-96. 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 representative 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.

"§ 115C-97. Establishment and duties of committees within the commission.--(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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

"§ 115C-98. 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 Ricc. 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, 1976. 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, 1976, 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.

"§ 115C-99. 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-100. North Carolina Education Council; bylaws.--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 State 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.

Pursuant to G.S. 115C-94(9), the commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State of North Carolina.

"§ 115C-101 to 115C-103: Reserved for future codification

purposes.

"ARTICLE 8.

"Special Education.

"Part 1. State Policy.

"§ 115C-104. Policy.--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 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) insure 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-105. Children can learn.--The General Assembly finds that all children with special needs are capable of benefiting 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-106. 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 include 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 ('the Board').

"§ 115C-107. Definition of children with special needs.--The term 'children with special needs' includes, without limitation, all children from age five through age 17 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-108. 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 (i) that service is not being provided by existing public or private resources or (ii) 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 Departments of Human Resources and Correction.

All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Departments of Human Resources and 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 Departments of Human Resources and 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 Departments of Human Resources and 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. §§5C-112 and 113, 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 additional 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-104. The plan shall include:

- (1) A census of the children with special needs in the State, as required by G.S. 115C-108(j);
- (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 present the plan required by subsection (b) to the Governor and the General Assembly and make it available for public comment pursuant to subdivision (1) no later than January 15, 1978. Thereafter, the Board shall annually submit amendments to or revisions of the plan 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, except for the initial submission of the plan, shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt as soon as practicable after July 1, 1977 (but not in any event later than 120 days after July 1, 1977), 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, 1977, and annually thereafter, each local educational agency shall report 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-108(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-108(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 the 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.

(1) 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 in each school year, beginning with the school year 1977-1978. 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 education 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 the conduct of 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 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 through twenty-one, each 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 (i) 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 (ii) 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-109. Compulsory attendance.--No child with special needs between the ages specified by G.S. 115C-107 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(s) reside 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-112 and 115C-113. Every child with special needs shall be entitled to attend such nonresidential schools or programs and receive from them free appropriate public education.

"§ 115C-110. Disciplinary suspensions.--If 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 because he is or poses a risk of injury to himself or others or because he is or is threatening to substantially disrupt the education of others, 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 if that period is one in which the child would be receiving special education or training in the unit but for the suspension or expulsion. The parents may appeal, under G.S. 115C-112, any suspension of more than 10 consecutive days. 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-111. Diagnosis and evaluation; individualized education program.--(a) 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.

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.

(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(s) 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-112 and 115C-113.

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 parent's or guardian's native language or by their dominant mode of communication within 15 calendar days after the diagnosis and evaluation is completed. Within 20 days after the diagnosis and evaluation is 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 education 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 Office of Education,

Department of Health, Education, and Welfare 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(s) 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 education 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 education program shall be planned in collaboration with those other individuals responsible for the design of the total treatment and/or habilitation plan; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

"§ 115C-112. Right to appeal placement.--(a) A child, his parent, his guardian, or his surrogate parent may obtain review 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 that 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 needs.

(b) The parent or guardian of a child shall be promptly notified when the child is or is about to be placed or denied placement in a special program. Notice shall be given either by registered or certified mail, return receipt requested, or through a conference between parent or guardian and a school or human resources agency official. In either case, the parent or guardian shall be informed of his right to appeal the placement decision and given an explanation of the procedure for obtaining such review set forth in (c) and (d) below.

(c) A parent or guardian wishing to appeal a decision concerning a child's placement in an education program shall be entitled to a hearing before the local board of education if the parent or guardian submits a written request for a hearing to the local superintendent no less than 15 days nor more than 30 days from the date on which he received notice of the placement decision. A parent or guardian wishing to appeal a decision concerning a child's placement in a program of the Department of Human Resources shall be entitled to a hearing before the advocacy council of the local human resources agency if the parent or guardian submits a written request for a hearing to the Secretary of Human Resources no less than 15 days nor more than

30 days from the date on which he received notice of the placement decision.

(d) Ordinarily no change shall be made in the program assignment or status of a child during the period afforded his parent or guardian to request a hearing unless the parent or guardian gives written consent to the change. If, however, the health or safety of the child or any other person will be endangered by delaying the change, the change may be made sooner but without prejudice to any rights that the child and his parent or guardian may have pursuant to this section or otherwise.

(e) All hearings shall be closed unless the parent or guardian request otherwise.

(f) The parent or guardian shall have access to any reports, records, clinical evaluations or other materials on 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 of Public Instruction and the Secretary of Human Resources shall make, amend, and revise rules and regulations for the implementation of this section including rules for the conduct of hearings. The rules 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 Secretary of State.



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

"§ 115C-113. Appeal by surrogate parent.--A surrogate parent shall be appointed for the purpose of appealing a placement decision concerning a child whose parent or guardian is unknown or unavailable or a child who is a ward of the State. The surrogate parent may not be an employee of a State or local agency responsible for or involved in the education or care of the child. For an appeal from action or omission by the State or local education agency the surrogate parent shall be appointed by the State Superintendent of Public Instruction from a group of people selected by the Superintendent of Public Instruction. On appeal from an action or omission by the State or local human resources agency, the surrogate parent shall be appointed by the Secretary of Human Resources from a group selected by the Secretary of Human Resources. Both the Superintendent and the Secretary shall establish procedures to ensure that every child in need of a surrogate parent is provided with one to represent the child in the appeal and subsequent proceedings arising therefrom.

"§ 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(s) 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 education agencies in which the student intends to enroll, (v) certain authorized representatives of the State and federal government who are determining eligibility of the child for aid, as provided under Public Law 95-350 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 these 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 guardians 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-112 and 115C-113, on the agency's refusal, and must request the hearing within 30 days

after the agency's refusal.

"§ 115C-115. Private school placements.--The Board shall (i) adopt policies and procedures to assure that handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program) at no cost to their parents or guardian, provided such children have been placed in or referred to such schools or facilities 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 all handicapped children within the State, and (ii) in all such instances, the Board shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies. 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 local educational agency.

"Part 3. State and Local Relationships.

"§ 115C-116. 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 G.S. 160A, Article 20, Part 1, 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 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 (i) 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 (ii) 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 nineteen through twenty-one inclusive.

115C-117. 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-108(a), (b) (5) and (d) (2).

"Part 4. Employment of Handicapped.

"§ 115C-118. Employment of handicapped.--The Board and each local educational agency shall make positive efforts to employ and advance in employment qualified handicapped individuals.

"Part 5. Rules and Regulations.

"§ 115C-119. 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 6. Nonreduction Provisions.

"§ 115C-120. 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 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 7. Budget Analysis and Departmental Funding.

"§ 115C-121. Budget analysis.--The Division of Fiscal Research 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 twenty-one, 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, beginning with the year 1977.

"§ 115C-122. 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 twenty-one, to be furnished or provided by the Departments of Human Resources and Correction shall be submitted by those departments to the Board for review and comment prior to presentation by the respective department to the Advisory Budget Committee, effective for the fiscal year beginning July 1, 1978, and annually thereafter.

"§ 115C-123. 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.

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

"§ 115C-124. Incorporation and location.--There is established and there shall be maintained schools for the deaf of this State. The Department of Human Resources shall be the governing body of the schools for the deaf. The location of all physical plants shall be established and selected by the Department of Human Resources subject to the approval of the Governor of North Carolina.

"§ 115C-125. Pupils admitted; education.--(a) The Department of Human Resources pursuant to the provisions of G.S. 115C-108 and 115C-109 shall admit into the schools for the purposes of education all deaf children who are residents of the State, from age five through age 17; provided, that the Department of Human Resources may admit pupils under the age of five years, when in its judgment, such admissions will be in the best interests of the pupils and the facilities of the schools permit such admissions. Only those who are bona fide citizens or residents or both of North Carolina shall be eligible to and entitled to receive free tuition and maintenance.

(b) The department may fix charges and the board of directors may prescribe rules whereby nonresident deaf children may be admitted on a space available basis. Any person so admitted shall not acquire resident status by virtue of his pupilage.

(c) The department shall: (i) 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; (ii) encourage the State to provide the classrooms with modern auditory training equipment, audio-visual media equipment, and any other special equipment to provide the best educational conditions for the deaf; (iii) provide a teacher training program in the State; and (iv) provide a comprehensive vocational and technical training program for its pupils designed to make them self-supporting.

"§ 115C-126. Agreements with local governing authorities.--The department is authorized to make agreements with the governing authority of any municipality or county 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.

"Part 9. State School for Sight-Impaired Children.

"§ 115C-127. Incorporation, name; location.--There is established, and there shall be maintained, a school for the education of the blind, which shall be a corporation under the name and style of the Governor Morehead School. The Department of Human Resources shall be the governing body for the school for the blind. The location of all physical plants shall be established and selected by the Department of Human Resources subject to the approval of the Governor of North Carolina.

"§ 115C-128. Pupils admitted; education.--(a) The Department of Human Resources pursuant to G.S. 115C-108 and 115C-109 shall admit into the school for the purposes of education all blind



children who are residents of this State, from age five through age 17; provided, that the Department of Human Resources may admit pupils under the age of five years when in its judgment such admission will be in the best interest of the pupils and the facilities of the school permit such admissions. Only those who are bona fide citizens or residents or both of this State shall be eligible for and entitled to receive free tuition.

(b) The Department of Human Resources shall admit into the school on a space-available basis, curable blind persons of the State.

(c) The department may fix charges and prescribe rules whereby nonresident blind children may be admitted as pupils on a space-available basis. Any person so admitted shall not acquire resident status by virtue of his pupilage.

(d) The department shall (i) 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 blind; (ii) encourage the State to provide the classrooms with modern special equipment to provide the best educational conditions possible for the blind; (iii) provide a teacher training program in the State; and (iv) provide a comprehensive vocational and technical program for its pupils designed to make them self-supporting.

"§ 115C-129. Agreements with local governing authorities.--The department is authorized to make agreements with the governing

authority of any municipality or county 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.

"§ 115C-130 to 115C-140: Reserved for future codification purposes.

## "ARTICLE 9.

### "Vocational Education.

#### "Part 1. Program of Vocational Education.

"§ 115C-141. 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 the Office of the State Superintendent a comprehensive vocational education program in the public secondary schools of this State. The purposes of vocational education in North Carolina public schools shall be:

(1) to prepare individuals for gainful employment in recognized occupations, new occupations, and emerging occupations. (Vocational skill development)

(2) to prepare individuals for participation in advance of highly skilled vocational and technical education. (Preparation for advanced education)

(3) to assist individuals in the making of informed and meaningful occupational choices. (Pre-vocational)

"§ 115C-142. Definitions.--The State Board of Education is authorized and directed to provide appropriate definitions to vocational education programs, services, and activities not

otherwise included in this Article:

(1) 'Comprehensive vocational education' means instructional programs, services, or activities directly related to one's preparation for employment, for advanced technical education, or for the making of informed and meaningful occupational choices.

(2) 'Vocational skill development' means a program, service, or activity designed to prepare individuals for gainful employment as semi-skilled or skilled workers, technicians, or professional-support personnel in recognized occupations and in new and emerging occupations including occupations of a trade, technical, business, health, office, homemaking, 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.

(3) '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.

(4) 'Pre-vocational' 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.

"§ 115C-143. 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 and shall have all necessary authority to cooperate with the United States Office of Education in the administration of the federal acts assisting vocational education, to administer any legislation pursuant thereto enacted by the General Assembly of North Carolina, and to assist local boards of education in providing vocational education programs, services, and activities for youths and adults residing in the area under their jurisdiction.

"§ 115C-144. 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 triennially, shall ensure that:

(1) articulation with institutions, agencies, councils, and other organizations having responsibilities for manpower development will happen;

(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 general public an opportunity to express their views concerning

the State Board's plan and to suggest changes in the plan;

(4) the plan describes the State's goals 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 may 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 be maintained for program expansion and replacements through cooperative arrangements with institutions of higher education and other institutions or agencies and where necessary in the financial maintenance of programs and curriculums designed for the preparation of vocational administrators, supervisors, coordinators, instructors, and support personnel;

(7) minimum standards 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 accord with the procedures set forth in the master plan for vocational education;

(9) appropriate minimum standards for vocational education programs, services, and activities be established, promulgated,

supervised, monitored and maintained. Such standards shall specify such characteristics as program objectives, skill competencies, course sequence, qualifications of instructors, and all other standards necessary to ensure that all programs conducted by local educational agencies be of high quality, relevant to student needs, and coordinated with employment opportunities; and

(10) a system of continuing qualitative and quantitative evaluation of all vocational education programs, services, and activities supported under the provisions of this Article be established, maintained, and utilized annually. 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 five years, and for 10 years to ascertain the effectiveness of instruction, services, and activities.

"§ 115C-145. Acceptance of benefits of federal vocational acts.--The State of North Carolina 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 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-146. 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-235.2. 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 educational agencies, 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 Article and consistent with the policy set forth in the Master Plan for Vocational Education.

"§ 115C-147. Responsibility of local boards of education.-- Each local educational agency shall provide free appropriate vocational education instruction, activities, and services in accordance with the provisions of this Article 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.

"Part 2. Vocational Education Production Work Activities.

"§ 115C-148. Statement of purpose.--It is the intent of the General Assembly to provide for the establishment of a framework within which real work experiences as an element of instruction may be organized and maintained to the best advantage of the vocational education programs.

"§ 115C-149. Definitions.--The State Board of Education is

authorized and directed to provide appropriate definitions necessary to this element of instruction not otherwise included in this Article:

(1) The term 'production work' means such jobs, activities, and services performed by a vocational education program under contract with a second party (customer) for remuneration.

(2) The term 'building trades training' means the construction and related activities of dwellings or other buildings by vocational education programs.

"§ 115C-150. 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 as necessary to assist local boards of education in the conduct of production (customer) work as performed in connection with approved State Board of Education vocational education programs.

"§ 115C-151. Use of proceeds derived from production (customer) 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 production (customer) work. Such proceeds shall be established as a revolving fund to be used solely in operating and improving all aspects of the vocational education programs.

"§ 115C-152. Acquisition of land for agricultural education instructional purposes.--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 agreement for such land shall be made to the respective local board of education in which the school(s) 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 placed under the management of the agricultural education program of the school, to be managed with the advice of an agricultural education advisory committee.

Products produced on 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 any aspects of the vocational education programs.

"§ 115C-153. Building trades training.--In the establishment and implementation of production work policies, the State Board of Education will 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. Such local boards of education are authorized to use such funds for each school to pay the fees necessary in securing and recording deeds to such property for each public school operated by said local boards of education and to purchase all materials needed to complete the construction of buildings, by vocational education trade classes and development of site and property by other vocational education programs.

Local boards of education are authorized to expend such funds in acquiring skill services, including electrical, plumbing, heating, sewer, water, transportation, grading, and landscaping needed in the construction and completion of buildings beyond those which can be supplied by the students in such vocational education trade classes.

(2) Local boards of education are authorized, in conjunction with or in lieu of subdivision (1) herein to contract with recognized building trades, educational foundations or associations in the purchase of land, 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-154. Advisory committee on construction projects.--The board of education of the local administrative unit in which the proposed project(s) 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 building trades project(s) shall be undertaken without the approval of a majority of the advisory committee.

"ARTICLE 10.

"Driver Education.

"§ 115C-155. Driver training and safety course.--There shall be organized and administered under the general supervision of the State Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be taught by instructors approved by the State Department of Public Instruction.

(1) Course of training and instruction required in public high schools. The State Board of Education and local boards of education in this State 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 (persons 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 and/or as hereinafter provided.

(2) Inclusion of expense in budget. The local boards of

education of every 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.

(3) 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.

(4) How moneys appropriated may be provided. The board of county commissioners in the several counties of the State and the governing bodies of all municipalities having power to appropriate money and to levy taxes and raise money are hereby authorized to provide the moneys appropriated pursuant to this section or pursuant to any other general, special or public-local act providing for such course of instruction and training in any public high school, by taxation, or 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; and 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.

(5) 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 shall be construed to mean such course of instruction in the operation of motor vehicles as shall be prescribed or approved by the State 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 of the completed age of 14 years and 6 months, and as shall be approved by the principal of the school, shall be eligible for such course of instruction, subject to rules and regulations prescribed by the State Department of Public Instruction.

(6) Acts ratified and confirmed. The acts of all boards of county commissioners and the governing bodies of all municipalities, the acts of all county and city 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-156 to 115C-158: Reserved for future codification purposes.

"ARTICLE 11.

"Optional Programs.

"Part 1. Educational Research.

"§ 115C-159. Special projects.--Local boards of education are authorized to sponsor or conduct educational research and special projects approved by the State Department of Public Instruction and the State Board of Education that may improve the school system under its jurisdiction. Such research or projects may be conducted during the summer months and the board may use any available funds for such purposes.

"Part 2. Adult Education.

"§ 115C-160. Adult education regulated.--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 State Superintendent of Public Instruction, a program of 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. Nothing herein shall prohibit adults from attending any schools operated and maintained by a local board of election.

"Part 3. Summer Schools.

"§ 115C-161. Operation of summer schools.--Any 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 eligibility of students for admission to summer schools, boards of education shall be governed by the provisions of Article 21 of this Chapter.

Local boards of education may provide for summer schools from funds made available for that purpose by the State Board of Education, funds appropriated to the administrative unit by the tax-levying authority, funds collected pursuant to G.S. 115C-370 and from any other revenues available for the purpose.

#### "Part 4. Community Schools.

"§ 115C-162. Title of Part.--This Part shall be known and may be cited as the 'Community Schools Act'.

"§ 115C-163. Purpose of Part.--The purpose of this Part 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, and
- (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 Part.

"§ 115C-164. Definitions.--As used in this Part:

(1) The terms 'public school facility' or 'public school facilities' mean any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school, or high 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 State Superintendent of Public Instruction concerning the involvement of statewide agencies and organizations with the public schools.

"§ 115C-165. State Board of Education duties, responsibilities.--The State 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 State 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; and

(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 (i) increased community involvement in the public schools; and (ii) 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 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 Part. Funds allocated to a local board of education shall not initially exceed three-fourths of the total budget approved in the community schools program submitted by a local board of education.

"§ 115C-166. Authority and responsibility of local boards of education.--Every local board of education which elects to apply for funding pursuant to this Part 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 Part 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 every local board of education applying for funds for the community schools program must equal one-fourth of the total budget for the community schools program of said local board of education.

"§ 115C-167. 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 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 when less than twenty-five percent (25%) of the pupils attending a particular school reside outside the immediate community of the school, such persons shall be parents of students in the particular school for which the advisory council is established. 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 State guidelines.

"§ 115C-168. 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; and

(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 Part.

This program and the provisions of this Part shall be implemented to the extent appropriations are provided by the General Assembly and funds are made available by local government, but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Public Education. No more than five percent (5%) of the total allocation shall be used for State leadership within the State Department of Public Instruction.

"Part 5. North Carolina School of Science and Mathematics.

"§ 115C-169. 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-170. Board of Trustees; appointment; terms of office.--  
(a) The Board of Trustees of the North Carolina School of Science and Mathematics consist 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 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 system.
- (4) Two members appointed by the Speaker of the House of Representatives: a member of the House; and a principal of a local school system.
- (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-171. 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-172 to 115C-175: Reserved for future codification purposes.

## "ARTICLE 12.

### "Supporting Services.

#### "Part 1. Transportation.

"§ 115C-176. Authority and Duties of Local Boards of Education.--Each local board of education is hereby authorized and required to operate school buses for the transportation of eligible pupils enrolled in the public schools of the administrative unit except as provided in G.S. 115C-186 and 187. Each board is authorized to acquire and own school buses for this purpose. Each local board is further authorized and directed to promulgate all necessary rules and policies for the operation of the transportation system to the degree that such rules and policies are consistent with the requirements of this Part. Separate transportation systems for pupils attending elementary schools and for pupils attending junior or senior high schools

may be established.

"§ 115C-177. Authority and Duties of State Board of Education.--(a) The State Board of Education's authority over the transportation system of any local board of education is limited to the authority provided in this Part.

(b) The State Board of Education shall allocate and assign school buses and service vehicles owned by the State to local boards of education based on the needs of such boards. Upon allocation and assignment, the State Board of Education shall cause the title to each bus or service vehicle to be transferred to the appropriate local board of education.

(c) The State Board of Education shall adopt such rules and regulations as it shall deem necessary for the purpose of promoting safety in the operation of school buses. No school bus shall be used to transport pupils unless it conforms to such regulations and is equipped with an adequate heating system, standard turn signals, alternating flashing stoplights on the front and rear of the bus, fire protective equipment, and first aid supplies.

(d) The State Board of Education shall, at the request of the local board, advise the board on the organization and operation of its transportation system.

(e) The State Board of Education shall allocate to the local boards of education all funds appropriated by the General Assembly for the transportation of public school pupils. The funds shall be allocated on a fair and equitable basis, according to the needs of the respective administrative unit. The State



Board of Education shall make the allocation at the beginning of each fiscal year; however, the State Board may reserve for allocation within the fiscal year an amount not to exceed ten percent (10%) of the total transportation funds.

(f) Transportation funds shall be allocated by the State Board of Education and made available to local boards of education in accordance with rules, regulations, and formulas adopted by the State Board of Education. The funds shall be used by local boards solely for replacing, maintaining, insuring, and operating public school buses and service vehicles in accordance with this Part.

"§ 115C-178. Assignment of School Buses to Schools.--The local board of education, on recommendation of the local superintendent, shall allocate and assign to the public schools in the unit the school buses to be operated during the school year. This allocation and assignment may be revised in the same manner during the school year.

"§ 115C-179. Use and Operation of School Buses.--(a) Public school buses may be used for the following purposes only:

- (1) A school bus may be used for the transportation of pupils enrolled in the school to which the bus is assigned. Normal transportation shall be to and from the school for the school day, and pupils shall travel only on the bus to which they are assigned. Children enrolled in a headstart program

which is housed in a building owned and operated by an administrative unit where school is normally conducted may be transported on public school buses, provided there is no extra expense to the State. Children with special needs may be transported to and from the nearest private school having a special education program approved by the State Board of Education if such children have been placed in that program by a local school administrative unit as a result of the State's or the unit's duty to provide an appropriate free public education.

- (2) School employees may be authorized to ride school buses under local board regulation, except that no employee shall be assigned to or permitted to ride in a school bus when overcrowding will result or a pupil entitled to ride the bus will be prevented from doing so or when safe, comfortable, efficient operation of the buses will be impaired.
- (3) In the case of illness or injury requiring immediate medical attention for any pupil or employee while present at school, the principal may, in his discretion, permit the pupil or employee to be transported by a school bus to a doctor or a hospital, and may permit another person to accompany such pupil or employee.
- (4) A local board of education may operate its school

buses one day prior to the opening of the regular school term for such purposes as the superintendent of the unit determines will promote the efficient organization and operation of the schools.

