

**LEGISLATIVE
RESEARCH COMMISSION**

**SUPERINTENDENT OF
PUBLIC INSTRUCTION AND
THE STATE BOARD OF EDUCATION**



**REPORT TO THE
1987 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



December 12, 1986

TO THE MEMBERS OF THE 1987 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1987 General Assembly on the matter of the duties and method of selecting the Superintendent of Public Instruction and the State Board of Education. The report is made pursuant to Chapter 790 of the 1985 General Assembly (1985 Session).

This report was prepared by the Legislative Research Commission's Committee on the Superintendent of Public Instruction and the State Board of Education and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,


Liston B. Ramsey


J. J. (Monk) Harrington

Cochairmen Legislative Research Commission

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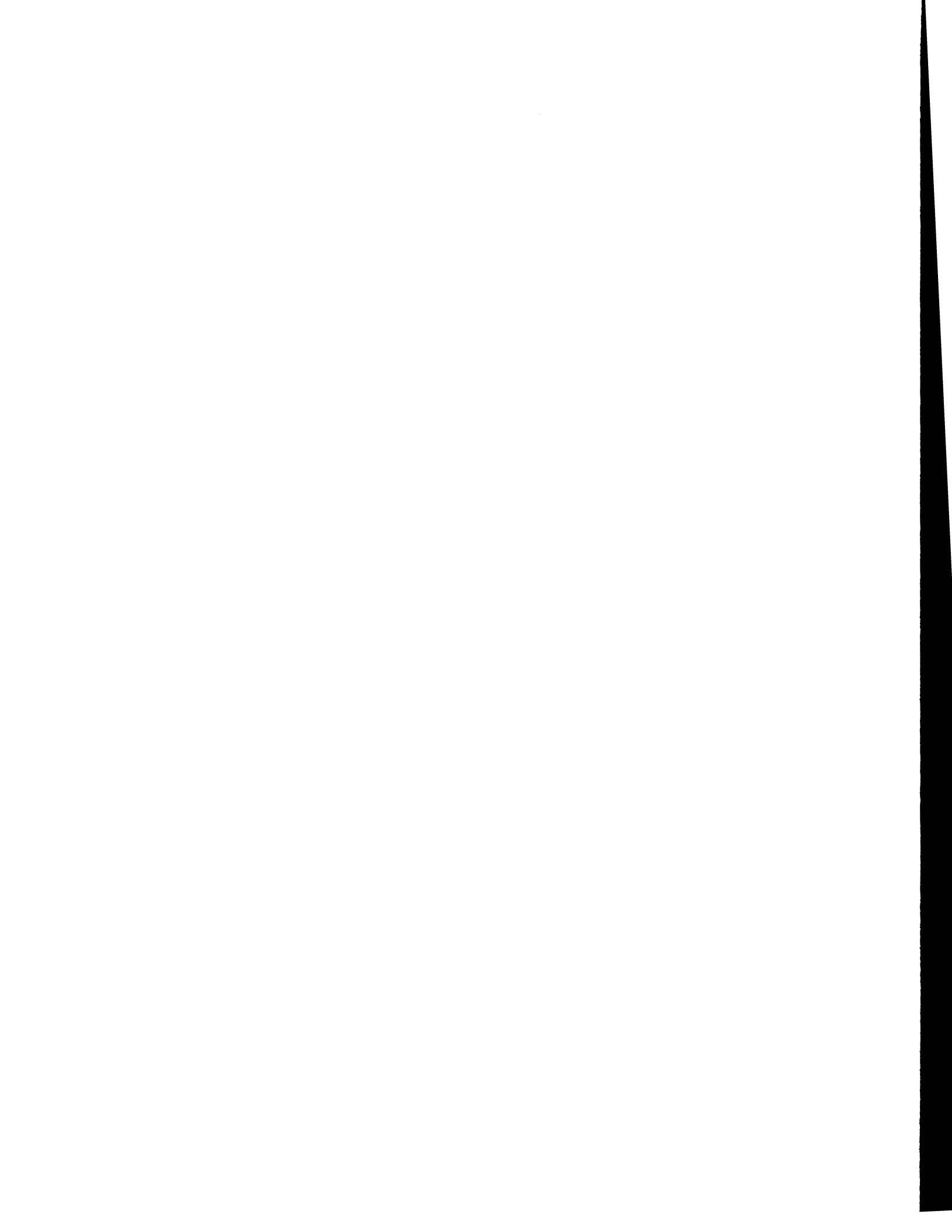
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PREFACE



PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation 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." G.S. 120-30.17(1). The membership of the Legislative Research Commission is listed in Appendix A.