- (5) A local board of education shall not be required to provide transportation for any pupil living within one and one-half miles of the school in which the pupil is enrolled but may provide such transportation in the interest of safety of the children within the funds available for the operation of the transportation system.
- (6) Local boards of education may permit, under rules and regulations adopted as prescribed in this subchapter, the use of school buses for the transportation of pupils and instructional personnel to serve the instructional programs of the schools. On any such trip, a school bus shall not be taken out of the State. The local boards shall determine the specific instructional programs which are eligible for transportation services and shall provide local funds to cover all transportation costs beyond the normal transportation of pupils to and from school.
- (7) Under rules and regulations adopted by the board of education, school buses may be used for the

evacuation of pupils and school employees when the evacuation is jointly authorized and directed by State or local civil defense directors. The State Board of Education shall not be liable for operating costs nor for compensation claims or tort claims resulting from such evacuation. The local civil defense agency shall be liable for operating costs and shall provide liability insurance for the full protection of pupils and employees participating in such evacuation and for all other resulting compensation claims and tort claims.

(b) 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 (The Older Americans Act of 1965), as it is now or may be amended, to provide for the use of school buses to provide transportation for the elderly.

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

a. 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;

b. 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;

c. that adequate liability insurance is maintained under G.S. 115C-195 to insure the board of education, and 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.

(2) 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-179(a) and G.S. 115C-195. 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, the board of education may not enter into the agreement.

- (3) No board of education shall be under any duty to sign any agreement under this section.
- (4) 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.
- (5) 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 subdivision (2) may vary from the State schedule only to cover changes in wages.

"§ 115C-180. Assignment of Pupils to School Buses.--(a) The

principal of a school shall assign pupils to school buses. No pupil shall be permitted to ride on a school bus unless so assigned, except by the express direction of the principal or his designee.

(b) If the superintendent assigns a school bus to more than one school, the superintendent shall designate the number of pupils to be transported to and from each school by the bus. The principals of the respective schools shall assign pupils to the bus accordingly.

(c) Any pupil or the parent, guardian, or person standing in loco parentis to such pupil may apply to the principal for transportation to and from school by bus for the regular school day. The principal shall then assign such pupil to the appropriate school bus if the pupil is entitled to transportation as provided for in this Part. The assignment shall be made in such a manner as to provide for the safe and efficient transportation of the pupils. The principal may change assignments of pupils and employees as is necessary.

(d) If the application for transportation is denied, the decision may be appealed to the board of education as provided in G.S. 115C-34.

"§ 115C-18|. School bus drivers; monitors.--(a) Each local school board shall employ the necessary drivers for its transportation system. Such drivers shall possess all qualifications prescribed by the regulations of the State Board

of Education, but the selection and employment shall be made by the local board of education, and the drivers shall be employees of the local administrative unit. Each local board of education shall assign its bus drivers to the respective schools, and the principal of each school shall assign the drivers to school buses. No school bus shall at any time be operated by anyone other than the assigned driver except by express direction of the principal or in accordance with rules and regulations of the local board of education.

(b) The driver of the school bus, subject to the direction of the principal, shall have complete authority over and responsibility for the safe and orderly operation of the bus, and shall report promptly to the principal any misconduct upon the bus. The principal may take such action as he might take if such misconduct occurred on the grounds of the school.

(c) The principal may, in his discretion, appoint a monitor for any bus. The monitor shall, subject to the direction of the driver, preserve order and take appropriate steps to assure the safe operation of the school bus.

"§ 115C-182. School bus routes.--(a) The principal of a school shall, prior to each regular school year, prepare and submit to the superintendent of the schools of the local administrative unit a plan for a definite route, including stops for receiving and discharging pupils for each bus assigned to the school so as to assure the safety of the pupils and efficient use of the bus. The superintendent shall examine the plan and may, in his discretion, obtain the advice of the State Board of



Education. The superintendent shall make such changes in the proposed bus routes as he shall deem proper and shall then approve the route. The buses shall be operated upon the routes so established and not otherwise, except as provided in this part. Changes in the bus routes suggested by the principal are effective when approved by the superintendent.

(b) Unless road or other conditions make it inadvisable to do so, a public school bus shall be routed on state-maintained highways so that it shall pass within one mile of the residence of each pupil assigned to it.

(c) All bus routes established pursuant to this section shall be filed in the office of the local board of education, and all changes shall be filed in such office within 10 days after becoming effective.

"§ 115C-183. Inspection of school buses and activity buses; report of defect by drivers; discontinuing use until repaired.--

(a) The superintendent of schools in each local administrative unit shall cause each school bus owned or operated by the unit to be inspected at least once each 30 days during the school year for defects which may affect the safe operation of the bus. A report of the inspection and the recommendations of the inspector shall be promptly filed in the office of the superintendent, and a copy shall be forwarded to the principal of the school to which the bus is assigned.

(b) The driver of each school bus shall report to the

principal promptly upon discovery of any defect which may affect the safe operation of the bus. The principal shall then report the defect to the superintendent, who shall cause any and all such defects to be promptly corrected.

(c) If any school bus is found by the principal or the superintendent to be so defective that the bus may not be safely operated, such principal or superintendent shall cause the use of the bus to be discontinued until such bus is repaired. The principal may permit the use of a different bus to transport pupils and employees assigned to the defective bus while it is repaired.

(d) School activity buses shall be inspected at the same time and in the same manner as regular public school buses. Mechanical defects shall also be reported and repaired in the same manner as regular school buses. State funds shall not be used for the purchase, operation, or repair of any activity bus.

"§ 115C-184. Purchase and maintenance of school buses, materials, and supplies.--(a) A local board of education is authorized and required to purchase replacement or additional school buses and service vehicles as are necessary for the safe and efficient operation of its transportation system. Any school bus so purchased shall conform to the provisions of this Part and the regulations of the State Board of Education.

(b) The tax levying authorities of any county are hereby authorized and required to make provision as is necessary in the capital outlay budget of the county for the purchase of school buses and service vehicles.

(c) Any funds appropriated by the General Assembly for the purchase of school buses or service vehicles shall be allocated and made available to the local boards of education in accordance with their requirements.

(d) The title to any additional or replacement school bus or service vehicle shall be taken in the name of the local board of education, and such bus shall be operated and maintained pursuant to the provisions of this subchapter.

(e) The local board of education shall provide adequate facilities for the storage and maintenance of school buses and service vehicles. The tax levying authorities of such county shall provide in its capital outlay budget for the construction or acquisition of such facilities.

(f) If any school bus or service vehicle is damaged or destroyed, the local board of education may apply to the State Board of Education for funds to replace it. If the State Board of Education determines that the replacement of the bus or service vehicles is necessary, it shall allot and make available to the local board of education sufficient funds to purchase a replacement.

(g) All purchases of school buses or service vehicles, except purchases by one local board of education from another, shall be through the Department of Administration.

(h) Appropriations made in the Biennial Budget Appropriation Act for the purchase of public school buses shall be permanent,

and unexpended portions shall not revert to the general fund at the end of such biennium. Any unexpended portion at the end of the fiscal year shall be transferred to a reserve account for the purchase of public school buses.

"§ 115C-185. Transportation supervisors.--The State Board of Education shall adopt rules and regulations specifying the qualifications of persons employed by the local boards of education as chief mechanic or supervisor of transportation to assure the proper maintenance and safety of school buses. Any person not meeting such qualifications shall not be employed as chief mechanic or supervisor of transportation.

"§ 115C-186. Aid in lieu of transportation.--(a) When any local board of education finds it impracticable to furnish a pupil transportation by school bus to the school where the pupil is assigned or enrolled, the board may assign the pupil to another school within the local administrative unit unless the parent, guardian, or person standing in loco parentis to the pupil notifies the principal of the school where the pupil is enrolled or assigned of the pupil's desire to attend such school without school bus transportation.

(b) Notwithstanding the provisions of G.S. 115C-176, if a local board of education shall find it impracticable to furnish a pupil with transportation to school and if the pupil is thus required to obtain board and lodging at a place other than such pupil's residence in order to attend school, the board may, in its discretion, pay the parent or guardian of such pupil a sum not to exceed seventy-five dollars (\$75.00) per calendar month

that such board and lodging is used.

"§ 115C-187. Contracts for transportation.--Notwithstanding the provisions of G.S. 115C-176, any local board of education may, in lieu of operating a transportation system, contract with any person, firm, or corporation for a transportation system. Any vehicles and drivers used in such a transportation system shall conform to all rules and regulations promulgated by the State Board of Education. Provided, that where a vehicle other than a bus is used for the transportation of 16 pupils or less in such a transportation system, the vehicles shall not be required to conform to G.S. 115C-117(c), but shall conform to rules and regulations promulgated by the State Board of Education. If a local board of education shall enter into such a contract, it may use for such purposes funds normally used for the operation of school buses owned by the board, and the tax levying authorities of the county may provide in the budget necessary additional funds to carry out such a contract.

"§ 115C-188. Use of school buses by the National Guard.--When requested to do so by the Governor, the local board of education is authorized and directed to furnish sufficient school buses to the National Guard for transportation to and from authorized places of encampment or to and from places when such guardsmen are ordered to proceed for the purpose of dealing with emergencies. Public school buses so furnished shall be operated by members or employees of the National Guard, and all expense of

such operation, including repair and replacement of buses, shall be paid by the State from National Guard appropriations.

"§ 115C-189. Payment of awards to school bus drivers pursuant to the Workmen's Compensation Act.--If the Industrial Commission shall make an award pursuant to the Workmen's Compensation Act against any local board of education due to the injury or death of a school bus driver arising out of and in the course of such employment, the board shall draw a requisition or requisitions upon the State Board of Education for the amount of such award. The State Board of Education shall honor the requisition to the extent that there are available funds appropriated by the General Assembly for the support of the school term. The local board of education shall apply such funds received from the State Board of Education to the payment of the 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 Workmen's Compensation Act or any other law of this State. Neither the local board of education, the local administrative unit, nor the levying authorities for the local administrative unit shall be liable for the payment of any such award in excess of the amount paid by the State Board of Education. The local board of education, the local administrative unit, and the said tax levying authorities shall not be required to provide or carry Workmen's Compensation insurance for such purpose.

"§ 115C-190. 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 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-19]. 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-192. 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-193. Disease and injuries incurred while not riding on bus not compensable.--Nothing in this Part shall be construed to mean that 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-194. 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-195. Liability insurance and waiver of immunity as to torts of agents, etc.--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 a 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 by 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 nine months' school fund.

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 this section 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-179.

Local boards of education are authorized to purchase activity buses with local capital outlay tax funds, and 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 county and city 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 county or city board of education. Such replacement units for activity buses shall be financed with local funds.

"PART 2.

"Food Services.

"§ 115C-196. School food services provided by local boards of education.--(a) As a part of the function of the public school system, local boards of education may, in their discretion, provide 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 State Board of Education.

(b) 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. 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' as defined in this section shall be included in the budget request filed annually by county and city boards of education with boards of county commissioners. It shall not be mandatory that the provisions of G.S. 143-129 be complied with in the purchase of supplies and food for such school food services.

(c) Notwithstanding other provisions of law, including sections of Chapter 43 of the General Statutes of North Carolina pertaining thereto, it is legislative intent that local boards of education shall be authorized to cooperate fully in programs for feeding the elderly, including the authority to contract with nonschool agencies to carry out such programs; provided that such cooperation shall not result in decreased effectiveness nor

financial loss to the regular school food service program for feeding school children.

"§ 115C-197-198: Reserved for future codification purposes.

"SUBCHAPTER V.

"Personnel.

"ARTICLE 13.

"Superintendents.

"§ 115C-199. Qualifications of superintendent.--To be eligible to serve as superintendent of a school administrative unit, a person must be of good moral character, have had three years' classroom teaching experience and two years' administrative experience in the public schools, and meet the requirements imposed by the State Board of Education. Provided that the requirement of three years' classroom teaching and two years' administrative experience in the public schools may be waived upon the request of the local school unit by the State Board of Education in its discretion.

"§ 115C-200. Selection and approval; term of office.--At the first regular meeting in April preceding the expiration of the current superintendent's term, the board of education shall elect a superintendent of schools to serve for a term of two years. Immediately after the election the chairman of the board of education shall report the name and address of the person elected to the State Superintendent of Public Instruction. The State Superintendent shall approve the person chosen by the local board if he meets the standards of the State Board then in effect for superintendents.

The term and conditions of employment shall be stated in a written contract entered into between the board of education and the superintendent. A copy of the contract shall be filed with the State Superintendent of Public Instruction before the superintendent takes office on the July 1 following his election. The superintendent shall serve for a term of either two or four years which term of office shall be in the discretion of the board.

"§ 115C-201. Residence and oath required.--A superintendent must reside in the county in which he is employed, and before entering on his duties, must take an oath of faithful performance.

"§ 115C-202. Superintendent's salary and leave.--Superintendent's salaries shall be fixed by the State Board of Education according to a standard salary schedule published in the same manner as teachers' and principals' salary schedules. The State Board of Education shall allow experience increments to a superintendent who enters the armed or auxiliary forces of the United States and returns to a position in the State's public schools after an honorable discharge at the same rate as if the superintendent's public school service had been uninterrupted. The superintendent's salary shall be paid monthly on the basis of each calendar month of service. Supplementary compensation and other benefits may be provided by local units in their discretion.

A superintendent is entitled to the same or an equivalent number of legal holidays as are designated for State employees by the State Personnel Council. He shall accumulate annual vacation leave at the rate of 1.25 days for each of the 12 months of service and shall take leave at times determined by the local board of education. Up to 15 days of leave may be accumulated and taken within the first 60 days of the next fiscal year.

"§ 115C-203. Vacancies.--The local board of education shall fill a vacancy occurring in the position of superintendent. When the superintendent is on an approved leave of absence without pay, the board may appoint an acting superintendent subject to the same approval and with the same qualifications for office as a regularly elected superintendent.

If a vacancy occurs that is not filled immediately on either a temporary or a permanent basis, or if a superintendent is absent because of illness or other approved reason, the board may, with the approval of the Superintendent of Public Instruction, assign to a school employee as interim superintendent those duties of the superintendent that must be performed. The assignment shall be made through a resolution duly adopted and entered in the minutes of the board.

"§ 115C-204. Duties of superintendent, generally.--The primary responsibility of the superintendent shall be to implement State laws affecting the public schools and the lawful acts, including rules and regulations, of the local board of education. He shall not teach, nor be regularly employed in any other capacity that limits or interferes with his duties as superintendent. Those



duties shall include the following:

(1) AS the executive officer of the board of education, he shall carry out the educational, business, and administrative policy of the board and shall issue orders and notices on its behalf.

(2) AS secretary to the board, he shall see that minutes of the board's meetings are promptly and accurately recorded in a permanent record kept in the office of the board of education and available for public inspection during regular office hours.

(3) He shall perform the statutory duties required of a superintendent, which include supervising the unit's pupil transportation system, supervising the unit's finances in accordance with the School Budget and Fiscal Control Act, G.S. §§5C-306 to G.S. §§5C-339, informing the board of the condition of school buildings, and making immediate provisions for remedying unsafe or unsanitary conditions.

(4) He shall cooperate with the State Board of Education by:

- a. informing himself of the policies and rules adopted by the State Board of Education for the organization and government of the schools and communicating these to the board of education, school employees, and other interested persons within the administrative unit;
- b. supervising the curriculum adopted by the State Board;

- c. distributing within the unit the forms, materials, and supplies issued by the State Board and giving instructions for their use;
- d. furnishing promptly to the State Board any information it requests on the work carried out by the schools of the unit.

(5) He shall provide for his professional improvement by attending meetings conducted by the Superintendent of Public Instruction and other meetings of professional usefulness.

(6) He shall make recommendations to the board of education concerning the hiring and retention of persons employed by the administrative unit, and shall see that actions taken by the board in these matters are recorded in the minutes.

(7) He shall promote the professional improvement of teachers by holding meetings and study groups, and shall work and plan with all school employees to achieve the best methods of instruction, school organization, and school government.

(8) He shall review the actions of principals in suspending students for fewer than 10 days and approve or disapprove the recommendations of principals in cases of long-term suspension or expulsion.

(9) He shall administer oaths to teachers and other school employees when oaths are required.

"§ 115C-205. Office, equipment, and clerical assistance.--The board of education shall provide an office for the superintendent that is adequately furnished and equipped. The board shall also provide sufficient clerical assistance and office equipment to

enable the superintendent to conduct school business efficiently.

"§ 115C-206. Removal for cause.--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 State 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.

"§ 115C-207. Associate and assistant superintendents.--A local board of education may employ associate or assistant superintendents to perform duties assigned by the superintendent with the board's approval. Their salaries may be paid from funds allocated by the State for this purpose or from local funds.

The board may, on the recommendation of the superintendent, elect associate or assistant superintendents for terms of one to four years. The term may not exceed the expiration date of the superintendent's contract unless the time remaining on that

contract is less than a year. In that case the associate or assistant superintendents' terms shall extend through the school year following the termination of the superintendent's contract.

The board of education and an associate or assistant superintendent shall enter into a written contract specifying the term of employment and file a copy of the contract with the Superintendent of Public Instruction for his information.

An associate or assistant superintendent may be dismissed during his term for the grounds and in accordance with the procedure set forth in G.S. §§5C-206.

"§ §§5C-208 to §§5C-210: Reserved for future codification purposes.

#### "ARTICLE 14.

##### "Principals and Supervisors.

"§ §§5C-211. Selection; requirements.--Any person who is, or is qualified to be, properly certified by the State Board of Education may serve as a principal or supervisor in the public schools. Principals and supervisors shall be recommended by the superintendent and elected by the local board of education. When local funds are available for the purpose, the board may employ supervisors in addition to those provided by the State.

"§ §§5C-212. Salary.--The salaries of principals and State-allotted supervisors shall be fixed by the State Board of Education according to a standard salary schedule published in the same manner as teachers' salary schedules. Principals and supervisors shall be employed for a term of 12 calendar months and their salaries shall be paid at the end of each calendar

month. Persons employed as principals and supervisors at Cameron Morrison, Samuel Leonard, Richard T. Fountain, Juvenile Evaluation Center, C. A. Dillon, Dorbs School for Girls, Samarkand Manor, or Stonewall Jackson, shall be compensated at the same rate as persons employed in equivalent positions in the public schools. Those who leave their positions to enter the armed or auxiliary forces of the United States and return following an honorable discharge shall be allowed experience increments as though their period of service had been uninterrupted.

"§ 115C-213. Annual leave and holidays.--Principals and supervisors shall be allowed the same or an equivalent number of legal holidays as are designated for State employees by the State Personnel Council. Holidays and annual leave shall be taken at times approved by the superintendent.

Principals and supervisors shall earn annual leave at the rate of 1.25 days per month and may accumulate up to 15 days of annual leave to be taken within the first 60 days of the next fiscal year.

"§ 115C-214. Board's authority over principals and supervisors.--A local board of education, on the superintendent's recommendation, may make any just and necessary rule governing the professional conduct of principals and supervisors, the kinds of reports they shall make, and their duties and responsibilities.

"§ 115C-215. Tenure as principal or supervisor.--In accordance with G.S. 115C-233, a person who has performed the duties of a principal or supervisor in a particular position in a school system for three consecutive years may not be transferred from that position to a lower paying position without his consent, except for the reasons given in G.S. 115C-233(f) and in accordance with the procedure for the dismissal or demotion of a career teacher.

"§ 115C-216. Duties of principals, generally.--A principal shall administer his school under the direction of the superintendent in accordance with school board policy and State law. He shall grade and classify pupils, report the progress of pupils, evaluate teachers and other personnel, and assist teachers in the improvement of instruction. The principal's specific authority includes, but is not limited to, responsibility for the following:

(1) disciplining pupils, in accordance with the provisions of Article 22 of this Chapter;

(2) reporting attendance, for accounting purposes and in order to discover and report violations of the compulsory attendance law;

(3) caring for school property, in accordance with G.S. 115C-388; and

(4) observing safety and fire prevention precautions, in accordance with G.S. 115C-390.

Penalties for neglect of duty in regard to reporting attendance, caring for school property, and fire prevention shall be as set

out in G.S. 115C-395.

"§ 115C-217 to 115C-219: Reserved for future codification purposes.

"ARTICLE 15.

"Teachers and Other Professional Personnel.

"§ 115C-220. Prerequisite for teaching.--To be employed in the public or private elementary or secondary schools of the State, a teacher, supervisor, or other professional person must be at least 18 years of age and must hold or be qualified to hold a certificate from the State Board of Education. Nothing herein, however, shall prevent the State Board of Education from employing temporary personnel under such rules as it shall prescribe.

"§ 115C-221. State Board issues certificate.--The State Board of Education shall have entire control of certifying applicants for teaching, supervisory, and other professional positions in the public elementary and secondary schools of North Carolina and shall prescribe rules for the renewal and extension of certificates. The State Board of Education shall require each applicant for an initial or graduate certificate to demonstrate academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate for that purpose. An applicant who achieves the required score and meets such other requirements as may be established by the State Board shall be issued a certificate.

Upon request the State Board of Education and the State Department of Public Instruction shall furnish a local board of education with all information available concerning an applicant's certification, evaluation and qualifications. The information shall include but is not limited to semester hours or quarterly hours completed, graduate work, grades and scores on file with the State Board of Education or the Department of Public Instruction.

"§ 115C-222. Hiring of teachers and other professional personnel.--Teachers employed by a local board of education must be at least 18 years of age, appropriately certified, and have been recommended to the board by its superintendent. Nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

Professional personnel who are not required to be certified shall be at least 18 years of age, shall meet the requirements, if any, established for the position by the State Board of Education, and shall have been recommended to the board by its superintendent.

"§ 115C-223. Student teachers.--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 teach under the direction and supervision of a regularly employed certified teacher. The supervising teacher, in cooperation with the principal and a representative of the teacher preparation institution, shall assign the student teacher



responsibilities that will provide adequate preparation for teaching. His duties may include those duties imposed on a teacher by G.S. 115C-224 and any other part of the school program for which the supervising teacher or the principal is responsible. A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher.

"§ 115C-224. Duties of teachers, generally.--The primary responsibilities of a teacher are:

(1) to teach in a competent manner the assigned portion of the school program and to maintain order and discipline among students. In addition, a teacher shall encourage honesty, morality, mutual respect, and decent behavior among students. To promote the health of pupils, the teacher shall provide frequent periods of recreation, supervise play activities, and encourage wholesome exercise. All these duties shall be carried out in accordance with the school program and policies of the administrative unit in which the teacher is employed;

(2) to cooperate with the superintendent in improving instruction and to participate in the programs for professional growth offered by the superintendent and the local board of education;

(3) to report, as requested, to the principal, the superintendent, or the local board of education, on any school matter. A teacher shall cooperate with the principal in

ascertaining the causes of the pupils' absences, so that they may report violators of the compulsory attendance law to an attendance officer in accordance with the rules of the State Board of Education;

(4) to care for school property. For this purpose, a teacher shall instruct the pupils in the proper care of public property, shall attempt to protect property from defacement or breakage, and shall request payment from the parent of a child who carelessly or willfully damages school property. If the parent refuses to pay, the teacher shall report the offense to the principal and to the superintendent.