At the direction of the 1985 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The cochairmen of the Legislative Research Commission, under the authority of General Statute 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The study of the Superintendent of Public Instruction and the State Board of Education was authorized by Section 1(21) of Chapter 790 of the 1985 Session Laws (1985 Session). That act states that the Commission may consider House Joint Resolution 1412 in determining the nature, scope, and aspects of the study. Section 1 of House Joint Resolution 1412 reads: "The Legislative Research Commission may study the feasibility of redefining the duties of the Superintendent of Public Instruction, restructuring the State Board of Education, and may consider legislative alternatives to a constitutional amendment to achieve these changes." Relevant portions of Chapter 790 and House Joint Resolution 1412 are included in Appendix B.

The Legislative Research Commission grouped this study in its Education area under the direction of Representative Aaron E. Fussell. The Committee was chaired by Representative Edward N. Warren and Senator Robert D. Warren. The full membership of the Committee is listed in Appendix C of this report.

BACKGROUND



BACKGROUND

The North Carolina Constitution governs the method of selecting the Superintendent of Public Instruction and the State Board of Education. Section 7 of Article III provides that the Superintendent shall be elected by the voters for a four-year term. No limit is placed on the number of terms that a person can serve as Superintendent. The language of Article III, Section 7 is found in Appendix D. Section 4(2) of Article IX provides that the Superintendent shall be "the secretary and chief administrative officer of the State Board of Education." A copy of Article IX is found in Appendix E.

The membership of the State Board of Education is set forth in Section 4(1) of Article IX of the North Carolina Constitution. The State Board of Education currently has thirteen members. The Governor appoints eleven members subject to confirmation by the General Assembly. Eight of the members must be from a different educational district in the State, and three members are appointed from the State at large. Appointments to the State Board of Education are for overlapping terms of eight years. The Lieutenant Governor and the Treasurer also serve on the State Board of Education.

The State Board of Education elects a chairman and vice-chairman from its membership pursuant to G.S. 115C-11. A copy of Article 2 of Chapter 115C is found in Appendix F.

The powers and duties of the State Board of Education are found in Section 5 of Article IX of the North Carolina Constitution. This section provides that

The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article [county school funds], and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

There is no reference in the North Carolina Constitution to the Office of the Controller. Article 4 of Chapter 115C of the General Statutes, however, creates the Office of the Controller. Appendix G contains a copy of Article 4 of Chapter 115C. G.S. 115C-27 provides that the controller shall be appointed by, and serve at the will of, the State Board of Education. G.S. 115C-28 provides that the controller shall supervise and manage all the fiscal affairs of the State Board of Education.

Thus, the current system has a popularly elected chief administrative officer (the Superintendent of Public Instruction), an appointed governing board (the State Board of Education), and a chief fiscal officer (the controller) who is not directly responsible to the chief administrative officer. This method of governance has caused steadily increasing concern in recent years.

The primary criticism is that there is no single voice who speaks for public and secondary education in North Carolina.

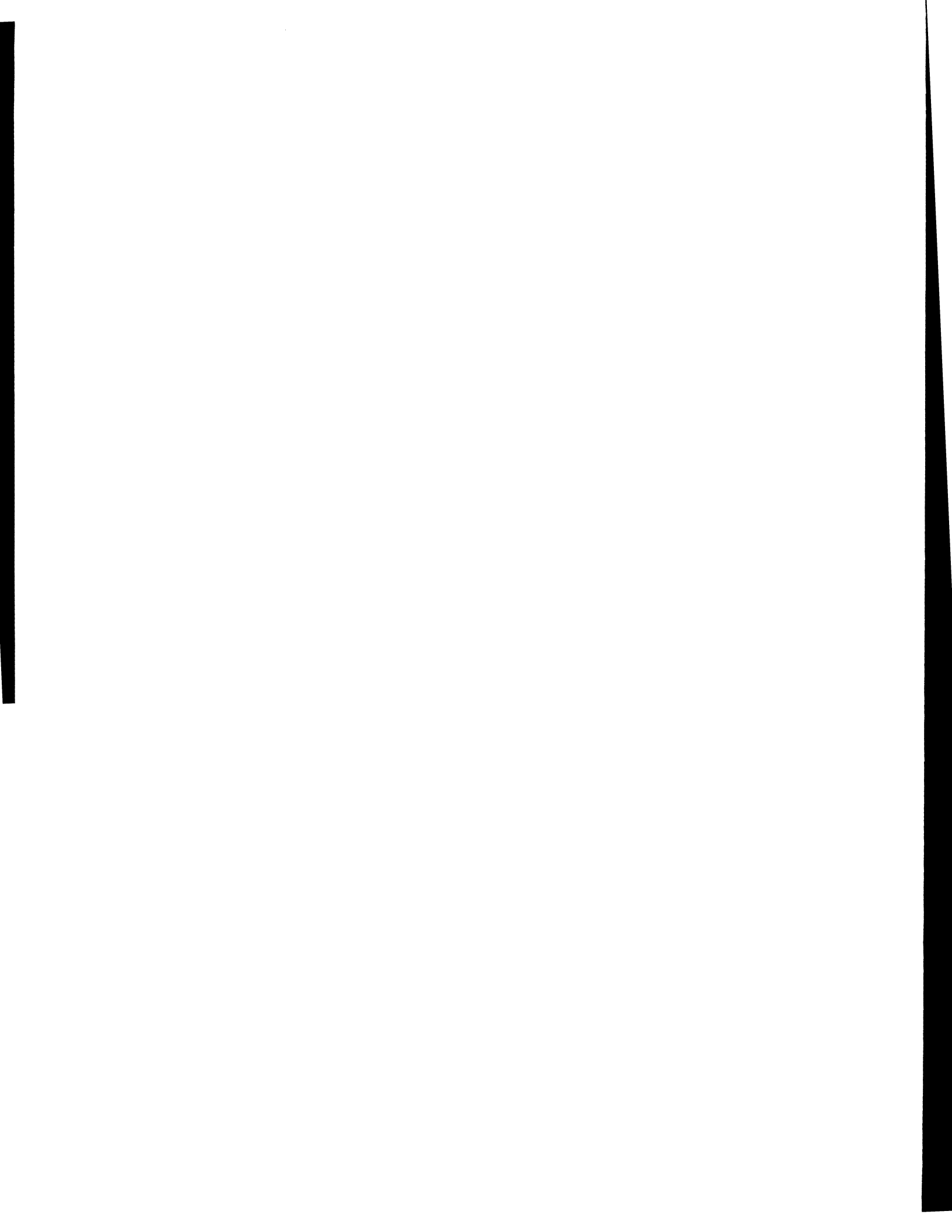
In 1983 the General Assembly created the Public Education Policy Council, which was composed of forty-seven members. The Council divided itself into three committees that dealt with personnel, finance, and governance. The governance committee recommended legislation that made the Superintendent of Public Instruction appointive rather than elective. The committee also recommended changes in the number and method of selection of members of the State Board of Education. Consequently, House Bill 1060, AN ACT TO AMEND THE CONSTITUTION AND THE GENERAL STATUTES TO CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE STATE BOARD OF EDUCATION AND TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION APPOINTIVE, was introduced. The bill was referred to the House Committee on the Constitution where it received an unfavorable report.

The Public Education Policy Council continued meeting in 1984 and made recommendations to the 1985 General Assembly. Appendix H contains excerpts from the Report of the Public Education Policy Council to the 1985 General Assembly. The Council again recommended legislation to make the Superintendent of Public Instruction appointive and change the number and method of selection of members of the State Board of Education. Senate Bill 46, which was identical to the original House Bill 1060, was introduced.

In 1985 Senate Bill 46, Second Edition, passed the Senate on second reading by a vote of 41 to 3 and passed the Senate on third reading by a vote of 42 to 4. The bill was then assigned to the House Committee on the Constitution, which gave a favorable report on a committee substitute during the 1986 Session. The bill, however, was withdrawn from the calendar and re-referred to the House Committee on Education. It was never reported from the House Committee on Education. A copy of Senate Bill 46 is found in Appendix I.

During the 1985 Session House Joint Resolution 1412, A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY ALTERNATIVES TO A CONSTITUTIONAL AMENDMENT TO REDEFINE THE DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND TO RESTRUCTURE THE STATE BOARD OF EDUCATION, also was introduced. This resolution was incorporated into Chapter 790, section 1(21) of the 1985 Session Laws. Relevant portions of Chapter 790 and House Joint Resolution 1412 are included in Appendix B.

COMMITTEE PROCEEDINGS



COMMITTEE PROCEEDINGS

The Committee met in the Legislative Building on the following dates: November 14, 1985, December 12, 1985, March 18, 1986, April 16, 1986, September 22, 1986, and December 2, 1986.