"§ 115C-225. Penalties for neglect of duty.--A board of education may withhold payment of salaries of teachers, principals, supervisors, and other school employees who fail to make such reports as are requested by school authorities or required by law. However, when the reports are delivered in accordance with law, the teacher or other employee shall be paid.

A teacher or any other school employee who knowingly or willfully makes or solicits another to make a false report or record, requisition or payroll based on the daily attendance of pupils, a payroll data sheet or any other report required to be made to any board or officer in the performance of the teacher's or other employee's duties shall be guilty of a misdemeanor. Upon conviction he shall be fined or imprisoned in the discretion of the court and, if applicable, his certificate shall be revoked by the Superintendent of Public Instruction.

If damage is done to school property as a result of negligence

on the part of any school employee, the superintendent may hold that employee financially responsible. If the damage is not repaired before the end of the school term, the superintendent may withhold from the final voucher an amount sufficient to repair the damage for which the school employee is responsible.

"§ 115C-226. Allocation of teachers; class size.--(a) The superintendent of each school administrative unit shall submit to the State Board of Education an annual statement, certified by the chairman of the local board of education, showing the organization of schools in his unit and any additional information the State Board may require. On the basis of the statement and other relevant information, including pupil population projections, the State Board of Education shall determine for each administrative unit the number of classroom teachers, principals, and other professional personnel to be included in the State budget.

The State Board of Education shall allocate personnel to administrative units in these separate categories: (i) general teachers, (ii) vocational teachers, (iii) special education teachers and (iv) classified principals.

The State Board of Education may issue rules concerning the allotment of instructional and other professional personnel. The allotment of classified principals shall be one principal for each duly constituted school with seven or more State-allotted teachers, and allotment of general teachers shall be reduced by

the number of classified principals.

(b) Upon notification of its allotment, the local board of education shall organize schools and assign teachers to achieve the following class size maximums:

- (1) for grades kindergarten through three, one teacher per 26 students in average daily membership;
- (2) for the upper elementary grades, one teacher per 33 students in average daily membership;
- (3) for junior high and high schools, one teacher per 35 students, unless more are permitted by the local board of education. No teacher may be assigned more than 150 students per day in average daily membership, unless more are permitted by the State Board of Education.

The local board of education may assign persons classified as general teachers to teaching and non-teaching duties in the various schools provided the class size maximums are not exceeded in the academic areas designated by the State Board of Education.

(c) At the end of the first month of school each year the superintendent shall report to the State Board of Education on class size. His report, to be filed on forms furnished by the State Board, shall indicate the complete organization of each school, the duties of each teacher or other professional person, and the class size or teaching load of each teacher.

(d) The local board of education shall determine whether exceptions to the allowable maximums occur during the year. If additional pupils are enrolled, other than through an emergency

or act of God, so as to cause assignments of pupils in excess of the maximums, any affected teacher and the principal shall notify the superintendent, who shall immediately report the deviation to the local board of education. Upon notification the board shall take steps to correct the deviation, if necessary, by transferring teaching positions between schools. If the board cannot remedy the situation, it shall immediately apply to the State Board of Education for contingency funds for additional personnel. Deviations that cannot be corrected by transfer of teachers and by use of contingency funds shall be temporarily allowed by the State Board of Education.

(e) The local board of education must provide adequate classroom facilities to meet the requirements of this section.

"§ 115C-227. State and local salary scales.--(a) The State Board of Education shall determine and fix the salary for each grade and type of certificate it authorizes. The State Board shall develop a salary schedule for all professional employees paid from State funds, including those employed in the institutions named in G.S. 115C-233(h), based on type of certification, experience, duties and other factors.

(b) A local board of education shall adopt, for its professional employees not paid from State funds, a salary schedule similar to the State salary schedule in that it also must recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued

service in the same school system. If the local board of education fails to adopt a local salary schedule, the State salary schedule shall be in force.

Unless the board finds that a higher salary should be allowed for special fitness, special duties or under extraordinary circumstances, no employee paid from local funds shall receive a salary higher than that allowed in the local salary schedule. Whenever a higher salary is allowed, the minutes of the board shall include a supplementary salary schedule for professional employees by grade, experience, and special duties.

"§ 115C-228. Local supplement to salaries.--The local board of education may authorize the payment of a supplement to all professional employees of the administrative unit from sources other than State funds, including local taxes. The minutes of the board shall include a supplementary salary schedule showing payment to all professional employees by payment, grade and experience.

"§ 115C-229. Obligation and authority to pay salaries.--The local board of education is obligated to provide for the prompt monthly payment of salaries due teachers and other school employees. The authority for the school finance officer to issue vouchers for the salaries of school employees, paid from either State or local funds, shall be a monthly payroll prepared on forms furnished by the State Board of Education and containing the information required by the State Board. The monthly payroll shall be signed by the principal of each school. If any voucher so drawn is chargeable against the funds of the administrative

unit, the amount so charged and the unit to which the amount is charged shall be specified on the voucher.

"§ 115C-230. Method of compensation.--All teachers, whether paid from State or local funds, shall be paid as follows:

(1) Academic teachers. Academic 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, unless an individual teacher requests payment in 12 monthly installments. Such a request must be made on or before the first day of the school year and shall be filed in the administrative unit that employs the teacher. Payment of the annual salary in 12 installments shall not increase or decrease the annual salary nor in any other way alter the contract made between the teacher and the administrative unit. A teacher who is employed for fewer than 10 months is not eligible to request payment in 12 installments.

(2) Occupational education teachers. The State Board of Education shall notify each local board of education annually of the number of months of service by occupational education teachers to be paid for from State funds. Based on this information, a local board of education shall employ teachers for periods of time determined by the board and stated in the contract between the board and the teacher. The teacher shall be paid on a calendar-month basis at the end of each calendar month of service for the duration of his term of employment.

"§ 115C-231. Salary increments while in armed services.--The

State Board of Education shall allow experience increments to a teacher who enters the armed or auxiliary forces of the United States and returns to a position in the State's public schools after an honorable discharge at the same rate as if the teacher's public school service had been uninterrupted.

"§ 115C-232. Vacation and calendar.--Within their 10 calendar months of employment, academic teachers shall earn 1.25 days of annual vacation leave for each of the 10 months of service. Occupational education teachers shall also earn vacation at the rate of 1.25 days for each month of service during the employment period. Vacation shall be taken at a time, designated by the local superintendent, when students are not scheduled to be in regular attendance. Within the 10 months' period of the school calendar each board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Council for State employees. In accordance with policies of the State Board of Education, the local board of education shall designate an additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave to be given over to service rendered before the opening of the school term, during the school term, and after the school term, and the board shall regulate the duties of teachers during that period. In no event, however, shall the total number of workdays exceed 200. For occupational education teachers, the workweek shall be no more than five days regardless of the period of employment. Local boards of education shall consult with teachers and other employees in the development of the calendar.



"§ 115C-233. Retention and dismissal of principals, supervisors, and teachers.--(a) Definition of terms. As used in this section unless the context requires otherwise:

- (1) 'Board' means a local board of education.
- (2) 'Career employee' means a teacher, principal, or supervisor who has obtained career status as provided in G.S. 115C-233(e).
- (3) 'Day' means any day except Saturday, Sunday, or a legal holiday. In computing any period of time, the day on 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 career employee 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 employee' means a teacher, principal, or supervisor who has not obtained career employee status.
- (6) 'Superintendent' means the superintendent of schools of a public school administrative unit or, in his absence, the person designated to fulfill

his functions.

(7) 'Principal' means a person classified and paid as principal under the salary schedule and personnel allotment formula of the State Board of Education. Assistant principals are not included within this definition.

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

(9) '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 State 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) Personnel file. The superintendent shall maintain in his office a personnel file for each teacher, principal, and supervisor employed by the administrative unit. The file shall contain performance evaluations prepared in accordance with guidelines published by the State Board of Education and with any published policies and standards of performance adopted by the local board. Evaluations shall be made at least twice a year,

and more often if required by local board policy. The superintendent and the board shall consider these evaluations in determining whether to renew the contract of a probationary employee and whether the performance of a career employee is adequate.

In addition to performance evaluations and other information pertaining to the employee, the superintendent may retain in the file any written and signed complaint, commendation, or suggestion for improvement concerning the employee received from any source. These complaints, commendations, and suggestions, as well as the performance evaluations, must be signed by the person making them and shall be placed in the file only after five days' notice to the employee. The employee may have the superintendent place in the file any denial or explanation the employee wishes to make concerning an evaluation, complaint, commendation, or suggestion.

The personnel file shall be open for the employee'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 pre-employment data or other information obtained about an employee 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 pre-employment file except the application for employment may be introduced as evidence at a hearing on the dismissal or demotion of an

employee.

(c) Probationary employee.

- (1) A local board of education may not dismiss or demote a probationary teacher, principal, or supervisor during the school year except for the reasons and by the procedures through which a career employee may be dismissed or demoted.
- (2) No less than 40 days before the end of the employment period, the superintendent shall submit to the board a written recommendation concerning the renewal of the board's contract with the probationary employee.
- (3) After receiving the recommendation of the superintendent, the board may renew the contract of the probationary employee or the board may refuse to renew the contract for any cause the board deems sufficient, so long as the cause is not arbitrary, capricious, discriminatory or for personal or political reasons. The board is not required to provide a hearing for a probationary employee before or after deciding whether to renew his contract.
- (4) A probationary employee whose contract will not be renewed for the following year shall be notified in writing of this fact by the superintendent no less than 30 days before the end of his employment period.

(d) Career employee. A career employee 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 for reasons stated in subdivision (1) of subsection (f). An employee who has served as a principal or supervisor 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 subdivision (1) of subsection (f) and in accordance with the dismissal procedure set out in subsection (f).

(e) Achievement of career employee status.

(1) Normal election to career status. When a teacher, principal, or supervisor 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 retention as a teacher, principal, or supervisor for the next school year. The board shall give him written notice of its decision at least 30 days before the end of his third year of employment. If a majority of the board votes to reemploy him in his position, he becomes a career employee on the first day of the fourth year of employment. If the board votes to reemploy the individual and thus grants

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 career employee if it decides to terminate his employment.

If a majority of the board votes against reemployment, the career employee shall not be retained in his position beyond the current school term. However, a career teacher who does not attain career status as a supervisor or principal retains career status as a teacher.

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

- (2) Employment of person with career status. A person 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 employee. If the person is reemployed for a third consecutive year, he shall automatically become a career employee. An employee with career status who resigns and within five years seeks to be reemployed by the same

school system need not serve another probationary period of more than one year and may, at the option of the board, be reemployed as a career employee. In any event, if he is reemployed for a second consecutive year, he shall automatically become a career employee.

(3) Ineligibility for career status. No superintendent, associate superintendent, or assistant superintendent is eligible to obtain career status nor is any other school employee who is not a principal, supervisor, or teacher as defined by G.S. 115C-233(a) (7), (8) or (9).

(4) Leaves of absence. A career employee who has been granted a leave of absence by a board shall maintain his career status if he returns to his position at the end of the authorized leave.

(f) Dismissal or demotion of a career employee.

(1) Grounds. No career employee shall be dismissed or demoted or employed on a part-time basis except for:

a. immorality;

b. habitual and excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes;

- c. advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means;
- d. conviction of a felony or a crime involving moral turpitude;
- e. physical or mental incapacity;
- f. neglect of duty;
- g. insubordination;
- h. failure to fulfill the duties and responsibilities imposed upon teachers, supervisors, or principals by the General Statutes of this State;
- i. inadequate performance;
- j. failure to maintain one's certificate in a current status;
- k. failure to comply with such reasonable requirements as the board may prescribe;
- l. any cause which constitutes grounds for the revocation of such career employee's certificate; or
- m. a justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or insufficient funds provided that subdivision (2) is complied with.

Except for (d) above, dismissal or demotion shall



not be based on conduct occurring more than three years before notice of the superintendent's intention to recommend dismissal is mailed to the employee.

- (2) Priority list. When a career employee is dismissed pursuant to G.S. 115C-233(f)(1)(m) above, his name is placed on a list of available career employees to be maintained by the board. A career employee whose name is placed on such a list shall have a priority on positions for which he is certified or, in the judgment of the superintendent, is qualified, that become available in that system for the three consecutive years following his dismissal. However, if the school system offers the dismissed employee a position for which he is certified and he refuses it, his name shall be removed from the priority list.
- (3) Suspension without pay. If a board believes that cause exists for dismissing an employee for any reason specified in G.S. 115C-233(f)(1)a. through G.S. 115C-233(f)(1)g. and that immediate suspension of the employee is necessary, the board may by resolution suspend him without pay and without giving notice and a hearing. 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 employee shall be reinstated immediately and shall be paid for the period of suspension.

(4) Superintendent's recommendation; notice to employee; board action. Before recommending that the local board dismiss or demote a career employee, the superintendent shall notify the employee by certified mail of his intention to make such a recommendation and the grounds on which he believes the recommendation to be justified. The notice shall also include a copy of G.S. 115C-233 and a statement that the employee may, within 15 days of the receipt of the notice, request a hearing before the board, or if the board declines, before a hearing officer designated by the State Board of Education. The board may, but is not required to, grant an employee's request for a hearing before voting on acceptance or rejection of the superintendent's recommendation.

(5) Hearing.

a. Before the board. If the employee has requested a hearing and the board wishes to hear the matter, it shall notify the employee of a hearing to be held not less than seven nor more than 20 days after the employee's

receipt of the notification. The hearing shall be private. The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the employee, but no fee for a witness who resides within the county in which the hearing is held 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. Witness fees shall be as set out in G.S. 7A-314. The board shall bear the cost of making a record of the hearing and of providing the employee a transcript thereof in the event of an appeal to the courts. Within five days following the conclusion of the hearing, the board shall render a decision as to whether the recommendation of the superintendent is justified and shall send written notice of its decision to the employee and the superintendent.

- b. Before a hearing officer of the State Board of Education. If the local board of education has refused the employee's request for a hearing and has voted to accept the superintendent's recommendation of dismissal

or demotion, the employee is entitled to a hearing before a professional hearing officer of the State Board of Education. Unless otherwise provided herein, the hearing shall be conducted according to the rules for conduct of a hearing set out in Article 3, Chapter 150A of the General Statutes, the Administrative Procedure Act. The hearing shall be private and shall be conducted within the administrative unit in which the individual is employed not less than seven nor more than 30 days from the date of discharge or demotion by the board. The board shall pay witnesses subpoenaed on behalf of the employee, but no fee for a witness who resides within the county in which the hearing is held 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. Witness fees shall be as set out in G.S. 7A-314. The board shall bear the cost of making a record of the hearing and of providing the employee a transcript thereof in the event of an appeal to the courts.

Within five days following the conclusion of the hearing, the hearing officer shall

render a decision as to whether the recommendation of the superintendent is justified and shall communicate the decision in writing to the board of education. Within five days of the receipt of the hearing officer's decision, the board shall send a written copy of the hearing officer's decision to the employee and the superintendent.

- (6) Appeal. A career employee who has had a hearing before the board may appeal from the decision of the board to the State Hearing Officer of the State Board of Education for a review of the record with a decision to affirm or reverse the decision of the Board. Either the employee or the board may appeal from the decision of the hearing officer to the superior court for the judicial district in which the individual is employed. In either case, the appeal, which shall be filed within 30 days after announcement of the board's or hearing officer's decision, shall be confined to the question of whether there was sufficient evidence in the hearing record on which to base the decision.

(g) Notice of resignation. No teacher, supervisor, or principal shall resign unless he has given at least 30 days' notice or has obtained the consent of the superintendent. If the

employee does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the employee's certificate for the remainder of that school year. A copy of the request shall be placed in the employee's personnel file.

(h) Applicable to personnel of designated institutions. Notwithstanding any law or regulation to the contrary, including the salary schedule adopted by the State Board of Education, this section shall apply to all persons defined as teachers, principals, or supervisors by this section in the following schools and institutions:

Cameron Morrison.

Sandhills Youth Center.

Richard T. Fountain.

Juvenile Evaluation Center.

C. A. Dillon.

Dobbs School for Girls.

Samarkand Manor.

Stonewall Jackson.

"§ 115C-234. Reducing employment 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-235 to 115C-237: Reserved for future codification purposes.

"ARTICLE 16.

"Other School Employees.

"§ 115C-238. Hiring and dismissal.--The superintendent of a local board of education shall employ and dismiss other school personnel in accordance with policies established by the board.

"§ 115C-239. Salary and leave.--Other school employees shall be paid at times determined by the local board of education. Expenditures from State funds for salaries shall not exceed the allocations made by the State Board of Education and these funds shall be expended in accordance with the rules and regulations of the State Board of Education. Other full-time school employees shall be entitled to annual vacation leave, sick leave, and legal holidays established by rules and regulations of the State Board of Education. Vacation shall be taken at times designated by the local superintendent.

"ARTICLE 17.

"General Personnel Regulations.

"§ 115C-240. Employee health certificate.--Every public school employee, both upon initial employment and upon a return to employment after an absence of more than one school year, shall file in his superintendent's office a certificate from a licensed physician. A physical examination shall be performed in accordance with rules and regulations adopted by the State Superintendent with the approval of the Secretary of Human Resources, and the certificate, which must be filed before the



employee assumes his duties, shall state that the person does not have tuberculosis in the communicable form, or any other communicable disease, or any disease that would impair his ability to perform his duties effectively. Thereafter, each employee must file annually, before assuming his duties, a physician's certificate that the employee is free from tuberculosis in the communicable form. In addition, if a board of education or a superintendent considers it necessary, the board or superintendent may require any employee to take a physical examination.

An 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 that the employee is free from any communicable disease.

The superintendent of each administrative unit is responsible for enforcing the provisions of this section. A person violating any of the provisions of this section shall be subject to dismissal in the discretion of the local board.

"§ 115C-24|. Penalties for neglect of duty.--A board of education may withhold payment of salaries of teachers, principals, supervisors, and other school employees who fail to make such reports as are requested by school authorities or required by law. However, when the reports are delivered in accordance with law, the teacher or other employee shall be paid.

A teacher or any other school employee who knowingly or willfully makes or solicits another to make a false report or record, requisition or payroll based on the daily attendance of pupils, a payroll data sheet or any other report required to be made to any board or officer in the performance of the teacher's or other employee's duties shall be guilty of a misdemeanor. Upon conviction he shall be fined or imprisoned in the discretion of the court and, if applicable, his certificate shall be revoked by the Superintendent of Public Instruction.

If damage is done to school property as a result of negligence on the part of any school employee, the superintendent may hold that employee financially responsible. If the damage is not repaired before the end of the school term, the superintendent may withhold from the final voucher an amount sufficient to repair the damage for which the school employee is responsible.

"§ 115C-242. Certain conduct prohibited.--No school employee shall obtain for his personal use or benefit any property belonging to the administrative unit or any service provided by the administrative unit other than property or services available to the general public.

"§ 115C-243. Salary and vacation.--School employees, whether paid from State or local funds, shall be paid promptly when their salaries are due, provided the legal requirements for their employment and service have been met. Each local board of education shall sustain any loss suffered by reason of an overpayment to a school employee paid from State funds. Eligibility for annual vacation leave shall be determined by

policies of the State Board of Education.

"§ 115C-244. Salary of school employee injured in violent episode--(a) Any teacher or other school employee, as defined in G.S. 135-1(25), who, while engaged in the course of his employment or in activities incidental thereto, suffers an 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 one of these periods: one year, or 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 means an act of violence directed toward a school building, facility, teacher or student, by any person, including another student. The salary shall be in lieu of all other income or disability benefits payable to the teacher under workmen's compensation only during the period prescribed herein. Thereafter, the teacher shall be paid any income or disability payments to which he is entitled under workmen's compensation. If the injured teacher's disability necessitates the hiring of a substitute teacher, the substitute teacher shall be paid from the same source of funds from which the teacher is paid. This section does not limit the right of the injured teacher to receive the benefits of medical, hospital, drug and related expense payments from any source including workmen's compensation. This section does not apply to a teacher injured while participating in or provoking an episode of violence,

unless the episode of violence is incidental to the preservation of self-defense or to the maintenance or restoration of order or classroom discipline.

(b) Any school employee wishing to claim the benefits of this section shall file a claim with his local board of education within one year of the occurrence giving rise to the injury. Within 30 days after receipt of the claim the board of education shall decide whether and to what extent the teacher is entitled to the benefits of the section and shall immediately transmit its written decision to the teacher. The teacher may appeal the board's decision to the North Carolina Industrial Commission by serving the board of education and the commission with written notice of appeal within 30 days after receipt of the board's written decision. In determining appeals under this section the North Carolina Industrial Commission shall hear the matter de novo and pass upon all claims presented in accordance with the commission's procedures for determining claims under the Workmen's Compensation Act. The decision of the commission may be appealed to the North Carolina Court of Appeals as provided in G.S. 143-293 and G.S. 143-294.

"§ 115C-245 to 115C-247: Reserved for future codification purposes.

#### "ARTICLE 18.

##### "Employment Benefits.

"§ 115C-248. Annual leave, holidays.--Provisions for annual leave and legal holidays shall be as set forth in Article 13, Superintendents; Article 14, Principals and Supervisors; Article

15, Teachers and Other Professional Personnel; Article 16, Nonprofessional Personnel; and Article 17, General Personnel Regulations.

"§ 115C-249. Sick leave.--The State Board of Education shall adopt a uniform policy for sick leave and shall provide funds for sick leave for certain public school employees whose positions are supported by State funds at a rate of .83 days per month of the employment period. An employee may accumulate sick leave from year to year, indefinitely, during his term of employment. The State Board shall not provide sick leave for local superintendents, associate or assistant superintendents.

The State Board of Education shall adopt rules and regulations governing the provision of substitutes for employees on sick leave. The board shall fix the pay of a substitute and provide each school administrative unit with the amount needed for substitutes' pay, not exceeding the amount provided for other State employees.

"§ 115C-250. Workmen's compensation.--(a) Employees other than bus drivers. The Workmen's Compensation Act shall apply to all school employees, and the State Board of Education shall make the arrangements necessary for covering employees paid from State funds. The State's liability is confined to compensation of State-paid employees for injuries or death caused by accident arising out of and in the course of their employment in connection with the State-operated 10-month school term. The

amount of State compensation shall be based on the average weekly wage, as defined in the Workmen's Compensation Act, of these employees, whether their compensation for the 10-month school term is paid entirely from State funds or is supplemented by local funds. The State shall also be liable for workmen's compensation for all school employees involved in the teaching of vocational agriculture, home economics, trades and industries, and other vocational subjects supported in part by State (and federal) funds. The State's liability shall cover the entire period of service of such employees.

Local boards of education shall be liable for workmen's compensation for school employees, including lunchroom employees, paid from local or special funds. Local boards are authorized to purchase insurance to cover such compensation liability and to include the cost of the insurance in their annual budgets.

This section shall not apply to any person, firm, or corporation making voluntary contributions to schools for any purpose, nor shall the person, firm, or corporation be liable for the payment of any sum of money under this Subchapter.

(b) School bus drivers. When the State Industrial Commission finds a local board of education liable under the Workmen's Compensation Act for injuries to or the death of a school bus driver arising out of and in the course of his employment as a driver, the local board shall requisition from the State Board of Education the amount required to pay the award. The State Board shall honor the requisition from available funds, either in its possession or subject to its control, that have been or will

thereafter be appropriated by the General Assembly for the 10-month school term. The local board shall apply all funds received from the State Board pursuant to such a requisition to the payment of the award. Neither the State nor the State Board of Education shall be deemed the employer of a school bus driver, nor shall they be liable to any person for payment of a claim, award, or judgment under the Workmen's Compensation Act or any other State law for injury or death arising out of or in the course of the operation of a public school bus by a school bus driver. Neither the local board of education nor its tax-levying authority shall be liable, under this section, to pay an award in excess of the amount paid to the local board by the State Board of Education, and neither the local board nor its tax-levying authority shall be required to carry workmen's compensation insurance for such a purpose.

"§ 115C-251. Retirement.--(a) Retirement, disability, death, and other benefits for all school employees, as defined in G.S. 135-1(25), shall be as set out in Chapter 135 of the General Statutes.

(b) Social Security. Social Security for all school employees shall be as provided in G.S. 135, Article 2.

"§ 115C-252. Health and medical insurance and disability salary benefits.--Present and former public school employees are entitled to certain health and medical insurance and disability benefits offered pursuant to Article 3, Chapter 135 of the

General Statutes.

"§ 115C-253. Annuity contracts.--(a) Notwithstanding the provisions of this Chapter for the adoption of State and local salary schedules for school employees, a local board of education may agree with any of its employees to reduce the employee's salary, for a one-year period, below the total compensation established by the salary schedule. The local board shall use the funds derived from the salary reduction to purchase a nonforfeitable annuity contract for the benefit of the employee. An employee who has agreed to a salary reduction for this purpose has no right to receive the amount of the salary reduction in cash or in any way other than the annuity contract. The amount by which an employee's salary is reduced pursuant to this section shall continue to be included in his salary for purposes of computing and making payroll deductions for Social Security and retirement and computing and providing matching funds for the retirement system. Funds used by the board for the purchase of the contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective.

The State Board of Education shall provide forms for entering into an agreement for salary reduction and shall adopt regulations and procedures governing such agreements.

(b) Deferred compensation. Deferred compensation for public school employees shall be as set out in Chapter 147, Article 2A of the General Statutes.

"§ 115C-254. Payroll deductions for insurance and credit union



deposits.--The State Board of Education may authorize a local board of education, the board of trustees of a community college or technical institute, or another governing authority within the State to establish, for an employee, upon receipt of his written consent, a voluntary payroll deduction plan for:

(1) premiums for group insurance established and authorized by State law;

(2) deposits to accounts in the State Employees' Credit Union or local public employees' credit unions;

(3) repayment of loans made to school employees by credit unions.

"§ 115C-255 to 115C-257: Reserved for future codification purposes.

"ARTICLE 19.

"Interstate Agreement on Qualifications of Educational Personnel.

"§ 115C-258. Purpose, findings, 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-259. 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 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-260.

(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-260.

(6) 'State' means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

"§ 115C-260. 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-261. 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-262. 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-260 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-263. 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-264. 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-265. 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-266. 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-267. Designated State official.--For the purposes of the agreement set forth in this Article the 'designated State official' for this State shall be the State Superintendent of Public Instruction. He shall enter into contracts pursuant to G.S. 115C-260 only with the approval of the specific text thereof by the State Board of Education.

"SUBCHAPTER VI.

"Students.

"ARTICLE 20.

"Admission and Assignment of Students.

"§ 115C-268. Admission requirements.--Children to be entitled to enrollment in the public schools must have passed the fifth anniversary of their birth before October 16 of the year in which they enroll, and must enroll during the first month of the school year. Provided that if a child has already been attending school in another state in accordance with the laws or regulations of the school authorities of that state before moving to and becoming a resident of North Carolina, the child will be eligible for enrollment in the school of this State regardless of whether the child has passed the fifth anniversary of his birth before October 16. 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 the school to furnish a certified copy of the birth certificate of the child, which shall be furnished without charge by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of his date of birth.

"§ 115C-269. Children in orphanages admitted to 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 administrative unit in which the institution is located, and a part or all of said orphan children shall be permitted to attend the public school or schools of their administrative unit: Provided, that the provisions of this section shall be permissive only, and shall not be mandatory.



"§ 115C-270. Assignment of student to particular school.--Each local board of education is authorized and directed to provide for the assignment to a public school of each child residing within the administrative unit who is qualified under the laws of this State for admission to a public school. Except as otherwise provided in this Article, 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 administrative unit may be assigned either with or without the payment of tuition to a public school located in another administrative unit upon terms and conditions as may be agreed in writing between the boards of education of the administrative units involved and entered upon the official records of the 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 section, 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 rules and regulations as in the opinion of the board are necessary in the administration of this Article.

"§ 115C-27|. Assignment on certain bases prohibited.--No person shall be refused admission into 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 administrative units have divided the geographic area into attendance districts or zones, pupils shall be assigned to schools within these attendance districts; provided, however, that the board of education of an administrative unit may assign any pupil to a school outside of his attendance district or zone in order that the 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 this Article 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 this Article 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 an administrative unit.

"§ 115C-272. Notice of assignment.--In exercising the authority conferred by G.S. 115C-269 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 administrative unit.

"§ 115C-273. 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 the board of education may, within 10 days after notification of the assignment or the last publication thereof, apply in writing to the 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 board of education pursuant to rules and regulations adopted by the board of education. If the application for reassignment is disapproved, the 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 board for a hearing, and shall be entitled to

a prompt and fair hearing on the question of reassignment of the child to a different school. A majority of the board shall be a quorum for the purpose of holding the 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 board shall find that the child is entitled to be reassigned to the school, or if the board shall find that the reassignment of the child to the 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, the board shall direct that the child be reassigned to and admitted to the school. The board shall render prompt decision upon the hearing, and notice of the decision shall be given to the applicant by registered mail.

"§ 115C-274. Appeal from board's decision.--Any person aggrieved by the final order of the local board of education may at any time within 10 days from the date of the order appeal therefrom to the superior court of the county which the administrative school unit or some part thereof is located. Upon the appeal, the matter shall be heard de novo in the superior court before a jury in the same manner as civil actions are tried and disposed of therein. The record on appeal to the superior court shall consist of a true copy of the application and decision of the board, duly certified by the secretary of the board. If the decision of the court be that the order of the local board of education shall be set aside, then the court shall

enter its order so providing and adjudging that the child is entitled to attend the school as claimed by the appellant, or any other school as the court may find that the child is entitled to attend, and in that case the child shall be admitted to the school by the local board of education concerned. From the judgment of the superior court an appeal may be taken by an interested party or by the board to the appellate division in the same manner as other appeals are taken from judgments of that court in civil actions.

"§ 115C-275. Assignment to school bus.--(a) The principal of a school, to which any school bus has been assigned by the superintendent of the schools or the local administrative unit embracing the school, shall assign to the bus or buses the pupils and employees who may be transported to and from the school upon the bus or buses. No pupil or employee shall be permitted to ride on any school bus to which the pupil or employee has not been assigned by the principal, except by the express direction of the principal.

(b) In the event that the superintendent of the schools of any local 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 school by the bus, and the principals of the respective schools shall assign pupils to the buses in accordance with the principal's designation.

(c) Any pupil enrolled in any school, or the parent or guardian of any pupil, or the person standing in loco parentis to any pupil, may apply to the principal of the school for transportation to and from the school by school bus for the regularly organized school day. The principal shall assign the pupil to a school bus serving the bus route upon which the pupil lives, if any, and if the pupil is entitled to ride on the bus in accordance with the provisions of this Subchapter and the regulations of the State Board of Education. The assignment shall be made by the principal so as to provide for the orderly, safe and efficient transportation of pupils to the 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 the pupils and employees.

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

"§ 115C-276 to 115C-277: Reserved for future codification purposes.

"ARTICLE 21.

"Attendance.

"§ 115C-278. Children between seven and sixteen required to attend.--Every parent, guardian or other person standing in loco parentis of a child between the age seven through 16 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 the 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 period as the term of the school.

§ 115C-279. Student records and fees.--(a) 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 essential information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained.

(b) No fees, charges, or costs shall be collected from students and school personnel without approval of the local board of education as recorded in the minutes of the board; provided, this section shall not apply to 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 State Superintendent of Public Instruction. No local board of education may charge any pupil a rental fee for the use of textbooks except as herein provided. Damage fees for abuse or loss of textbooks may be charged as provided in G.S. 115C-36(12).

(c) In any case where a pupil enrolled in one administrative unit of the public school system transfers to a public school in another administrative unit or where a pupil is compelled to



leave the school in which he is enrolled because of some serious or permanent illness, or for any other good and valid reason, then the pupil or his parents shall be entitled to a pro rata refund of the fees and charges paid by him based on the portion of the 180-day school term remaining at the time of his transfer or leaving.

"§ 115C-280. State Board of Education to make rules and regulations.--It shall be the duty of the State Board of Education to formulate rules and regulations as may be necessary for the proper enforcement of the provisions of this Article. 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 these instructions from the State Board of Education.

"§ 115C-281. Attendance counselors; reports; prosecutions.--  
(a) The State Superintendent of Public Instruction shall prepare rules and procedures and furnish blanks for teachers and other school officials as may be necessary for reporting any case of unlawful absence or lack of attendance to the attendance counselor of the respective administrative units. The 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 administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ attendance counselors and these counselors shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Article: Provided, that school administrative units shall provide in their local operating budgets for travel and necessary office expense for these attendance counselors as may be employed through State and/or local funds. The State Board of Education shall determine the formula for allocating attendance counselors to the various local administrative units, establish their qualifications, and shall 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 Article, subject to the approval of said local boards of education.

(b) The school attendance counselor shall investigate all violators of the provisions of this Article. 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 Article and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children at an

authorized school.

"§ 115C-282. 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 the court shall proceed to find whether as a matter of fact the parents, or persons standing in loco parentis, are unable to send the 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 the child to school, then the court shall find and state what help is needed for the family to enable the attendance law to be complied with. The court shall transmit its findings to the director or social services of the county or city in which the case may arise for the social services officer's consideration and action.

"§ 115C-283. Penalty for violation.--Any parent, guardian or other person violating the provisions of this Article 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-284 to 115C-286: Reserved for future codification purposes.

"ARTICLE 22.

"Discipline.

"§ 115C-287. School personnel may use reasonable force.--It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teachers' 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.

Principals, teachers, substitute teachers, voluntary teachers, teachers' 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 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-288. Suspension and expulsion.--The principal of a school, or his assistant principal, shall have authority to suspend or dismiss any pupil who willfully and persistently violates the rules of the school or who may be guilty of disruptive or immoral conduct, or who may be a menace to the school: Provided, any suspension or dismissal in excess of 10 school days and any suspension or dismissal denying a pupil the right to attend school during the last 10 school days of the

school year shall be subject to the approval of the county or city superintendent: Provided further, any student who is suspended or dismissed more than once during the same school term shall be subject to permanent dismissal for the remainder of the school term at the discretion of the principal, or his assistant principal, with the approval of the superintendent. In the absence of an abuse of discretion, the decision of the principal, or his assistant principal, with the approval of the superintendent, shall be final. Every suspension or dismissal for cause shall be reported at once to the superintendent and to the attendance counselor, who shall investigate the cause and deal with the offender in accordance with rules governing the attendance of children in school.

"§ 115C-289. Appeal of disciplinary measures.--Any decision to suspend or dismiss students may be appealed to the appropriate county or city board of education. 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.

Any appeal of the decision of the local board of education to the general court of justice must be made within 30 days following notice of the decision of the county or city board of education.

"§ 115C-290 to 115C-292: Reserved for future codification purposes.

"SUBCHAPTER VII.

"Fiscal Affairs.

"ARTICLE 23.

"Financial Powers of the State Board of Education.

"§ 115C-293. Funds under the control of the State board.--The board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Section 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-294. Power to accept federal funds and aid.--The board is authorized to accept, receive, use or reallocate to local school 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.

"§ 115C-295. Power to accept gifts and grants.--The board is authorized to accept, receive, use, or reallocate to local school units any gifts, donations, grants, bequests, or other forms of voluntary contributions.

"§ 115C-296. 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, and other funds of the

State are now or may be hereafter invested.

"§ 115C-297. Power to purchase at mortgage sales.--The State Board of Education is authorized to purchase at public sale any land or lands 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-298. 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-299. 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 State School Fund; and to all the powers, functions, duties, and

property of all abolished educational commissions and boards.

"§ 115C-300. Report on operation of State School Fund.--The State Board of Education shall report to the General Assembly on the operation of the State School Fund.

"§ 115C-301. 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 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 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 administrative units for experimental programs and purposes.



"§ 115C-302 to 115C-305: Reserved for future codification purposes.

"ARTICLE 24.

"The School Budget and Fiscal Control Act.

"PART 1.

"General Provisions.

"§ 115C-306. Short title.--This Article may be cited as 'The School Budget and Fiscal Control Act'.

"§ 115C-307. 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) 'Administrative unit' includes both county and city school administrative units.

(2) 'Board of education' is the governing body of an administrative unit.

(3) 'Budget' is a plan proposed by a board of education for raising and spending money for school purposes.

(4) 'Budget resolution' is a resolution adopted by a board of education that appropriates revenues for school purposes.

(5) 'Budget year' is the fiscal year for which a budget is proposed and a budget resolution is adopted.

(6) 'Fiscal year' is the annual period for the compilation of fiscal operations. The fiscal year begins on July 1 and ends on June 30.

(7) '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-308. Uniform laws; 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-309. Annual balanced budget resolution.--(a) Each 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 are 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 an administrative unit should be included in the school budget resolution. Therefore, notwithstanding any other provisions of law, after July 1, 1976, no 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-335.

"§ 115C-310. 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 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 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 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 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 administrative unit by virtue of Article IX, Section 7 of the Constitution, moneys made available to the administrative unit by the board of county commissioners, supplemental taxes levied by or on behalf of the administrative unit pursuant to a local act or Article 29 of this Chapter, State money disbursed directly to

the administrative unit, and other moneys made available or accruing to the 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 expenditures 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.

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 administrative unit pursuant to a local act or Article 23 of this Chapter, 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-311. 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-316.

(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 expenditures and appropriation levels, and should explain any major changes in educational or fiscal policy.

"§ 115C-312. 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-313. 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. § 15C-312(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. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the 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 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 an 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 administrative unit when the amount of the fidelity bond required



by the board of education was manifestly insufficient.

"§ 115C-314. Apportionment of county appropriations among administrative units.--If there is more than one 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 county-wide pursuant to a local act or Article 29 of this Chapter, 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 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-315. 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 within 10 days, either board may refer the dispute 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 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.

(c) 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 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.

(d) 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 120th day and before the 150th day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the 150th 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 ( $3/4$  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-316. The budget resolution; adoption, limitations, tax levy, filing.--(a) After the board of county commissioners has made its appropriations to the administrative unit, or after the appeal procedure set out in G.S. 115C-315 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 administrative unit pursuant

to G.S. 115C-313(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-317.

- (2) Subject to the provisions of G.S. 115C-313(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-313(b) and G.S. 115C-317(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 Article 29 of this Chapter 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 Article 29 of this Chapter, 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. §15C-317(d).

(c) If the 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 local 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.

"§ 15C-317. 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. 15C-309 and G.S. 15C-316.

(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 15C-313(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. 15C-310(f)(1) or (2), or (ii) 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 the 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 (i) the nature of the emergency, (ii) why the emergency was not foreseen and was not foreseeable when the budget resolution was adopted, (iii) what specific objects of expenditure will be added or increased as a result of the transfer, and (iv) 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 their approval and to the boards of education of all other 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 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. ||5C-3|4.

"§ ||5C-3|8. Interim budget.--In case the adoption of the budget resolution is delayed until after July |, the board of education shall make interim appropriations for the purpose of paying salaries and the usual ordinary expenses of the 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.

"§ 115C-319 to 115C-321: Reserved for future codification purposes.

"PART 3.

"Fiscal Control.

"§ 115C-322. School finance officer.--Each 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 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 school administrative unit, the duties of finance officer may be conferred on any one officer or employee of the several 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, Section 9 of the Constitution.

"§ 115C-323. Duties of school finance officer.--(a) The school finance officer shall be responsible to the superintendent

for:

- (1) keeping the accounts of the administrative unit in accordance with generally accepted principles of governmental accounting and the rules and regulations of the State Board of Education developed in cooperation with the Local Government Commission;
- (2) giving the preaudit certificate required by G.S. 115C-328;
- (3) signing and issuing all checks, drafts, and State warrants by the administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the administrative unit;
- (4) preparing and filing a statement of the financial condition of the 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 developed in cooperation with the Local Government Commission.

All reference 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, in consultation with the Local Government Commission, has authority to issue rules and regulations having the force of law governing procedures for the disbursement of money allocated to the administrative unit by or through the State or any other source. The State Board of Education may inquire into and investigate the internal control procedures of an administrative unit and may require any modifications in internal control procedures which may be necessary or desirable to prevent embezzlements or mishandling of public moneys.

"§ 115C-324. Allocation of revenues to the administrative unit by the county.--Revenues accruing to the administrative unit by virtue of Article IX, Section 7 of the Constitution and taxes levied by or on behalf of the administrative unit pursuant to a local act or Article 29 of this Chapter 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 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 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 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 administrative unit in writing of those restrictions.

"§ 115C-325. Provision for disbursement of State money.--The deposit of money in the State Treasury to the credit of 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 State Board of Education the expenditures to be made by the 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 State Board of Education shall determine whether the moneys requisitioned are due the administrative unit, and upon determining the amount due, shall cause the requisite amount to be credited to the administrative unit. Upon receiving notice

from the State Treasurer of the amount placed to the credit of the administrative unit, the finance officer may issue State warrants up to the amount so certified.

The State Board of Education may withhold money for payment of salaries for administrative officers of 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 State Board of Education.

"§ 115C-326. 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-327. Accounting system.--(a) System required. Each 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. Administrative units shall use the modified accrual basis of accounting in recording transactions.

(c) Encumbrance systems. Except as otherwise provided in this subsection, no administrative unit is required to record or show encumbrances in its accounting system. The State Board of Education, in consultation with the Local Government Commission, shall establish regulations, based on total membership of the 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 administrative unit may record and show encumbrances in its accounting system.

(d) Board regulations. The State Board of Education, in consultation with the Local Government Commission, may prescribe rules and regulations having the force of law as to:

- (1) features of accounting systems to be maintained by 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 administrative unit, or according to any other criteria reasonably related to the purpose or complexity of the financial operations involved.

"§ 115C-328. Budgetary accounting for appropriations.--(a) Incurring obligations. No obligation may be incurred by an 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 an administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if (1) he



determines the amount to be payable and (2) the budget resolution includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an encumbrance 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 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. An 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 an 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-329. 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 (i) the faithful performance of all duties placed on the finance officer by or pursuant to law and (ii) the faithful accounting for all funds in his custody except State funds placed to the credit of the administrative unit by the State Treasurer. The premium on the bond shall be paid by the 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 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 administrative unit. Instead of individual bonds, an administrative unit may provide for a blanket bond to cover all officers, employees, and agents of the 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-330. Investment of idle cash.--(a) An 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-331(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;
- (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 administrative units may pay all incidental costs thereof and all reasonable costs 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 act that the foregoing provisions of this section shall apply only to those funds received by the school administrative unit as required by G.S. 115C-324. The county finance officer shall be responsible for the investment of all county funds allocated to the school administrative unit prior to such county funds actually being remitted to the school finance officer as provided by G.S. 115C-324.

"§ 115C-331. Selection of depository; deposits to be secured.--(a) Each board of education shall designate as the official depositories of the administrative unit one or more banks or trust companies in this State. It shall be unlawful for any money belonging to an 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-330(b).

(b) Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-330(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 an administrative unit because of the default or insolvency of the depository.

"§ 115C-332. Daily deposits.--Except as otherwise provided by law, all moneys collected or received by an officer, employee or agent of an administrative unit or an individual school shall be deposited in accordance with this section. Each officer, employee and agent of an administrative unit or individual school whose duty it is to collect or receive any taxes or other money, 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-333. 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 unit, the amount of deposits of such money in depositories, a list of all investment securities and time deposits held by the 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 money of an administrative unit or an individual school is not properly deposited or secured, or is invested in securities not eligible for investment, he shall notify the officer in charge of the moneys of the failure to comply with the 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-334. Annual independent audit.--Each 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 or a person qualified to audit local government accounts. The auditor who audits the accounts of an 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 State Board of Education, the local 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 administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the administrative unit having custody of public money

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 the authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited.

"§ 115C-335. Special funds of individual schools.--(a) The board of education shall appoint a treasurer for each school within the 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 administrative unit, and shall make such reports to the superintendent and finance officer of the 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 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-336. Proceeds of insurance claims.--Moneys paid to an 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-337. School food services.--An administrative unit may, in the discretion of the board of education, treat receipts and disbursements associated with school food services as special funds of individual schools or as part of the budget of the

administrative unit.

"§ 115C-338. Reports to State Board of Education.--The State Board of Education shall have the authority to require administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

"§ 115C-339. 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 administrative unit in the county and remit the appropriate portion of the amount to the finance officer of each administrative unit. Fines and forfeitures shall be apportioned according to the projected average daily membership of each administrative unit as determined by and certified to the administrative units and the board of county commissioners by the State Board of Education pursuant to G.S. 115C-220.

"§ 115C-340 to 115C-342: Reserved for future codification purposes.

## "ARTICLE 25.

### "Loans from State School Fund.

"§ 115C-341. Loans by State Board from State School Fund.--The State School Fund includes all funds derived from the sources enumerated in Section 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 rules and regulations as it may deem advisable, not inconsistent with the provisions of this Article, may make loans from the State School Fund to the counties for the use of local boards of education under 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 State Superintendent of Public Instruction with the approval of the State Board of Education.

"§ 115C-342. Terms of loans.--Loans made under the provision 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 the 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-343. 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 the installment and interest to be due, and shall issue its order upon the treasurer of the local 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 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-344. 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 School Fund or from any special building fund of the State to a county and the 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 the loan, the State Board of Education is authorized to accept funding or refunding bonds or notes of the county in payment of interest on or the principal of the notes evidencing the loan: Provided, however,

that the issuance of the funding or refunding bonds shall have been approved by the Local Government Commission.

"§ 115C-345. Issuance of bonds as part of general refunding plan.--In any case where the funding or refunding of interest on or the principal of the notes shall constitute a part of a refunding plan of the county, and the terms of the funding or refunding plan shall be accepted by a sufficient number of the holders of the county's obligation to put the refunding plan into effect, the State Board of Education may authorize the acceptance of the 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 the refunding plan into effect.

"§ 115C-346. 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 School 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-347. 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 School 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-348. Loans not granted in accordance with G.S. 115C-341.--The State Board of Education, under such rules and regulations as it may adopt, may make loans from the State School 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-341, 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. ||5C-341 and that a dire emergency exists in the 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. ||5C-342 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 10th 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 10th day of June of each successive fiscal year until all amounts due on said loan shall have been paid. The provisions of G.S. ||5C-343 shall not apply to loans made pursuant to the provisions of this section.

"§ ||5C-349. Pledge of nontax revenues to repayment of loans from State School Fund.--Any local board of education obtaining a loan from the State School Fund under the provisions of G.S. ||5C-348 may, with the approval of the board of county commissioners, pledge to the repayment of the loan any available nontax revenues, including but not limited to, fines, penalties, and forfeitures.

"§ ||5C-350 to ||5C-353: Reserved for future codification

purposes.

"ARTICLE 26.

"Assumption of School District Indebtedness by Counties.

"§ 115C-354. 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 Article 9 of Chapter 153 of the General Statutes, known as 'The County 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 County 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 G.S. §§5C-311.

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.

"§ 5C-355. 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-356. 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.

"ARTICLE 27.

"Funding and Refunding Bonds of School Districts.

"§ 115C-357. '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-358. 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-359. 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 G.S. 159-59 to G.S. 159-62 of the General Statutes and the Local Government Act, G.S. 159-1 et seq. and acts amendatory thereof and supplemental thereto. 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.

"§ 15C-360. 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 Municipal Finance Act, as amended, relating to the issuance of refunding and funding bonds under that act, and the provisions of the Local Government Act and acts amendatory thereof and supplemental thereto, 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. 160-379 and G.S. 160-383 of the General Statutes (the Municipal Finance Act), as amended, 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-361 to 115C-363: Reserved for future codification purposes.

#### "ARTICLE 28.

"Voluntary Endowment Funds for Public Schools.

"§ 115C-364. Creation of endowment funds; administration.--Any local board of education is 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 the local 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 organization and methods of procedure.

"§ 115C-365. 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 any 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 pursuant to this Article shall have the power to sell any property, real, personal or choses in action, or 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-366. Expenditure of funds; pledges.--It is not the intent that any endowment fund created pursuant to this Article shall take the place of State appropriations or any regular appropriations, tax funds or other funds made available by counties, cities, towns or school administrative units for the normal operation of the public schools. Any endowment fund created pursuant to this Article, 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 endowment fund established pursuant to this Article from receiving pledges, gifts, donations, devises and bequests and from using the same for the lawful school purposes as the donor



or donors designate, provided, always, that the administration of any 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 these pledges as security for loans. This consent by the donor may be made at the time of the pledge or at any time before the 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-367. When only income from fund expended.--Where the donor or donors of the pledges, gifts, donations, devises and bequests so provide, the board of trustees shall keep the principal of the gift or gifts intact and only the income therefrom may be expended.

"§ 115C-368 to 115C-369: Reserved for future codification purposes.

#### "SUBCHAPTER VIII.

#### "Local Tax Elections.

#### "ARTICLE 29.

#### "Voted Tax Supplements for School Purposes.

"§ 115C-370. Special voted tax levies.--The tax-levying authority of a school administrative unit may levy a special

voted property tax for the use and benefit of the administrative unit to be used by the unit for any purpose for which it is authorized by law to appropriate money. The tax, if approved by the voters and levied by the tax-levying authority, shall be levied within the administrative unit under the rules and according to the procedures prescribed by the Machinery Act. Authority to impose a tax, or any change in authority to impose a previously authorized tax, shall take effect on July 1 next following the date of the referendum.

"§ 115C-37]. Procedure for authorizing a special tax levy.--

(a) The board of education of the administrative unit may call a referendum to approve a special tax levy by adopting a resolution to that effect. The resolution shall set the date of the referendum, state the proposition to be submitted to the voters, and describe the area in which the referendum will be held sufficiently to allow the board of elections and the county tax supervisor to determine its boundaries with reasonable certainty.

(b) The referendum may be held at the same time as any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 10 days after any other referendum or election to be held in the county and already validly called or scheduled by law at the time the special tax referendum is called. The referendum shall be conducted by the county board of elections. The superintendent shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which

voters may register for the referendum. The notice shall state the date of the referendum, the area in which it will be held, the purpose for which it is being held, and the last day for registration under the election laws then in effect. The cost of the referendum shall be paid by the administrative unit.

(c) Any one, but not more than one, of the following propositions may be submitted to the voters:

- (1) Shall (tax-levying authority) be authorized to levy annually for the use and benefit of (school administrative unit) a special property tax at a rate not in excess of \_\_\_ cents on the one hundred dollars (\$100.00) value of property subject to taxation for the purpose of supplementing revenues otherwise available to (school administrative unit)?
- (2) Shall the maximum authorized rate of the special property tax heretofore approved for (school administrative unit) be increased from \_\_\_ cents to \_\_\_ cents on the one hundred dollars (\$100.00) value of property subject to taxation?
- (3) Shall the maximum authorized rate of the special property tax heretofore approved for (school administrative unit) be reduced from \_\_\_ cents to \_\_\_ cents on the one hundred dollars (\$100.00) value of property subject to taxation?

(4) Shall the special property tax heretofore approved for (school administrative unit) be abolished?

(d) A referendum held under this Article shall be determined by a majority of the votes cast. Absentee ballots shall be allowed. The board of elections shall canvass the referendum and certify the result to the board of education. The board of education shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: 'Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication).' The statement of result shall be filed in the office of the school superintendent, inserted in the minutes of the board of education, and transmitted to the governing board of the tax-levying authority. Except as otherwise provided herein, the referendum shall be conducted under the provisions of Chapter 163 of the General Statutes governing the conduct of general elections.

(e) Any action or proceeding in any court challenging the regularity or validity of a special tax referendum called and held pursuant to this Article must be begun within 30 days after the publication of the result of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the

period of limitation prescribed herein.

"§ 115C-372. Maximum rate and frequency of referenda.--(a) The maximum tax rate that may be submitted for voter approval is:

- (1) Fifty cents (50¢) on the one hundred dollars (\$100.00) value of property for administrative units having a population of less than 100,000.
- (2) Sixty cents (60¢) on the one hundred dollars (\$100.00) value of property for administrative units having a population of 100,000 or more.

The population shall be determined from the most recent federal census of population.

(b) Referenda may not be called pursuant to this Article more frequently than once in every period of 180 days. This limitation shall not apply to propositions submitted in connection with the creation, abolition, or enlargement of an administrative unit, or to the merger of two or more administrative units.

"§ 115C-373. Levy and collection of taxes.--(a) Before April 15 of each year, the tax supervisor shall certify to the superintendent of each administrative unit in the county for which a special tax has been authorized an estimate of the total assessed value of property subject to the tax. If the board of education chooses to request the levy of all or a portion of an authorized special tax, the superintendent shall prepare a supplemental budget pursuant to the School Budget and Fiscal

Control Act. This budget shall be submitted to the governing board of the tax-levying authority together with a request to levy a supplemental tax at a stated rate, not in excess of the authorized maximum. The governing board of the tax-levying authority may approve or disapprove the requested rate in whole or in part, and may levy such rate, not in excess of the authorized maximum, as it may find to be in the best interests of the taxpayers and the public schools. The governing board of the tax-levying authority shall have no authority to disapprove a requested levy if the levy was authorized pursuant to a local act that denies such discretion. Upon approving a special tax levy, the governing board of the tax-levying authority shall cause the tax to be computed for all property subject thereto. The taxes thus computed shall be shown separately on the tax receipts for the fiscal year, and the tax-levying authority shall collect the special tax in the same manner as its own taxes are collected. Collections shall be remitted to the administrative unit within 10 days after the close of the calendar month in which collected. Discounts and partial payments shall be proportionately divided between the tax-levying authority and the administrative unit. The tax-levying authority may, in its discretion, retain all penalties, interest, and lien sale costs collected and any interest earned on temporary investment of the proceeds of the tax pending distribution.

(b) It is unlawful for any part of a special tax levied pursuant to this Article to be used for any purpose other than that authorized by the referendum.

(c) This section shall apply to all special voted taxes levied on behalf of a school administrative unit by any county, city, or town, including such taxes authorized by general laws formerly in effect or by local acts.

"§ 115C-374. Annexation of territory to an administrative unit.--An administrative unit wholly located within one county may annex any area within that county that is adjacent to the existing boundaries of the administrative unit, subject to the provisions of this Article. An annexation shall become effective on July 1 next following the date of a referendum approving the annexation. On the effective date of the annexation, all taxable property situated in the annexed area shall be subject to any special voted tax then in effect within the annexing unit, and to any outstanding debt of the annexing unit.

"§ 115C-375. Petition for annexation.--Annexation proceedings must be initiated by a petition signed by a majority of the qualified voters residing within the area proposed for annexation. The petition shall describe the area proposed for annexation sufficiently to enable the board of elections and the county tax supervisor to determine its boundaries with reasonable certainty. The board of education of the annexing unit may prescribe the form and detail of annexation petitions, and may refuse to consider petitions not submitted on approved forms.

"§ 115C-376. Approval of petition.--The board of education of the territory having jurisdiction shall receive the petition and

give it due consideration. If the board is willing to release the area, the chairman and secretary of the board shall endorse it, record it in the minutes of the board, and transmit it to the board of education of the annexing unit. That board shall also give the petition due consideration and, if it is willing to allow the annexation, its chairman and secretary shall also endorse it for the board, record it in the minutes of the board, and return it to the board of education of the releasing unit.

"§ 115C-377. Referendum on annexation.--Upon receiving a properly endorsed annexation petition, the board of education of the annexing unit may submit the question of annexation to the qualified voters of the area proposed for annexation. The referendum shall be conducted in the same manner as referenda on special voted school taxes, and shall be subject to the same limitations.

"§ 115C-378. Conveyance of school property upon annexation.--The boards of education of the two administrative units concerned shall agree as to the disposition to be made of any real property belonging to either unit that is located in the area to be annexed. The terms of this agreement shall be reduced to writing, attached to the annexation petition, and made a part thereof by reference before either board gives its approval to the petition.

"§ 115C-379 to 115C-381: Reserved for future codification purposes.

"SUBCHAPTER IX.

"Property.

"ARTICLE 30.



"School Sites and Property.

"§ 115C-382. Map of local school administrative units.--The current local school administrative unit boundaries shall be drawn on a map, or set out in written description, or shown by a combination of these techniques. This delineation shall be retained permanently in the office of the local superintendent. Alteration in these established boundaries shall be indicated by appropriate entries upon or additions to the map or description made by the local superintendent. Copies of the map or description reproduced by any method of reproduction that gives legible and permanent copies, when certified by the local superintendent, shall be admissible in evidence in all courts and shall have the same force and effect as would the original map or description. The local board of education may provide for revisions in maps or other description of the local school administrative unit boundaries. A revised map or description shall supersede for all purposes the earlier map or description that it is designated to replace.

"§ 115C-383. Acquisition of sites.--Sites acquired for school buildings shall be located within the local school administrative unit; sites acquired for other school facilities may be located outside the boundaries of the unit. Local boards of education may purchase or acquire property as provided in Chapter 40 of the General Statutes. Title to property formerly vested in the trustees of special charter districts shall be vested in the

local boards of education of the administrative units embracing the former special charter districts.

"§ 115C-384. Sale, exchange, or lease of property; easement, right-of-way.--(a) Any local board of education may sell at public auction any real property it finds unnecessary or undesirable for school purposes. Such sale shall follow the procedures set forth in Article 29A of Chapter 1 of the General Statutes, except that the board shall confirm the sale; and confirmation by the clerk of superior court is not required. The proceeds of the sale shall be paid to the finance officer of the local administrative unit and shall be used to reduce the bonded indebtedness or for capital outlay purposes.

(b) Any local board of education may sell through the facilities of the North Carolina Division of Purchase and Contract or at public auction any personal property it finds unnecessary or undesirable for school purposes. If sold at public auction, such sale shall follow the procedures set forth in Article 29A of Chapter 1 of the General Statutes, except that the board shall confirm the sale; and confirmation by the clerk of superior court is not required.

(c) Any private sale of real property prior to July 1, 1979, is hereby validated; provided, that the real property was first advertised for sale at public auction, the price received exceeded the highest bid received at the public auction, and the sale was completed within one year of the public auction.

(d) Any local board of education may exchange, as full or partial payment, any property owned by it without compliance with

the requirements of this section; provided, that for at least 10 days before any exchange of real property is consummated, the terms of the proposed exchange shall be filed in the office of the local superintendent and in the office of the clerk of the superior court in the county where the property is located. A notice of the intent to exchange shall be published, at least one time, in a newspaper having a general circulation in the local administrative unit at least 10 days before consummation of said exchange.

(e) When any local board of education finds the use of any property owned or held by it unnecessary or undesirable for public school purposes, but the sale of such property is impractical or not in the public interest, the board may enter into an agreement with any other person, firm, or corporation for the lease of such property for a term not to exceed one year; provided, that upon a finding evidenced by a two-thirds vote of the board that a longer term is in the public interest and with approval of local tax-levying authority, the board may enter into an agreement for the lease of such property for a term not to exceed 10 years. The proceeds of such lease shall be used by the administrative unit to reduce the bonded indebtedness or for capital outlay purposes. Local boards of education may sell, lease, exchange, or use jointly with other governmental units property as provided in G.S. 160A-274. Nothing in this subsection shall invalidate any local act authorizing the lease

of school property.

(f) Local boards of education may grant easements to any public utility, municipality or quasi-municipal corporation in their sound discretion with or without compensation.

"§ 115C-385. 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 process of their work, shall be exempt from taxation. All such vehicles shall be registered with the Division of Motor Vehicles as provided in G.S. 20-84.

"§ 115C-386. Erection of school buildings.--(a) Local boards of education shall contract for the construction of new school buildings. Sites for the construction of school buildings shall be owned in fee simple by said board; except that local boards of education with the approval of local tax-levying authorities may appropriate funds to aid in the establishment of school facilities between adjoining administrative units or between other governmental units by written agreement.

(b) All new buildings shall be constructed in accordance with plans approved by the State Board of Education. All contracts for buildings shall be in writing and all buildings shall be inspected and approved by the local superintendent and the architect before full payment is made. Where local school administrative units construct school buildings with money loaned or granted by the State, the State Board of Education may retain any amount not to exceed fifteen percent (15%) of said loan or

grant until such construction has been approved by the State Board of Education. Any building purchased or leased for use as a school shall be approved on the same basis as if it were a new building.

(c) Upon determination by a local board of education that the existing permanent school buildings do not have sufficient classrooms to house the pupil enrollment anticipated, the local board of education may acquire and utilize mobile units as temporary classrooms. Such units shall be approved by the School Planning Division of the State Board of Education, and shall comply with the requirements of the North Carolina State Building Code and the local building and electrical codes. The acquisition and installation of such units shall be subject to the provisions of Article IX of Chapter 143 of the General Statutes. The provisions of Article I of Chapter 67 of the General Statutes shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards or the delivery and installation upon school sites of mobile classrooms in less than four units.

"§ 115C-387. Provision of equipment for buildings.--(a) Local boards of education shall provide school furniture and equipment for the school term. The needs and cost of school furniture and equipment shall be itemized each year in the school budget submitted to the respective tax-levying authorities.

(b) Local boards of education shall acquire all supplies and

equipment in accordance with contracts made or approved by the Department of Administration. Title to instructional supplies, office supplies, fuel, and janitorial supplies enumerated in the current expense fund budget and purchased with State funds, shall be taken in the name of the local board.

(c) Local boards of education and local tax-levying authorities shall provide every school with a good supply of water and adequate sewer disposal facilities approved by the department of Human Resources.

"§ 115C-388. Care of school property.--All principals, teachers, and other school employees shall be held responsible for the safekeeping of school property as provided in G.S. 115C-216 and G.S. 115C-224.

"§ 115C-389. Repair of school property. (a) Local boards of education and local tax-levying authorities shall keep all school buildings in good repair. The repairing of all school buildings shall be by written contract with local boards of education; except that local boards of education may repair and alter school buildings with the help of school personnel.

(b) Where local school administrative units repair school buildings with money loaned or granted by the State, the State Board of Education may retain any amount not to exceed fifteen percent (15%) of the funds until the repairs have been approved by the State Board of Education.

(c) If any child in school shall carelessly or willfully damage school property, the teacher or principal shall report the damage to the parent and demand payment. If the parent refuses

to pay the cost of repairing the property, the teacher or principal shall report the offense to the superintendent. Where any principal or teacher permits school property to be damaged through lack of proper discipline of pupils, such principal or teacher shall be responsible. Principals shall report immediately to their respective superintendents any unsanitary conditions, damages to school property, or needed repairs.

(d) Local boards of education may adopt rules and regulations by which school buildings, including cafeterias and lunchrooms, may be used for other than school purposes as long as such use is consistent with the proper preservation and care of school property. No joint or several liability shall attach to any board of education or member thereof for personal injury suffered by reason of the use of such property.

"§ 115C-390. Fire prevention.--(a) The duties of the principal regarding fire hazards during periods when he is in control of a school shall be as follows:

- (1) To make certain that all corridors, halls, and tower stairways used for exits are kept in good working condition. During the occupancy of the building or any portion thereof, he shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.
- (2) To make certain that no electrical wiring is installed within any school building or structure

or upon the premises and that no alteration or addition is made in any existing wiring, except with the authorization of the local superintendent. Any electrical work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the local board of education and approved by the local tax-levying authority.

- (3) To make certain that combustible materials necessary to the curriculum and for the operation of the school are stored in a safe and orderly manner.
- (4) To make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, are stored in an orderly manner in a well-ventilated place.
- (5) To make certain that all trash and rubbish are removed from the school building daily.
- (6) To cooperate with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections.
- (7) To notify the local superintendent of the failure of the inspectors to make inspections required by this section.
- (8) To make certain that all fire hazards called to his attention in the course of inspections are



immediately corrected. If such corrections cannot be accomplished by the principal, he shall report the matter to the superintendent.

(b) School buildings shall be inspected every four months at least 90 days apart as follows:

(1) Each school building shall be inspected to make certain that none of the fire hazards as enumerated in G.S. §§5C-390(a) exist and to insure that all heating, mechanical, electrical, gas, or other equipment is properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. After each inspection the inspector shall furnish the principal of the school and the local superintendent a report of conditions found during the inspection on forms furnished by the Commissioner of Insurance; the local superintendent shall keep a copy of the report on file for a period of three years. Any alterations or additions to existing school buildings or equipment shall be inspected immediately.

(2) Local tax-levying authorities shall designate the inspectors and shall pay the cost of the inspectors.

(3) The Commissioner of Insurance and the State Board

of Education may prescribe additional rules and regulations in connection with the inspection of school buildings for the reduction of fire hazards and protection of life and property in public schools.

- (4) The local superintendent shall make certain that all fire hazards called to his attention in the course of the inspections are corrected, if such correction can be made within the current appropriations available to the superintendent. Where correction of fire hazards will require expenditure of funds in excess of the current appropriations, the superintendent shall bring the matter to the attention of the local board. The local board shall bring the matter to the attention of the local tax-levying authority, in order that immediate steps may be taken within the framework of existing law, to correct the hazard.

"§ 115C-391 to 115C-393: Reserved for future codification purposes.

#### "ARTICLE 31.

"State Insurance of Public School Property.

"§ 115C-394. Power of State Board to operate insurance system.--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: to manage and operate

a system of insurance for public school property.

"§ 115C-395. Duty to insure property.--(a) The board of every 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; and
- (2) insure and keep insured adequately the equipment and contents of said building.

(b) The tax-levying authority for each 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 twenty-four hours without such insurance constitutes a separate offense.

"§ 115C-396. 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 Department.

"§ 115C-397. Public School Insurance Fund; decrease of premiums when fund reaches five percent (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 this Article 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 this Article 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 School 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 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 School 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 School 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 School 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, windstorn, hail and explosion losses for which 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 this Article. Such part of the money in 'the fund' as may not be needed for the payment of current demands thereon shall be invested by the State Treasurer in such securities as constitute permissible investments for State sinking funds, and all of the earnings thereon shall be paid into 'the fund'. The State Treasurer shall annually report to the State Board of Education and to the General Assembly the status of 'the fund' and a detailed statement of the investments therein and earnings therefrom.

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' is sufficient to maintain the same at five percent (5%) of the total insurance in force, no premiums 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 this Article within such five-year period.

"§ 115C-398. Insurance of property by school governing 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 school governing 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-399. 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 school authorities 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-400. Information to be furnished prior to insuring in

fund; providing for payment of premiums.--County and city 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 authorities shall be required to provide for the payment of premiums for insurance on the school properties of each 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-40]. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payments 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 units at the lowest cost possible in keeping with the payment of



cost of administration of this Article, and the creation of adequate reserves to pay losses which may be incurred. The State Board of Education shall furnish to each local 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. §§5C-403. From time to time the local school authorities 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 school authorities 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.

"§ §5C-402. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local 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 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 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 governing board 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 governing board shall fail for 15 days to agree upon the third appraiser, then, on request of the State Board of Education or the local governing board 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 governing board 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 county administrative unit to the county treasurer, and pay the amount of loss or damage to property of a city administrative unit to the treasurer of said unit 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-403. 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 school board 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-404 to 115C-406: Reserved for future codification purposes.

"SUBCHAPTER X.

"Private and Proprietary Schools.

"ARTICLE 32.

"Private Schools.

"§ 115C-407. Responsibility of State Board of Education to supervise nonpublic schools; notice of intention to operate new school.--The State Board of Education, while providing a general and uniform system of education in the public schools of the State, shall always protect the right of every parent to have his

children attend a nonpublic school by regulating and supervising all nonpublic schools serving children of secondary school age, or younger, to the end that all children shall become citizens who possess certain basic competencies necessary to properly discharge the responsibilities of American citizenship. The board shall not, in its regulation of such nonpublic schools, interfere with any religious instruction which may be given in any private, denominational, or parochial school, but such nonpublic school shall meet the State minimum standards as prescribed in the course of study, and the children therein shall be taught the branches of education which are taught to the children of corresponding age and grade in the public schools and such instruction, except courses in foreign languages, shall be given in the English language.

New nonpublic schools shall file a notice of intention to operate a new school with the State Superintendent of Public Instruction prior to beginning of operation.

"§ 115C-408. Teachers must have certificates for grades they teach; instruction given must substantially equal that given in public schools.--All nonpublic schools in the State and all teachers employed or who give instruction therein, shall be subject to and governed by the provisions of law for the operation of public schools insofar as they apply to the qualifications and certification of teachers and the promotion of pupils; and the instruction given in such schools shall be graded

in the same way and shall have courses of study for each grade enrolled therein substantially the same as those given in the public schools where children would attend in the absence of such nonpublic school.

No person shall be employed to teach in a nonpublic school who has not obtained a teacher's certificate entitling such teacher to teach corresponding courses or classes in public schools.

"§ 115C-409. Operators must report certain information.--The supervisory officer or teacher of all nonpublic schools shall report to the superintendent of the administrative unit in which such school is located within two weeks of the opening of such school, and within two weeks of the enrollment therein, the names of all pupils attending, their ages, parents' or guardians' names, and places of residence. Likewise, such officer or teacher shall report to such superintendent the withdrawal of any pupil within two weeks of such withdrawal. The supervisory officer or teacher of nonpublic schools shall make such reports as may be required of him by the State Board of Education, or such additional reports as are requested by the superintendent of the administrative unit in which such school is located; and he shall furnish to any court from time to time any information and reports requested by any judge thereof relating to the attendance, conduct and standing of any pupil enrolled in such school if said pupil is at the time awaiting examination or trial by the court or is under the supervision of the court.

" 115C-410 to 115C-412: Reserved for future codification purposes.

"ARTICLE 33.

"Private Business and Trade Schools.

"§ 115C-413. Definitions.--As used in this Article:

- (1) 'Board of Education' means the State Board of Education.
- (2) 'Person' 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 any person, teaching a business curriculum, except as specifically exempt from this Article by G.S. 115C-414. The curriculum may include typewriting, shorthand, filing and indexing, receptionist's duties, keypunch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, traffic management, business psychology, economics, business management and related subjects of a similar character, as well as general education subjects that further the objectives of the business curriculum.
- (4) 'Private trade school' means a privately owned and operated educational institution teaching for profit or for a tuition charge any trade, or technical, mechanical or industrial occupation, or subjects related to such a trade or occupation.
- (5) 'Superintendent' means the State Superintendent of Public Instruction.
- (6) 'Branch school' means a private business or trade school that is owned or controlled by another private business or trade

school and that conducts classes at a site that is not immediately adjacent to that of the parent school. References in this Article to a private business or trade school shall include a branch of such school unless the context indicates that the reference is only to the parent school.

"§ 115C-414. Exemptions.--The following are exempt from the provisions of this Article:

(1) Classes in any of the subjects named in G.S. 115C-414(3) taught to five or fewer students.

(2) Nonprofit schools conducted by bona fide eleemosynary or religious institutions, fraternal societies, civic clubs, or benevolent orders, or courses conducted by such institutions, societies, clubs or orders.

(3) Schools or courses conducted by employers for their own employees for which no fee or tuition is charged.

(4) Any school for which there is another legally existing licensing board within the State.

(5) Any university or liberal arts college, public or private high school approved by the State Department of Public Instruction, or any State institution that has or may hereafter offer one or more business or trade courses, provided that all tuition fees and charges for such courses are collected by the regular officers of the institution in accordance with the rules prescribed by the board of trustees or governing body of the institution.

"§ 115C-415. State Board of Education to administer Article; issuance of diplomas by schools; investigation and inspection;



regulations and standards.--(a) The State Board of Education shall have authority to administer and enforce this Article and to issue licenses to private business and trade schools, as the same are defined herein, when the school's sustained curriculum is of a quality equal to that prescribed for similar public and private institutions of the State and when the school has met the standards of the State Board of Education concerning course offerings, facilities, financial stability, personnel and operating practices.

(b) Upon approval by the State Board of Education, any private business or trade school may issue certificates and diplomas.

(c) The State Board of Education shall formulate criteria for the approval of such schools, provide for adequate investigations of all schools applying for a license, issue licenses to applicants meeting the standards fixed by the board; maintain a list, available to the public, of licensed schools; and provide for periodic inspection of the schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and inspections made by authorized representatives of the State Board of Education, the State Board of Education shall have general supervision over business and trade schools in the State. The object of its supervision shall be to protect the health, safety, and welfare of the public by having the schools maintain adequate, safe and sanitary quarters, sufficient and proper facilities and equipment, sufficient and

qualified teaching staff, and satisfactory programs of operation and instruction. The board shall see that the school carries 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 as are necessary to administer the provisions of this Article.

"§ 115C-416. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.--(a) No person shall operate or offer to operate in this State a private business or trade school unless a license is first secured from the State Board of Education. The license, when issued, shall constitute the formal acceptance by the Board of Education of the educational programs and facilities of the school.

(b) Application for a license shall be filed in the manner and upon the forms prescribed by the State Board of Education for that purpose. The 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 owner and of the controlling officers thereof;
- (2) the general field of instruction to be offered;
- (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 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 catalogue 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. Name 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. The institution's policy and regulations on leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory

attendance.

- e. The institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
- f. The institution's policy and regulations on standards of progress required of the student by the institution. (This should include an explanation of the grading system of the institution, the minimum grades considered satisfactory, a description of the probationary period, if any, allowed by the institution, conditions of reentrance for those students dismissed for unsatisfactory progress, and a description of progress records kept by the institution and furnished the student.)
- g. The institution's policy and regulations on student conduct and conditions for dismissal for unsatisfactory conduct.
- h. A detailed schedule of all fees and tuition, including charges for books, supplies, tools, student activities, laboratory use, services, rentals, and deposits.
- i. The policy and regulations of the institution on refunding 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, skill to be learned, and approximate time to be spent on each subject or unit, and completion requirements.
- l. The policy and regulations of the institution on granting credit for previous educational training.

(c) The board shall issue a license when it is satisfied that the applicant meets these criteria:

- (1) The 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) The institution offers a sufficient amount of space, equipment, instructional material and personnel to provide training of good quality.
- (3) The educational background and experience of the 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, 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, State and federal regulations, such as fire codes and building and sanitation codes. The State Board of Education may require evidence of compliance.
- (9) The school is financially sound and capable of fulfilling its commitments for training.
- (10) The school does not exceed the enrollment limitation established for it by the State Board of Education.
- (11) The school does not utilize advertising that 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 the board may require.

(d) The 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 must present a supplementary application for approval of additional programs of instruction or courses during the effective period of the license.

"§ 115C-417. 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 board, the renewal fee has been paid, and the school continues to meet the criteria set forth in the requirements for securing an original license.

(c) After a license is issued to any school by the State Board of Education, it shall be the responsibility of the school to notify the board immediately of a change in the ownership, administration, location, faculty, instructional program or any other change that might significantly affect the course of instruction offered.

(d) In the event of the transfer of ownership of a school for any reason, the license granted to the original owner or

operators shall not be transferable to the new owner or operators.

"§ 115C-418. Fees.--Each original application for a license shall be accompanied by a filing fee of one hundred dollars (\$100.00) and each application for the annual renewal of a license shall be accompanied by a fee of fifty dollars (\$50.00). No fee shall be charged for a supplementary application for approval of additional courses of instruction. Fees shall be paid annually on or before the first day of July.

The fees collected under this section shall be placed in a special fund called the 'Commercial Education Fund' to 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 when an application is rejected or a license suspended or revoked.

"§ 115C-419. Refusal to issue license; suspension or revocation; notice and hearing.--(a) If the State Board of Education proposes not to issue a license or proposes to suspend or revoke a license previously issued, the board must afford the applicant or license holder an opportunity to be heard in connection with the decision either in person or by counsel. At least 30 days before the hearing date, the board shall notify the applicant or license holder in writing of the hearing date and the grounds for the negative action contemplated.

(b) The following are proper grounds for the State Board of Education's decision to reject an application or to suspend or revoke a license:



- (1) The applicant or licensee has violated a provision of this Article or a rule or regulation promulgated thereunder.
- (2) The applicant or licensee has refused or failed 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 on matters within the purview of the board under the provisions of this Article.
- (3) The applicant or licensee has knowingly presented to the board false or misleading information relating to approval.
- (4) The applicant or licensee has perpetrated fraud or deceit either in advertising the school or in presenting students or prospective students with written or oral information on the school, employment opportunities, or opportunities for enrolling in other institutions upon completion of the instruction offered in the school.
- (5) The applicant or licensee has pled guilty, entered a plea of nolo contendere, or been found guilty of a crime of moral turpitude in any state or federal court.
- (6) The applicant or licensee has failed to provide or

maintain premises, equipment and conditions that are sufficiently safe and sanitary to meet the requirements of State and local standards applicable to such premises.

(7) The applicant or licensee has failed to provide or maintain premises, equipment, material or supplies adequate for the purposes of the school or has exceeded the maximum enrollment for which the school or class was licensed.

(8) The licensee is employing teachers, supervisors, or administrators not approved by the board.

(9) The applicant or licensee has failed to provide or maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.

"§5C-420. Private schools advisory committee.--The State Board of Education shall appoint an advisory committee consisting of five or more persons who are fairly representative of the private business and trade schools operated in this State and subject to the provisions of this Article. The President of the North Carolina Association of Business Colleges shall, ex officio, be one of the members of said committee. His term of membership on said committee shall be coterminous with his term as president of said association. Of the other members of said committee one-half of the members (if an even number) or a majority of one (if not an even number) shall be initially appointed for a term of three years and the remaining members

shall be appointed for a term of two years. Thereafter, as the terms of all members so appointed shall expire, their successors shall be appointed for a term of three years each. No two members of said committee shall be representative of separate business colleges operated under a common ownership. The members of said committee shall be representative of both degree-granting and nondegree-granting schools and shall, as nearly as may be practicable, be appointed in the same proportions as the two types of schools bear to each other. Said committee shall meet at least twice during each calendar year on dates to be determined at the first meeting of the committee and shall meet at other times upon call of any two members of the committee. The annual chairman shall be elected at the first committee meeting by a vote of the committee members in attendance. Any reports and recommendations of said committee shall be transmitted directly to the State Board of Education by the advisory committee chairman. Said committee shall advise the board on criteria to be used in formulating standards, rules and regulations for the administration of this Article, the operation of schools licensed under the Article, the development of curriculum for each type of institution subject to this Article, and on other matters affecting said institutions and arising from the administration of this Article.

"§ 115C-42]. Execution of bond required.--Before issuing any license the State Board of Education shall require the applicant

to execute a bond in the amount of ten thousand dollars (\$10,000). Schools or branch schools having more than 200 students at any one time shall post a bond in an amount to be determined by the State Board of Education, which bond shall not, however, exceed the amount of prepaid tuition held by the applicant on October 1 of each year. The bond shall be signed by a solvent guaranty company authorized to do business in the State or by two solvent individual sureties. The bond shall be payable to the State of North Carolina and approved as to solvency by the clerk of the superior court of the county in which the school or branch school will be located and conduct its business. The conditions of the bond shall be that the principal will fulfill each contract made by the school, acting through its agents and officers, with prospective students or will refund all amounts collected in tuition and fees from prospective students in case of failure on the part of persons obtaining a license from the State Board of Education to open and conduct a business or trade school or branch school. Further conditions of the bond shall require the principal to fulfill the school's contracts to give the instruction promised for the full period agreed to. The bond shall be filed with and recorded by the clerk of superior court of the county in which the school or branch school executing the bond is located, who shall record a properly indexed copy in the records in his office. A copy of said bond shall also be filed with the North Carolina Department of Public Instruction. Notwithstanding the foregoing provisions of this section, schools having bonds filed with the Board of Governors of The University

of North Carolina pursuant to the regulations of said Board shall be exempt from the requirements of this section.

"§ 115C-422. Operating school without license or bond made misdemeanor.--Each individual owner and officer of a business or trade school, as defined in this Article, who opens and conducts the school or branch school without having obtained a license and executed the required bond shall be guilty of a misdemeanor punishable by a fine of one hundred dollars (\$100.00) to five hundred dollars (\$500.00) or thirty days' imprisonment or both and each day of the school's operation shall constitute a separate offense.

"§ 115C-423. Contracts with unlicensed schools and evidence of indebtedness invalidated.--Contracts between business and trade schools and their students or prospective students and promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless the schools are duly licensed as required by this Article.

"§ 115C-424. Retention of records required.--Each school licensed under the provisions of this Article shall make individual student records, for the continued use of its students, showing dates of enrollment, courses completed, grades, and other pertinent information. These records shall be retained by the school for as long as the school is in operation and, upon cessation of a school's operations, the records shall be transferred to the State Department of Archives and History,

which shall make the information available to former students."

Sec. 3. This act shall become effective on July 1,  
1979.

APPENDIX II

"CHAPTER 1100.

"Elementary and Secondary Education.

"SUBCHAPTER 1.

"General Provisions.

"ARTICLE 1.

"Preliminary Provisions.

Proposed 115C-1. General and uniform system of schools.--This proposed section is identical in meaning to G.S. 115-1 except as follows: no mention of ad valorem tax and education of persons over 18 who have not completed high school.

Proposed 115C-2. Non-discrimination policy.--This proposed section is essentially new. It is comparable to G.S. 115-152.1.

Proposed 115C-3. Access to information and public records.--This proposed section is new. It provides for examination and reproduction of rules, regulations, and public records of educational agencies.

Proposed 115C-4. Open meetings.--This proposed section is new. It requires official meetings of the State Board of Education and the local boards of education to be open to the public.

Proposed 115C-5. Rule-making procedure.--This section is new. It makes the Administrative Procedure Act applicable to the State Board of Education and exempts local boards.

Proposed 115C-6. Saving clauses.--(1) Continuation of existing law. Subsection (a) provides that provisions of this proposed

chapter identical to the existing law are meant to be a continuation of the existing law; repeal of Chapter 115 shall not revise any prior repealed or suspended statutes; enactment of this chapter does not affect title to or ownership of any property vested before the effective date of this chapter. (b) Existing rights and liabilities: Subsection (b) provides that enactment of this proposed chapter will not affect existing rights and liabilities (vested) under Chapter 115.

115C-7 to 115C-9: Reserved for future codification purposes.

"SUBCHAPTER II.

"Administrative Organization.

"ARTICLE 2.

"The State Board of Education.

Proposed 115C-10. Administration of school system vested in State Board of Education.--This section is identical to G.S. 115-2.

Proposed 115C-11. Organization of board.--This section is identical to G.S. 115-10.

Proposed 115C-12. Powers and duties generally.--This section is substantively the same as G.S. 115-11.

115C-13 to 115C-14: Reserved for future codification purposes.

"ARTICLE 3.

"State Superintendent of Public Instruction.

Proposed 115C-15. Chief Administrative Officer of the State Board of Education.--This section is identical to G.S. 115-12. It also makes reference to Sections 7(1) and 8 of Article III of State Constitution.



Proposed 115C-16. Office and Salary of State Superintendent of Public Instruction.--This section is identical to G.S. 115-13 except that it allows the superintendent to establish a regional service office in each of the eight educational districts.

Proposed 115C-17. Administrative duties.--This section is identical to G.S. 115-14.

Proposed 115C-18. Duties as secretary to the State Board of Education.--This section is identical to G.S. 115-15.

115C-19 to 115C-21: Reserved for future codification purposes.

#### "ARTICLE 4.

##### "Powers and Duties of Controller.

Proposed 115C-22. Controller to be administrator of fiscal affairs.--This section is identical in meaning to G.S. 115-16.

Proposed 115C-23. Duties of controller defined.--This section is identical to G.S. 115-17.

115C-24 to 115C-26: Reserved for future codification purposes.

#### "ARTICLE 5.

##### "Local Boards of Education.

Proposed 115C-27. Designation of board.--This section is new to the educational laws. It provides for a five-membered elected board in each county. It is comparable to the first two lines of G.S. 115-18.

Proposed 115C-28. Election of board members.--(a) This subsection is identical in meaning to the second sentence of the first paragraph of G.S. 115-25. The requirement that one must be a resident of the local unit is added.

(b) Who may vote. This subsection is new to the educational

laws. It is comparable to the second and third sentences of G.S. 115-18. It provides for election of board members by the voters of the given unit at large.

(c) Method of election; terms. This subsection is identical in meaning to G.S. 115-19.

(d) Conduct of elections. This subsection is identical in meaning to G.S. 115-20.

(e) Qualification of members. This subsection is comparable to G.S. 115-22. This subsection provides for excused failure to qualify.

(f) Vacancies. This subsection is identical in meaning to G.S. 115-24.

Proposed 115C-29. Compensation of board members.--This subsection is identical in meaning to the first paragraph of G.S. 115-29.

Proposed 115C-30. Removal of board members.--This section is comparable to G.S. 115-30. It provides for removal of a board member by the board.

Proposed 115C-31. Board a body corporate.--This section is identical in meaning to the first paragraph of G.S. 115-27.

Proposed 115C-32. Organization of board.--This section is comparable to G.S. 115-26 and G.S. 115-28. It provides for meetings of the board, election of chairman and vice-chairman of the board, and the superintendent as secretary to the board.

Proposed 115C-33. Liability insurance and immunity.--This section is identical in meaning to G.S. 115-53.

Proposed 115C-34. Suits and actions.--This section is

identical to G.S. 115-31 except that the following words are deleted from subsection (a): '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 board of county commissioners.'

Proposed 115C-35. Judicial functions of the board.--  
(a) Investigations. This subsection is comparable to the first paragraph of G.S. 115-32 and G.S. 115-33. It eliminates the fee for service of subpoenas, eliminates the local board's authority to punish for contempt and provides for swearing in of witnesses by the local board.

(b) Appeals. This subsection is comparable to G.S. 115-34. This subsection changes the existing law by allowing local boards to designate a hearing panel of three instead of a hearing panel of at least two and allows the board to set aside decisions of panels.

(c) Contempt powers. This subsection is comparable to the second paragraph of G.S. 115-32. It eliminates the local board's authority to punish for contempt and requires the local board to request the superior court of the district to issue contempt citations.

Proposed 115C-36. Powers and duties generally.--This paragraph is identical in meaning to G.S. 115-35(a) and (b).

Subdivision (1) is comparable to G.S. 115-100.9(a).

Subdivision (2) is comparable to G.S. 115-39.

Subdivision (3) is comparable to G.S. 115-58.

Subdivision (4) is comparable to the first paragraph of G.S. 115-34.

Subdivision (5) is comparable to G.S. 115-176.

Subdivision (6) is comparable to the last paragraph of G.S. 115-198.

Subdivision (7) is comparable to G.S. 115-35(e) (school calendar).

Subdivision (8) is comparable to G.S. 115-35(d).

Subdivision (9) is comparable to G.S. 115-35(h).

Subdivision (10) is comparable to G.S. 115-180 and 190.

Subdivision (11) is comparable to G.S. 115-51.

Subdivision (12) is comparable to G.S. 115-35(f).

Subdivision (13) is comparable to G.S. 115-35(g).

Subdivision (14) is comparable to G.S. 115-27.

Proposed 115C-37. Certain conduct prohibited.--This section appears to be new. It prohibits board members from participating in designated activities.

115C-38 to 115C-40: Reserved for future codification purposes.

### "SUBCHAPTER III.

#### "School Districts and Units.

#### "ARTICLE 6.

#### "Organizations of Schools.

Proposed 115C-41. State divided into districts.--This section is identical to G.S. 115-3.

Proposed 115C-42. Administrative units classified.--This section is identical in meaning to G.S. 115-4.

Proposed 115C-43. Merger of units in same county.--This section is identical in meaning to G.S. 115-74.1.

Proposed 115C-44. Merger of units in adjoining counties.--This

section is identical to G.S. 115-74.2.

Proposed 115C-45. Administrative units formed from contiguous counties.--This section is identical in meaning to G.S. 115-75.

Proposed 115C-46. Types of districts defined.--This section is identical to G.S. 115-7.

Proposed 115C-47. Creation and modification of districts by State Board.--This section is identical to G.S. 115-74.

Proposed 115C-48. Consolidation of districts and discontinuance of schools.--This section is comparable to G.S. 115-76. It eliminates subdivisions (1) and (3) of G.S. 115-76.

Proposed 115C-49. Enlarging tax districts and city units by attaching contiguous property.--This section is identical to G.S. 115-77.

Proposed 115C-50. School system defined.--This section is comparable to G.S. 115-5. The reference to organization of the system is deleted.

115C-51 to 115C-53: Reserved for future codification purposes.

"SUBCHAPTER IV.

"Education Program.

"ARTICLE 7.

"General Education.

"Part 1. Course of Study.

Proposed 115C-54. Required curriculum.--This section is comparable to G.S. 115-37, 115-198, 115-203, and 115-204. It requires the State Department of Public Instruction to supervise the teaching of the curriculum in the various schools and requires the subjects to be taught in accordance with the minimum

standards of the State Board of Education. It also permits the teaching of students in a language other than English to enhance the educational advancement of the student.

Proposed ||5C-55. School health education program to be developed and administered.--This section is identical to G.S. ||5-204.1.

"Part 2. School Calendar.

Proposed ||5C-56. Length of school day.--(Note G.S. ||5-205. Observance of special days is deleted.) This section is comparable to G.S. ||5-36. In addition, it sets forth the term of employment for teachers and other school personnel including annual leave, legal holidays and additional work days provisions.

"Part 3. Textbooks.

Proposed ||5C-57. Textbook needs are determined by course of study.--This section is identical to G.S. ||5-206.1.

Proposed ||5C-58. State Board of Education to select and adopt textbooks.--This section is identical to G.S. ||5-206.2.

Proposed ||5C-59. Appointment of Textbook Commission.--This section is identical to G.S. ||5-206.3 except a requirement is added that one member be appointed from each of the eight educational districts.

Proposed ||5C-60. Commission to evaluate books offered for adoption.--This section is identical to G.S. ||5-206.4.

Proposed ||5C-61. Selection of textbooks by board.--This section is identical to G.S. ||5-206.5.

Proposed ||5C-62. Adoption of textbooks and contracts with publishers.--This section is identical to G.S. ||5-206.6.

Proposed 115C-63. Continuance and discontinuance of contracts with publishers.--This section is identical to G.S. 115-206.7.

Proposed 115C-64. Procedure for change of textbook.--This section is identical to G.S. 115-206.8.

Proposed 115C-65. Advice from and suits by Attorney General. This section is identical to G.S. 115-206.9.

Proposed 115C-66. Publishers to register.--This section is identical to G.S. 115-206.10.

Proposed 115C-67. Sale of books at lower price reduces price to State.--This section is identical to G.S. 115-206.11.

Proposed 115C-68. Powers and duties of the State Board of Education in regard to textbooks.--This section is identical to G.S. 115-206.12.

Proposed 115C-69. State Board of Education authorized to discontinue handling supplementary and library books.--This section is identical in meaning to G.S. 115-206.13.

Proposed 115C-70. Local boards of education to provide for local operation of the textbook program and the selection and procurement of other instructional materials.--This section is identical to G.S. 115-206.14.

Proposed 115C-71. Legal custodians of books furnished by State.--This section is identical to G.S. 115-206.15.

Proposed 115C-72. Rental fees for textbooks prohibited; damage fees authorized.--This section is identical to G.S. 115-206.16.

Proposed 115C-73. Duties and authority of superintendents of local administrative units.--This section is identical to G.S. 115-206.17.

Proposed ||5C-74. Right to purchase.--This section is identical to G.S. ||5-206.18. (Note G.S. ||5-35(f) Fees is deleted.)

"Part 4. High School Competency Testing.

This Part is identical to Sections ||5-320.6 through ||5-320.13 of the General Statutes. (Proposed ||5C-76 through ||5C-83.)

"Part 5. Statewide Testing Program.

This Part is identical to Sections ||5-320.19 through ||5-320.27 of the General Statutes. (Proposed ||5C-84 through ||5C-91.)

"Part 6. Interstate Compact on Education.

Proposed ||5C-92. Enactment of compact; purpose and policy.--This section is identical in meaning to G.S. ||5-349 (Article I).

Proposed ||5C-93. State defined.--This section is identical in meaning to G.S. ||5-349 (Article II).

Proposed ||5C-94. Establishment and definition of the commission.--This section is identical in meaning to G.S. ||5-349 (Article III).

Proposed ||5C-95. Powers and authority of the commission.--This section is identical in meaning to G.S. ||5-349 (Article IV).

Proposed ||5C-96. Cooperation with federal government.--This section is identical in meaning to G.S. ||5-349 (Article V).

Proposed ||5C-97. Establishment and duties of committees within the commission.--This section is identical in meaning to G.S. ||5-349 (Articles VI and VII).

Proposed ||5C-98. Eligible parties: entry into and



withdrawal.--This section is identical in meaning to G.S. 115-349 (Article VIII).

Proposed 115C-99. Construction and severability.--This section is identical in meaning to G.S. 115-349 (Article IX).

Proposed 115C-100. North Carolina Education Council: bylaws.--This section is identical to G.S. 115-350 and 115-351.

115C-101 to 115C-103: Reserved for future codification purposes.

#### "ARTICLE 8.

##### "Special Education.

##### "Part 1. State Policy.

Proposed 115C-104. Policy.--This section is identical to G.S. 115-363.

Proposed 115C-105. Children can learn.--This section is identical to G.S. 115-364.

Proposed 115C-106. Definition of special education and related services.--This section is identical to G.S. 115-365.

Proposed 115C-107. Definition of children with special needs.--This section is identical to G.S. 115-366.

Proposed 115C-108. Services mandatory; single-agency responsibility; State and local plans, census and registration.--This section is identical to G.S. 115-367.

##### "Part 2. Non-discrimination in Education.

Proposed 115C-109. Compulsory attendance.--This section is identical to G.S. 115-373.

Proposed 115C-110. Disciplinary suspensions.--This section is identical to G.S. 115-374.

Proposed 115C-111. Diagnosis and evaluation; individualized education program.--This section is identical to G.S. 115-375.

Proposed 115C-112. Right to appeal placement.--This section is identical to G.S. 115-179.1 except subsection (b1) is included in the following section.

Proposed 115C-113. Appeal by surrogate parent.--This section is identical to G.S. 115-179.1(b1).

Proposed 115C-114. Records; privacy and expunction.--This section is identical to G.S. 115-376.

Proposed 115C-115. Private school placements.--This section is identical to G.S. 115-377.

"Part 3. State and Local Relationships.

Proposed 115C-116. Interlocal cooperation.--This section is identical to G.S. 115-383.

Proposed 115C-117. Contracts with private service-providers.--This section is identical to G.S. 115-384.

"Part 4. Employment of Handicapped.

Proposed 115C-118. Employment of handicapped.--This section is identical to G.S. 115-390.

"Part 5. Rules and Regulations.

Proposed 115C-119. Board rules and regulations.--This section is identical to G.S. 115-396.

"Part 6. Non-reduction Provisions.

Proposed 115C-120. Non-reduction.--This section is identical to G.S. 115-402.

"Part 7. Budget Analysis and Departmental Funding.

Proposed 115C-121. Budget analysis.--This section is identical

to G.S. 115-408.

Proposed 115C-122. Departmental requests.--This section is identical to G.S. 115-409.

Proposed 115C-123. Allocation of federal funds.--This section is identical to G.S. 115-410.

"Part 8. State Schools for Hearing-Impaired Children.

Proposed 115C-124. Incorporation and location.--This section is identical in meaning to G.S. 115-336.

Proposed 115C-125. Pupils admitted; education.--This section is identical in meaning to G.S. 115-340. (Note G.S. 115-341 is deleted.)

Proposed 115C-126. Agreements with local governing authorities.--This section is identical to G.S. 115-342.

"Part 9. State Schools for Sight-Impaired Children.

Proposed 115C-127. Incorporation; name; location.--This section is identical to G.S. 115-321.

Proposed 115C-128. Pupils admitted; education.--This section is identical in meaning to G.S. 115-325, 115-326 and 115-327. (Note G.S. 115-328, 115-330 and 115-334 are deleted.)

Proposed 115C-129. Agreements with local governing authorities.--This section is new to this Part but it is identical in meaning to G.S. 115-342.

115C-130 to 115C-149: Reserved for future codification purposes. (Note G.S. 115-315.7; 115-315.8; 115-315.9; 115-315.10; 115-315.11; and 115-315.12 are deleted.)

"ARTICLE 9.

"Vocational Education.

"Part 1. Program of Vocational Education.

Proposed 115C-141. Statement of purpose.--This section is identical to G.S. 115-235.2.

Proposed 115C-142. Definitions.--This section is identical in meaning to G.S. 115-235.3.

Proposed 115C-143. Administration of vocational education.--This section is identical in meaning to G.S. 115-235.4.

Proposed 115C-144. Duties of the State Board of Education.--This section is identical in meaning to G.S. 115-235.5.

Proposed 115C-145. Acceptance of benefits of federal vocational acts.--This section is identical to G.S. 115-235.6.

Proposed 115C-146. State funds for vocational education.--This section is identical to G.S. 115-235.7.

Proposed 115C-147. Responsibility of local boards of education.--This section is identical to G.S. 115-235.8.

"Part 2. Vocational Education Production Work Activities.

Proposed 115C-148. Statement of purpose.--This section is identical in meaning to G.S. 235.14.

Proposed 115C-149. Definitions.--This section is identical in meaning to G.S. 235.15.

Proposed 115C-150. Duties of the State Board of Education.--This section is identical in meaning to G.S. 235.16.

Proposed 115C-151. Use of proceeds derived from production (customer) work.--This section is identical in meaning to G.S. 235.17.

Proposed 115C-152. Acquisition of land for agricultural education instructional purposes.--This section is identical in meaning to G.S. 235.18.

Proposed 115C-153. Building trades training.--This section is identical in meaning to G.S. 235.19.

Proposed 115C-154. Advisory committee on construction projects.--This section is not contained in the proposed rewrite.

"ARTICLE 10.

"Driver Education.

Proposed 115C-155. Driver training and safety course.--This section is identical in meaning to G.S. 115-201 and 115-202.

115C-156 to 115C-158: Reserved for future codification purposes.

"ARTICLE 11.

"Optional Programs.

"Part 1. Educational Research.

Proposed 115C-159. Special projects.--This section is identical to G.S. 115-35(h).

"Part 2. Adult Education.

Proposed 115C-160. Adult education regulated.--This section is identical in meaning to G.S. 115-199. The last sentence is new and it permits adults to attend regular public schools.

"Part 3. Summer Schools.

Proposed 115C-161. Operation of summer schools.--This section is identical in meaning to G.S. 115-205.19. The language 'funds collected pursuant to 115C-370' is new.

"Part 4. Community Schools.

Proposed 115C-162. Title of Part. This section is identical to G.S. 115-73.6.

Proposed 115C-163. Purpose of Part.--This section is identical

to G.S. 115-73.7.

Proposed 115C-164. Definitions.--This section is identical to G.S. 115-73.8.

Proposed 115C-165. State Board of Education; duties, responsibilities.--This section is identical to G.S. 115-73.9.

Proposed 115C-166. Authority and responsibility of local boards of education.--This section is identical to G.S. 115-73.10.

Proposed 115C-167. Community schools advisory councils; duties; responsibilities; membership.--This section is identical to G.S. 115-73.11.

Proposed 115C-168. Community schools coordinators.--This section is identical to G.S. 115-73.12.

"Part 5. North Carolina School of Science and Mathematics.

Proposed 115C-169. Establishment of North Carolina School of Science and Mathematics.--This section is identical to G.S. 115-313.32.

Proposed 115C-170. Board of Trustees; appointment; terms of office.--This section is identical to G.S. 115-315.33.

Proposed 115C-171. Budget; preparation; submission.--This section is identical to G.S. 115-315.34.

115C-172 to 115C-175: Reserved for future codification purposes.

"ARTICLE 12.

"Supporting Services.

"Part 1. Transportation.

Proposed 115C-176. Authority and duties of local boards of

education.--This section is identical in meaning to G.S. 115-180 except that it requires each local board of education to operate school buses.

Proposed 115C-177. Authority and duties of State Board of Education.--This section is identical in meaning to G.S. 115-181.

Proposed 115C-178. Assignment of school buses to schools.--This section is identical in meaning to G.S. 115-182.

Proposed 115C-179. Use and operation of school buses.--This section is identical in meaning to G.S. 115-183 and 115-183.1.

Proposed 115C-180. Assignment of pupils to school buses.--This section is identical in meaning to G.S. 115-184.

Proposed 115C-181. School bus drivers; monitors.--This section is identical in meaning to G.S. 115-185.

Proposed 115C-182. School bus routes.--This section is identical in meaning to G.S. 115-186. Paragraph (e) of that section appears to be deleted.

Proposed 115C-183. Inspection of school buses and activity buses; report of defects by drivers; discontinuing use until defects remedied.--This section is identical in meaning to G.S. 115-187.

Proposed 115C-184. Purchase and maintenance of school buses, materials and supplies.--This section is identical in meaning to G.S. 115-188.

Proposed 115C-185. Transportation supervisors.--This section is comparable to G.S. 115-188.1.

Proposed 115C-186. Aid in lieu of transportation.--This section is identical in meaning to G.S. 115-190.

Proposed 115C-187. Contracts for transportation. This section is identical in meaning to G.S. 115-190. (Note G.S. 115-190.1 is deleted.)

Proposed 115C-188. Use of school buses by the National Guard.--This section is identical in meaning to G.S. 115-191.

Proposed 115C-189. Payment of awards to school bus drivers pursuant to the Workmen's Compensation Act.--This section is identical in meaning to G.S. 115-192.

Proposed 115C-190. State Board of Education authorized to pay claims.--This section is identical to G.S. 115-193.

Proposed 115C-191. Approval of claims by State Board of Education final.--This section is identical to G.S. 115-194.

Proposed 115C-192. Claims paid without regard to negligence of driver; amounts paid out declared lien upon civil recoveries for child.--This section is identical to G.S. 115-195.

Proposed 115C-193. Disease and injuries incurred while not riding on bus not compensable.--This section is identical to G.S. 115-196.

Proposed 115C-194. Claims must be filed within one year.--This section is identical to G.S. 115-197.

Proposed 115C-195. Liability insurance and waiver of immunity as to torts of agents, etc.--This section is identical in meaning to G.S. 115-52.1 and 115-53.

#### "Part 2. Food Services.

Proposed 115C-196. School food services provided by local boards of education.--This section is identical to G.S. 115-51 except subsection (c) appears to be new. It requires local



boards of education to cooperate in programs for feeding the elderly.

115C-197 to 115C-198: Reserved for future codification purposes.

"SUBCHAPTER V.

"Personnel.

"ARTICLE 13.

"Superintendents.

Proposed 115C-199. Qualifications of superintendent.--This section is new to this chapter.

Proposed 115C-200. Selection and approval; term of office.--This section is comparable to G.S. 115-39.

Proposed 115C-201. Residence and oath required.--This section is comparable to the first and third sentences of G.S. 115-54.

Proposed 115C-202. Superintendent's salary and leave.--This section is comparable to the last sentence of G.S. 115-54 and 115-157(4).

Proposed 115C-203. Vacancies.--This section is identical in meaning to G.S. 115-55.

Proposed 115C-204. Duties of superintendent, generally.--This section is comparable to G.S. 115-41, 115-56, 115-57, 115-58, 115-47 and the implied duty to supervise the pupil transportation system as set forth in G.S. 115-181.

Proposed 115C-205. Office, equipment, and clerical assistance.--This section is identical in meaning to G.S. 115-40.

Proposed 115C-206. Removal for cause.--This section is identical to G.S. 115-42.

Proposed §§5C-207. Associate and Assistant Superintendents.--

This section is comparable to G.S. §15-44.

§§5C-208 to §§5C-210: Reserved for future codification purposes.

#### "ARTICLE 14.

##### "Principals and Supervisors.

Proposed §§5C-211. Selection; requirements.--This section is new to the chapter. It is comparable to G.S. §15-58.

Proposed §§5C-212. Salary.--This section is comparable to G.S. §15-151 and §15-157(3) and (3a) with respect to salary.

Proposed §§5C-213. Annual leave and holidays.--This section is comparable to G.S. §15-157(3) and (3a) with respect to annual leave and holidays. The local superintendent is authorized to approve leave instead of the local board.

Proposed §§5C-214. Board's authority over principals and supervisors.--This section is identical in meaning to G.S. §15-45, except the reference to teachers is impliedly excluded.

Proposed §§5C-215. Tenure as principal or supervisor.--This section is identical in meaning to G.S. §15-142(d) (2).

Proposed §§5C-216. Duties of principals, generally.--This section is a consolidation of the principal's duties from G.S. §15-144 through G.S. §15-150.1.

§§5C-217 to §§5C-219: Reserved for future codification purposes.

#### "ARTICLE 15.

##### "Teachers and Other Professional Personnel.

Proposed §§5C-220. Prerequisite for teaching.--This section is

comparable to G.S. 115-152. It imposes the same prerequisites for teaching for teachers teaching in public and private schools.

Proposed 115C-221. State Board issues certificates.--This section is comparable to G.S. 115-153. The reference to probationary certification is deleted.

Proposed 115C-222. Hiring of teachers and other professional personnel.--This section is new to this chapter. It is comparable to G.S. 115-152.

Proposed 115C-223. Student teachers.--This section is identical in meaning to G.S. 115-160.5, 115-160.6, and 115-160.7.

Proposed 115C-224. Duties of teachers, generally.--This section is comparable to G.S. 115-146 and 115-149 with respect to property. Reference to duties of principals is included in 115C-216.

Proposed 115C-225. Penalties for neglect of duty.--This section consolidates the penalty provision set forth in G.S. 115-133, 115-148, and 115-149.

Proposed 115C-226. Allocation of teachers; class size.--This section is identical in meaning to G.S. 115-59.

Proposed 115C-227. State and local salary scales.--The first paragraph is new to this section. The remainder of this section is comparable to the first paragraph and the first clause of the second paragraph of G.S. 115-49.

Proposed 115C-228. Local supplement to salaries.--This section is comparable to the last paragraph of G.S. 115-49.

Proposed 115C-229. Obligation and authority to pay salaries.--This section is identical in meaning to the first paragraph of

G.S. 115-158.

Proposed 115C-230. Method of compensation.--This section is comparable to the first three sentences of G.S. 115-157(1) and the first sentence of G.S. 115-157(2).

Proposed 115C-231. Salary increments while in armed services.--This section is comparable to G.S. 115-151 and 115-158.

Proposed 115C-232. Vacation and calendar.--This section is comparable to G.S. 115-157(1) beginning with the fifth sentence until the end of that subsection; and G.S. 115-157(2).

Proposed 115C-233. Retention and dismissal of principals, supervisors, and teachers.--This section is comparable to G.S. 115-142. It is applicable to teachers, principals and supervisors. It provides a new hearing procedure and does not provide for a professional review committee. The hearing procedure is to be commenced by the local superintendent's recommendation to the board to dismiss or demote a career employee. Before giving notice to the board, the superintendent must notify the employee of his intended recommendation. The employee may request a hearing before the local board or before a hearing officer designated by the State Board of Education. The board may refuse to hear the matter. If the hearing is held before a hearing officer, either party may appeal the decision to the superior court. If the initial hearing is before the board, the employee may appeal the decision of the board to the hearing officer. Subsection (h) of this section is identical in meaning to G.S. 115-157.1 and subsection (p) of G.S. 115-142.

Proposed §§5C-234. Reducing employment of occupational education teacher.--This section is identical to G.S. §§5-142.3.

§§5C-235 to §§5C-237: Reserved for future codification purposes.

"ARTICLE 16.

"Other School Employees.

Proposed §§5C-238. Hiring and dismissal.--This section is new. It does not appear to be a departure from the present practice. It provides for employment and dismissal of other employees in accordance with policies established by the board.

Proposed §§5C-239. Salary and leave.--This section is comparable to G.S. §§5-157(5).

"ARTICLE 17.

"General Personnel Regulations.

Proposed §§5C-240. Employee health certificate.--This section is identical in meaning to G.S. §§5-143 except the penalty for violation of the section is 'dismissal' instead of 'a misdemeanor subject to a fine or imprisonment'.

Proposed §§5C-241. Penalties for neglect of duty.--This section is new. The first paragraph is identical in meaning to G.S. §§5-66. The second paragraph is identical in meaning to lines 4 through 12 of the first paragraph of G.S. §§5-148; and the third paragraph of this section is identical in meaning to the first paragraph of G.S. §§5-149.

Proposed §§5C-242. Certain conduct prohibited.--This section is new. It prohibits employees from obtaining for personal benefit property belonging to or services provided by the

administrative unit. It also prohibits employees from accepting business-related gratuities.

Proposed 115C-243. Salary and vacation.--This section is identical to the first paragraph of G.S. 115-157 and subsection (7) of G.S. 115-157.

Proposed 115C-244. Salary of school employee injured in violent episode.--This section is identical in meaning to G.S. 115-159.1.

115C-245 to 115C-247: Reserved for future codification purposes.

## "ARTICLE 18.

### "Employment Benefits.

Proposed 115C-248. Annual leave, holidays.--This section is new. It is a cross-reference to sections concerning annual leave, holidays for principals, supervisors, teachers and other professional personnel as set forth in this proposed rewrite. It is comparable to the fifth sentence of G.S. 115-157(1).

Proposed 115C-249. Sick leave.--This section is comparable to G.S. 115-11(13). It directs the State Board of Education to establish a uniform policy for sick leave to provide .83 days per month for accumulated leave indefinitely. It does not permit the State board to regulate sick leave for superintendents, associate or assistant superintendents. It also requires the State board to regulate substitute employees.

Proposed 115C-250. Workmen's compensation.--This section is identical in meaning to G.S. 115-160 and 115-192.

Proposed 115C-251. Retirement.--This section is new. It is a

cross-reference to other sections of the General Statutes concerning retirement and social security benefits.

Proposed ||5C-252. Health and medical insurance and disability salary benefits.--This section is new. It is a cross-reference to Article 3 of G.S. |35 concerning health and medical insurance and disability benefits.

Proposed ||5C-253. Annuity contracts.--This section is identical in meaning to G.S. ||5-|53|.1.

Proposed ||5C-254. Payroll deductions for insurance and credit union deposits.--This section is identical in meaning to G.S. ||5-|53|.2.

||5C-255 to ||5C-257: Reserved for future codification purposes.

#### "ARTICLE |9.

"Interstate Agreement on Qualifications of Educational Personnel.

Proposed ||5C-258. Purpose, findings, policy.--This section is identical in meaning to G.S. ||5-|5||.1.

Proposed ||5C-259. Definitions.--This section is identical in meaning to G.S. ||5-|5||.2.

Proposed ||5C-260. Interstate educational personnel contracts.--This section is identical in meaning to G.S. ||5-|5||.3.

Proposed ||5C-261. Approved and accepted programs.--This section is identical to G.S. ||5-|5||.4.

Proposed ||5C-262. Interstate cooperation.--This section is identical to G.S. ||5-|5||.5.

Proposed ||5C-263. Agreement evaluation.--This section is

identical to G.S. 115-151.6.

Proposed 115C-264. Other arrangements.--This section is identical to G.S. 115-151.7.

Proposed 115C-265. Effect and withdrawal.--This section is identical to G.S. 115-151.8.

Proposed 115C-266. Construction and severability.--This section is identical to G.S. 115-151.9.

Proposed 115C-267. Designated State official.--This section is identical to G.S. 115-151.10.

#### "SUBCHAPTER VI.

"Students.

#### "ARTICLE 20.

"Admission and Assignment of Students.

Proposed 115C-268. Admission requirements.--This section is identical in meaning to G.S. 115-162. It changes the October 1 enrollment cutoff date to October 16 and it deletes the language which allows the State Board of Education to change the enrollment cutoff date.

Proposed 115C-269. Children in orphanages admitted to schools.--This section is identical in meaning to G.S. 115-164.

Proposed 115C-270. Assignment of student to particular school.--This section is identical in meaning to G.S. 115-176.

Proposed 115C-271. Assignment on certain bases prohibited.--This section is identical to G.S. 115-176.1 except that the second paragraph of the proposed section does not contain the last two sentences of the existing law.

Proposed 115C-272. Notice of assignment.--This section is



identical in meaning to G.S. 115-177.

Proposed 115C-273. Application for reassignment; notice of disapproval; hearing before board.--This section is identical in meaning to G.S. 115-178.

Proposed 115C-274. Appeal from board's decision.--This section is identical to G.S. 115-179.

Proposed 115C-275. Assignment to school bus.--This section is identical in meaning to subsections (a), (b), (c) and (f) of G.S. 115-184.

115C-276 to 115C-277: Reserved for future codification purposes.

"ARTICLE 21.

"Attendance.

Proposed 115C-278. Children between seven and sixteen required to attend.--This section is identical in meaning to G.S. 115-166.

Proposed 115C-279. Student records and fees.--This section contains information from several sections of the Chapter. Paragraph (a) of this section is identical in meaning to G.S. 115-165.1; paragraph (b) of this section is comparable to G.S. 115-35(f) and G.S. 115-206.16; paragraph (c) of this section is comparable to G.S. 115-150.4(b).

Proposed 115C-280. State Board of Education to make rules and regulations.--This section is identical to G.S. 115-167. The last four lines of G.S. 115-167 are deleted.

Proposed 115C-281. Attendance counselors; reports; prosecutions.--This section is comparable to G.S. 115-168 and 115-170.

Proposed ||5C-282. Investigation of indigency.--This section is identical in meaning to G.S. ||5-171.

Proposed ||5C-283. Penalty for violation.--This section is identical to G.S. ||5-159.

||5C-284 to ||5C-286: Reserved for future codification purposes.

"ARTICLE 22.

"Discipline.

Proposed ||5C-287. School personnel may use reasonable force.--This section is identical in meaning to G.S. ||5-146 with respect to discipline of pupils.

Proposed ||5C-288. Suspension and expulsion.--This section is identical in meaning to G.S. ||5-147. This section extends the authority to suspend to the assistant principal.

Proposed ||5C-289. Appeal of disciplinary measures.--This section appears to be new. It establishes a procedure for hearing pupil suspension or dismissal cases. A decision to suspend or dismiss a student may be appealed to the board. The board's decision may be appealed to the General Court of Justice within 30 days.

||5C-290 to ||5C-292. Reserved for future codification purposes.

"SUBCHAPTER VII.

"Fiscal Affairs.

"ARTICLE 23.

"Financial Powers of the State Board of Education.

Proposed ||5C-293. Funds under the control of the State

board.--This section is identical to G.S. 115-11(1).

Proposed 115C-294. Power to accept federal funds and aid.--This section is identical to G.S. 115-11(8).

Proposed 115C-295. Power to accept gifts and grants.--This section is identical to G.S. 115-11(15).

Proposed 115C-296. Authority to invest school funds.--This section is identical to G.S. 115-11(7).

Proposed 115C-297. Power to purchase at mortgage sales.--This section is identical to G.S. 115-11(9).

Proposed 115C-298. Power to adjust debts.--This section is identical to G.S. 115-11(10).

Proposed 115C-299. State board as successor to powers of abolished commissions and boards.--This section is identical in meaning to G.S. 115-11(2).

Proposed 115C-300. Report on operation of State School Fund.--This section is identical to G.S. 115-11(14)(e).

Proposed 115C-301. Power to allot funds for teachers and other personnel.--This section is identical to G.S. 115-11(12).

115C-302 to 115C-305: Reserved for future codification purposes.

#### "ARTICLE 24.

"The School Budget and Fiscal Control Act.

#### "PART 1.

"General Provisions.

Proposed 115C-306. Short title.--This Article may be cited as 'The School Budget and Fiscal Control Act'. This section is identical to G.S. 115-100.1.

Proposed ||5C-307. Definitions.--This section is identical in meaning to G.S. ||5-100.2.

Proposed ||5C-308. Uniform laws; local acts superseded.--This section is identical in meaning to G.S. ||5-100.3.

"PART 2.

"Budget.

Proposed ||5C-309. Annual balanced budget resolution.--This section is identical to G.S. ||5-100.5.

Proposed ||5C-310. Uniform budget format.--This section is identical to G.S. ||5-100.6 except the second paragraph of subdivision (f) (6) is deleted, therefore eliminating the board of county commissioners' power to approve the amount of money for purchase of sites.

Proposed ||5C-311. Preparation and submission of budget and budget message.--This section is identical in meaning to G.S. ||5-100.7.

Proposed ||5C-312. Filing and publication of the budget; budget hearing.--This section is identical to G.S. ||5-100.8.

Proposed ||5C-313. Approval of budget; submission to county commissioners; commissioners' action on budget.--This section is identical in meaning to G.S. ||5-100.9 except that the language in subsection (b) of that section which allows the boards to agree on a date to complete action on the budget is deleted.

Proposed ||5C-314. Apportionment of county appropriations among administrative units.--This section is identical to G.S. ||5-100.10.

Proposed ||5C-315. Procedure for resolution of dispute between

board of education and board of county commissioners.--This section is identical to G.S. 115-100.11 except that subsection (b) of the present law is deleted thus eliminating the clerk of superior court's authority to arbitrate.

Proposed 115C-316. The budget resolution; adoption, limitations, tax levy, filing.--This section is identical to G.S. 115-100.12.

Proposed 115C-317. Amendments to the budget resolution; budget transfers.--This section is identical to G.S. 115-100.13.

Proposed 115C-318. Interim budget.--This section is identical to G.S. 115-100.14.

115C-319 to 115C-321: Reserved for future codification purposes.

### "PART 3.

#### "Fiscal Control.

Proposed 115C-322. School finance officer.--This section is identical to G.S. 115-100.18.

Proposed 115C-323. Duties of school finance officer.--This section is identical in meaning to G.S. 115-100.19.

Proposed 115C-324. Allocation of revenues to the administrative unit by the county.--This section is identical to G.S. 115-100.20.

Proposed 115C-325. Provision for disbursement of State money.--This section is identical in meaning to G.S. 115-100.21.

Proposed 115C-326. Facsimile signatures.--This section is identical to G.S. 115-100.22.

Proposed 115C-327. Accounting system.--This section is

identical to G.S. 115-100.23.

Proposed 115C-328. Budgetary accounting for appropriations.--  
This section is identical to G.S. 115-100.24.

Proposed 115C-329. Fidelity bonds.--This section is identical  
to G.S. 115-100.25.

Proposed 115C-330. Investment of idle cash.--This section is  
identical in meaning to G.S. 115-100.26.

Proposed 115C-331. Selection of depository; deposits to be  
secured.--This section is identical to G.S. 115-100.27.

Proposed 115C-332. Daily deposits.--This section is identical  
to G.S. 115-100.28.

Proposed 115C-333. Semiannual reports on status of deposits  
and investments.--This section is identical in meaning to G.S.  
115-100.29.

Proposed 115C-334. Annual independent audit.--This section is  
identical to G.S. 115-100.30.

Proposed 115C-335. Special funds of individual schools.--This  
section is identical to G.S. 115-100.31.

Proposed 115C-336. Proceeds of insurance claims.--This section  
is identical to G.S. 115-100.3.

Proposed 115C-337. School food services.--This section is  
comparable to G.S. 115-100.33.

Proposed 115C-338. Reports to State Board of Education.--This  
section is identical to G.S. 115-100.34.

Proposed 115C-339. Fines and forfeitures.--This section is  
identical to G.S. 115-100.35.

115C-340: Reserved for future codification purposes.

"ARTICLE 25.

"Loans from State School fund.

Proposed 115C-341. Loans by State board from State School Fund.--This section is identical to G.S. 115-101.

Proposed 115C-342. Terms of loans.--This section is identical to G.S. 115-102.

Proposed 115C-343. How secured and paid.--This section is identical to G.S. 115-103.

Proposed 115C-344. State Board of Education authorized to accept funding or refunding bonds of counties for loans; approval by Local Government Commission.--This section is identical to G.S. 115-105.

Proposed 115C-345. Issuance of bonds as part of general refunding plan.--This section is identical to G.S. 115-106.

Proposed 115C-346. Validating certain funding and refunding notes of counties.--This section is identical to G.S. 115-107.

Proposed 115C-347. Special appropriation from fund.--This section is identical to G.S. 115-108.

Proposed 115C-348. Loans not granted in accordance with G.S. 115C-341.--This section is identical to G.S. 115-108.1.

Proposed 115C-349. Pledge of nontax revenues to repayment of loans from State School Fund.--This section is identical to G.S. 115-108.2.

115C-350 to 115C-353: Reserved for future codification purposes.

#### "ARTICLE 26.

"Assumption of School District Indebtedness by Counties.

Proposed 115C-354. Method of assumption; validation of

proceedings.--This section is identical to G.S. 115-109.

Proposed 115C-355. Taxes levied and collected for bonds assumed to be paid into school debt service fund of county; discharge of sinking fund custodian.--This section is identical to G.S. 115-110.

Proposed 115C-356. Allocation to district bonds of taxes collected.--This section is identical to G.S. 115-111.

#### "ARTICLE 27.

##### "Funding and Refunding Bonds of School Districts.

Proposed 115C-357. 'School district' defined.--This section is identical to G.S. 115-112.

Proposed 115C-358. Continuance of district until bonds are paid.--This section is identical to G.S. 115-113.

Proposed 115C-359. Funding and refunding of bonds authorized; issuance and sale or exchange; tax levy for repayment.--This section is identical to G.S. 115-114.

Proposed 115C-360. Issuance of bonds by cities and towns; debt statement; tax levy for repayment.--This section is identical to G.S. 115-115.

115C-361 to 115C-363: Reserved for future codification purposes.

#### "ARTICLE 28.

##### "Voluntary Endowment Funds for Public Schools.

Proposed 115C-364. Creation of endowment funds; administration.--This section is identical to G.S. 115-316.

Proposed 115C-365. Boards of trustees public corporations; powers and authority generally; investments.--This section is



identical to G.S. 115-317.

Proposed 115C-366. Expenditure of funds; pledges.--This section is identical to G.S. 115-318.

Proposed 115C-367. When only income from fund expended.--This section is identical to G.S. 115-319.

115C-368 to 115C-369: Reserved for future codification purposes.

#### "SUBCHAPTER VIII.

#### "Local Tax Elections.

#### "ARTICLE 29.

#### "Voted Tax Supplements for School Purposes.

Proposed 115C-370. Special voted tax levies.--While this proposed statute has no counterpart in the present law, it apparently does not work any significant changes in the law. The first sentence generally corresponds to the power to levy supplemental taxes now found in G.S. 115-116(a). The second sentence of the proposed statute incorporates by reference the requirements of the Machinery Act, G.S. 105-271, et. seq., which deals with the assessment of property and the levy and collection of taxes and is apparently consistent with the present provision of G.S. 115-124. The third sentence of the proposed statute carries over the present requirements of G.S. 115-122, regarding the effective date of a tax.

Proposed 115C-371. Procedure for authorizing a special tax levy.--The present statutes, G.S. 115-118, 119, 120, 121, and 122, which generally deal with the subject matter of the proposed statute, prescribe an involved process of petitions for

a tax referendum. Generally, these statutes call for or permit petitions to the local board, consideration by the local board of the petition, acceptance or rejection of the petition by the local board, presentation of an approved petition to the county commissioners and a referendum.

This proposed statute authorizes local boards to call for a referendum without going through the long involved petition process and without presenting any petition to the county commissioners. The fact that the local board may call for a referendum without going to the county commissioners does not, however, as a practical matter, specifically change the present law because a board of commissions presented with a petition for a referendum by a local board of education is required, by present G.S. 115-121, to hold the referendum.

The proposed statute significantly changes the present statutes as follows:

(1) The present statute vests much express authority and all residual authority regarding the rules and procedures for tax referenda in the county commissioners. The proposed statute requires tax elections, unless otherwise prescribed, to be held in accordance with the general election laws, Chapter 163 of the General Statutes.

(2) The present statute requires notice of the election to be given 30 days prior to the date of the election. The proposed statute requires notice of the election not less than 14 days prior to the last day for voter registration, but does not require any notice prior to the election itself. Chapter 163

does, however, specify notice requirements prior to the referendum.

(3) The present statute specifies procedures for new registration prior to the election. The proposed Chapter 103 does, however, contain requirements regarding voter registration.

(4) There is no provision for absentee ballots in the present law; there is in the proposed statute.

The latter portions of proposed subsection (d) and all of subsection (e) regarding the validity of an election are substantially the same as the present law.

Proposed 115C-372. Maximum rate and frequency of referenda.-- This section is comparable to G.S. 115-117. The language concerning determination of population is new.

Proposed 115C-373. Levy and collection of taxes.--This section is comparable to G.S. 115-124. It prohibits the governing board of tax levying authority from disapproving requested levies authorized pursuant to local acts that deny such discretion. It permits the tax levying authority to retain all penalties, interest, etc., collected from the proceeds of the tax prior to distribution. It deletes the provision in the present statute which allows the county to deduct its expenses incurred in levying the special tax.

Proposed 115C-374. Annexation of territory to an administrative unit.--This section is comparable to G.S. 115-116(g).

Proposed 115C-375. Petition for annexation.--The first sentence of this section is comparable to G.S. 115-118. It

provides for an annexation petition to be initiated by a majority of the qualified voters. G.S. 115-118 allows annexation petitions to be initiated by the school committee, county and city boards of education, or a majority of the committees in an area including a number of districts and a majority of the qualified voters.

Proposed 115C-376. Approval of petition.--This section is comparable to the first sentence of G.S. 115-120.

Proposed 115C-377. Referendum on annexation.--This section appears to be new.

Proposed 115C-378. Conveyance of school property upon annexation.--This section is identical in meaning to the first sentence of G.S. 115-122.2. It requires the property disposition agreement to be reduced to writing.

115C-379 to 115C-381: Reserved for future codification purposes.

"SUBCHAPTER IX.

"Property.

"ARTICLE 30.

"School Sites and Property.

Proposed 115C-382. Map of local school administrative units.--This section is new to this Chapter. It provides for:

(1) boundaries of administrative units to be drawn on a map, set out in written description, or a combination of the two methods;

(2) description of school unit's boundaries to be kept in the local superintendent's office;

- (3) revisions of maps by local administrative units; and
- (4) revised map to supercede replaced map.

Proposed 115C-383. Acquisition of sites.--This section is identical in meaning to G.S. 115-125 except the last sentence is identical in meaning to the last paragraph of G.S. 115-131.

Proposed 115C-384. Sale, exchange, or lease of property; easement, right-of-way.--This section is comparable to G.S. 115-126.

(1) Subsection (a) is comparable to subsection (a) of G. S. 115-126. It does not set out the procedure for the sale of real property as is set out in G.S. 115-126(a). It states that the sale shall follow the procedure set forth in Article 29A, judicial sales of real property. G.S. 115-126(a) makes reference to this statute also.

(2) Subsection (b) of this section is comparable to subsection (b) of G.S. 115-126. It requires the sale of personal property at public auction to follow the procedure set forth in Article 29A. The present statute sets forth a special procedure for sale of personal property at public auction. The present procedure for sale of personal property at public auction provides for:

- (1) designation of the place and time of sale by the local board;
- (2) personal property to be at place of sale unless the board determines that it is impractical to have the property present;
- (3) designation of the person to conduct sale by board; and
- (4) postponement of sale.

(3) Subsection (c) of this section is comparable to subsection (c) of G.S. 115-126. It does not provide for private sale of

property. All property sold at private sale before July 1, 1977, is allocated if stated conditions were complied with.

(4) Subsection (d) is identical in meaning to subsection (d) of G.S. 115-126.

(5) Subsection (e) is identical in meaning to subsection (e) of G.S. 115-126 except it adds that local boards may sell, etc., property as provided in G.S. 160A-274.

(6) Subsection (f) of this section is comparable to subsection (f) of G.S. 115-126.

Proposed 115C-385. Vehicles owned by boards of education.-- This section is identical in meaning to G. S. 115-128.

Proposed 115C-386. Erection of school buildings.--(1) Subsection (a) of this section is comparable to the first paragraph of G.S. 115-131.

(2) Subsection (b) is comparable to G.S. 115-130 with respect to erection of school buildings.

(3) Subsection (c) of this section is identical in meaning to the second paragraph of G.S. 115-129 with respect to erection of buildings.

Proposed 115C-387. Provision of equipment for buildings.--(1) Subsection (a) of this section is comparable to the first paragraph of G.S. 115-129 with respect to equipment. The last sentence of this paragraph (which allows the board of county commissioners a reasonable time to provide the funds upon a finding of necessity) is deleted.

(2) Subsection (b) of this section is comparable to G.S. 115-52. It requires local boards of education to purchase all

supplies and equipment by contract made or approved by the Department of Administration. It also provides that title to all supplies and equipment is to be taken in the name of the local board.

(3) Subsection (c) of this section is comparable to the second paragraph of G.S. 115-132.

Proposed 115C-388. Care of school property.--This section is comparable to the first sentence of G.S. 115-133 and G.S. 115-149. It is a cross-reference to proposed 115C-216 which states the principal's duty with respect to school property and to proposed 115C-224 which states the teacher's duty with respect to school property.

Proposed 115C-389. Repair of school property.--This section is comparable to G.S. 115-130 with respect to repair of school property except that subsections (c) and (d) of this section are comparable to G.S. 115-133. The provision holding janitors and committeemen responsible for the safekeeping of the building is deleted.

Proposed 115C-390. Fire prevention.--This section is identical in meaning to G.S. 115-150.1 and 115-150.2.

115C-391 to 115C-393: Reserved for future codification purposes.

#### "ARTICLE 31.

##### "State Insurance of Public School Property.

Proposed 115C-394. Power of State board to operate insurance system.--This section is new to this Article. It is identical in meaning to G.S. 115-11(14)(f).

Proposed 115C-395. Duty to insure property.--This section is identical to G.S. 115-133.1.

Proposed 115C-396. Authority and rules for organization of system.--This section is identical to G.S. 115-134.

Proposed 115C-397. Public School Insurance Fund; decrease of premiums when fund reaches five percent (5%) of total insurance in force.--This section is identical to G.S. 115-135.

Proposed 115C-398. Insurance of property by school governing boards; notice of election to insure and information to be furnished; outstanding policies.--This section is identical to G.S. 115-136.

Proposed 115C-399. Inspection of insured public school properties.--This section is identical to G.S. 115-137.

Proposed 115C-400. Information to be furnished prior to insuring in fund; providing for payment of premiums.--This section is identical to G.S. 115-138.

Proposed 115C-401. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payments thereof.--This section is identical to G.S. 115-139.

Proposed 115C-402. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local units; disbursement of funds.--This section is identical to G.S. 115-140.

Proposed 115C-403. Maintenance of inspection and engineering service; cancellation of insurance.--This section is identical to G.S. 115-141.



115C-404 to 115C-406: Reserved for future codification purposes.

"SUBCHAPTER X.

"Private and Proprietary Schools.

"ARTICLE 32.

"Private Schools.

Proposed 115C-407. Responsibility of State board of Education to supervise nonpublic schools; notice of intention to operate new school.--This section is identical to G.S. 115-255.

Proposed 115C-408. Teachers must have certificates for grades they teach; instruction given must substantially equal that given in public schools.--This section is identical in meaning to G.S. 115-256.

Proposed 115C-409. Operators must report certain information.--This section is identical to G.S. 115-257.

115C-410 to 115C-412: Reserved for future codification purposes.

"ARTICLE 33.

"Private Business and Trade Schools.

Proposed 115C-413. Definitions.--As used in this Article: This section is identical to G.S. 115-245 except that the term 'correspondence school' has been deleted and the term 'branch school' has been added.

Proposed 115C-414. Exemptions.--This section is identical in meaning to G.S. 115-246.

Proposed 115C-415. State Board of Education to administer Article; issuance of diplomas by schools; investigation and

inspection; regulations and standards.--This section is identical in meaning to G.S. 115-247. In subsection (a) of this section the words 'acting by and through the superintendent of public instruction' and 'schools and educational institutions' are replaced by 'business and trade schools'. In subsection (b) 'school or educational institution' is replaced by 'business or trade school'. In subsection (c) the words 'acting by and through the Superintendent of Public Instruction' and 'or branch school' are deleted.

Proposed 115C-416. License required; application for license; school bulletins; requirements for issuance; license restricted to courses indicated; supplementary application.--Comparable with G.S. 115-248. Proposed 115-303 makes the following changes in the existing law:

(1) In subsection (a) the words 'conducted or maintained' and 'issued in accordance with provisions of this Article and rules and regulations promulgated by the Board of Education under the authority of G.S. 115-247' are deleted.

(2) In subsection (f) the words 'conditions for interruption for unsatisfactory grades or progress' are deleted.

(3) In subsection (h) the words 'and all other charges' are deleted.

(4) In subsection (k) the words 'type of or' are deleted and the words 'and completion requirements' are added.

Proposed 115C-417. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.--This section is identical in meaning to G.S. 115-

249.

Proposed 115C-418. Fees.--The first paragraph of the new law provides that:

- (1) \$100.00 for original application fee;
- (2) \$50.00 for annual renewal; (3) no fee for supplementary application for approval of additional courses; (4) late fees must be paid.

The second paragraph of the proposed section is identical in meaning to G.S. 115-250.

Proposed 115C-419. Refusal to issue license; suspension or revocation; notice and hearing.--Comparable to G.S. 115-251. The proposed section makes the following changes in the existing law:

- (1) substitutes the words 'applicant or licensee' for 'applicant or holder of such license';
- (2) subsection (b) (relating to judicial review) is deleted;
- (3) subsections '3, 5, and 7' in the proposed section are the same as subsections '2, 7, and 8' in the present law.

Proposed 115C-420. Private schools advisory committee.--The proposed section is comparable to G.S. 115-252 and:

- (1) all references to the Superintendent of Public Instruction are deleted and replaced by the State Board of Education;
- (2) establishes a three-year term and sets out manner of appointment for members of the advisory committee;
- (3) provides that the President of the North Carolina Association of Business Colleges shall be an ex officio member of the committee;
- (4) requires the committee to meet at least two times a year.

Proposed 115C-421. Execution of bond required.---

(1) The proposed section substitutes the word 'applicant' for 'person, partnership, association of persons, or corporation' in subsection (a) of G.S. 115-253.

(2) The amount of bond is raised from '\$1,000' to '\$10,000'.

(3) The second sentence of the proposed section concerning amount of bond for schools having more than 200 students is new.

(4) The proposed section adds the word 'prospective' on lines 17 and 18 before the word 'student'.

(5) Subsections (b) and (c) of G.S. 115-253 are deleted.

(6) The last two sentences of the proposed section are new and provide for filing bonds with the Department of Public Instruction, and exempts schools which already have bonds filed with the Board of Governors.

Proposed 115C-422. Operating schools without license or bond made misdemeanor.---The proposed section is identical in meaning to G.S. 115-254.

Proposed 115C-423. Contracts with unlicensed schools and evidence of indebtedness invalidated.---The proposed section is identical in meaning to G.S. 115-310.

Proposed 115C-424. Retention of records required.---This proposed section is new. It requires schools to maintain records on all students, and when a school ceases to operate, the records are to be turned over to the Department of Archives and History.

Appendix 1

AN ACT TO REPEAL ARTICLE 30 OF CHAPTER 115 OF THE GENERAL STATUTES AND TO MOVE THE STATUTORY REFERENCE TO THE VOCATIONAL REHABILITATION SERVICES DIVISION WITH STATUTES CONCERNING THE DEPARTMENT OF HUMAN RESOURCES IN ORDER TO COMPLY WITH STATE GOVERNMENT REORGANIZATION.

The General Assembly of North Carolina enacts:

Section 1. Article 30 of Chapter 115 of the General Statutes is repealed.

Sec. 2. Chapter 143B of the General Statutes is amended by adding a new Part 22 of Article 3 as follows:

"Part 22. Vocational Rehabilitation Services Division.

G.S. 143B-210. Acceptance of Federal Aid. - The State of North Carolina accepts all of the provisions and benefits of Public Law 93-112, 1973 (Rehabilitation Act of 1973), and Act passed by the Congress of the United States to assist states in providing vocational rehabilitation services to eligible mentally and physically handicapped persons with the goal of preparing these persons for gainful employment; and subsequent similar Acts enacted by the Federal Congress for these same purposes.

G.S. 143B-211. Creation of Division; powers and duties.

There is created the Division of Vocational Rehabilitation Services within the Department of Human Resources.

The Department of Human Resources through its Vocational Rehabilitation Services Division and an approved State Plan is authorized to cooperate with the Federal Rehabilitation Services Administration in the administration of Public Law 93-112, 1973 (the Rehabilitation Act of 1973), and subsequent similar legislation; to administer any

legislation concerning vocational rehabilitation enacted by the State of North Carolina; to formulate a program of vocational rehabilitation services; to fix compensation, subject to the approval of the Office of State Personnel as may be necessary to administer this program, and to pay such compensation and other expenses as are necessary from funds appropriated under this Act.

The Department of Human Resources through its Vocational Rehabilitation Services Division shall secure the cooperation of Federal, State, and local agencies, organizations, and individuals having contact with the physically and mentally handicapped population in order to carry out the provisions of this Part."

Sec. 3. This Act is effective upon ratification.