November 14, 1985 Meeting

The members were briefed on the background of the Committee, the duties and powers of the Committee, and the status of legislation introduced during the 1985 Session dealing with governance. The Committee also heard from the North Carolina Association of Educators and the State Advisory Council on Vocational Education.

Ms. Libby Lefler, Committee Counsel, first distributed copies of excerpts from the Report of the Public Education Policy Council to the 1985 General Assembly. A copy of the excerpts is found in Appendix H. She outlined the seven models of governance that the Public Education Policy Council had examined. Ms. Lefler also reviewed Senate Bill 46, Second Edition. Appendix I contains a copy of Senate Bill 46. She indicated that the bill would be eligible for consideration during the 1986 Session.

Mr. Patric Mullen, Assistant Executive Secretary for Government Relations of the North Carolina Association of Educators, then spoke to the Committee. He spoke in favor of

retaining the popular election of the Superintendent of Public Instruction. He stated that the current system of governance, although at times it appears convoluted, serves the public school system well. He concluded by stating that the healthy competition of ideas from the Governor's office, the State Board of Education, and the Superintendent of Public Instruction contributed to legislative debate, which would produce a better educational product.

Mr. E. Michael Latta, Executive Director of the State Advisory Council on Vocational Education, delivered a paper, "Who's in Charge of the Public Schools?". A copy of the paper is in Appendix J. Mr. Latta outlined several solutions for making organizational changes and spoke in support of trying to make changes statutorily. He further spoke in favor of a constitutional change in the event adjustments could not be made statutorily.

December 12, 1985 Meeting

The Committee heard from five speakers on the issue of the duties and method of selecting the Superintendent of Public Instruction and the State Board of Education.

The first speaker was Dr. Gene Causby, Executive Director of the North Carolina School Boards Association. He specifically spoke in support of placing the controller under the authority of

the chief administrative officer. He also spoke in favor of reducing the length of the term for members of the State Board of Education to four years and limiting the number of terms to two. A copy of his remarks is found in Appendix K.

Dr. Cleveland Hammonds, President-Elect of the North Carolina Association of School Administrators, was the next speaker. He stated that the current governance structure is flawed, that it violates sound management principles, and that it hinders rather than promotes educational progress. He stated that the North Carolina Association of School Administrators believed that there are two essential goals. First, the State Board of Education must be the principle voice for the public schools of our State. Second, the program and fiscal affairs of the State Department of Public Education must be directed and administered by a single chief administrative officer. He concluded by stating that he felt that constitutional changes similar to those proposed in Senate Bill 46 were in the best interests of public education. A copy of his statement is found is Appendix L.

The third speaker was Mr. Larry Ivey, Chairman of the Ad Hoc Legislative Group of Superintendents. He submitted a proposal for a revised structure of governance for the public elementary and secondary schools. The proposal addresses four major areas. First, the Superintendent of Public Instruction would continue to be elected with all currently mandated constitutional duties. The Superintendent also would be ex officio chairman of the State

Board of Education. Second, the State Board of Education would continue to be appointed under the current process. Third, the Office of Controller would be repealed and fiscal affairs would be established as a division within a unitary Department of Public Education. Fourth, the Superintendent of Public Instruction and the State Board of Education would employ one chief administrative officer to organize, administer, and oversee the unitary Department of Public Education. Mr. Ivey stated that this proposal could be enacted without a constitutional amendment. A copy of the proposal is found in Appendix M.

Dr. A. Craig Phillips, Superintendent of Public Instruction, was the next speaker. He strongly endorsed the plan proposed by Mr. Larry Ivey. He requested that this Committee arrive at a recommendation that would allow for a strong, single, governing body for the State's public education. He added that North Carolina is the only state with a dual system. A copy of his remarks is in Appendix N.

Mr. Ward Purrington, Legislative Counsel to Governor Martin, was the final speaker. He related that the Governor favors retaining the authority to appoint a substantial majority of the membership of the State Board of Education. The Governor also feels that the line of responsibility for public education would be clarified and strengthened by having the chief administrative officer of public instruction appointed rather than elected.

Ms. Libby Lefler, Committee Counsel, then distributed copies of the Attorney General's Opinion on the constitutionality of proposed legislation concerning the duties and position of the Superintendent of Public Instruction. The opinion stated that it was likely within the power of the General Assembly under the present Constitution to amend G.S. 115C-11(a) to make the Superintendent of Public Instruction the nonvoting chairman of the State Board of Education. The opinion also stated that the Constitution would not prohibit the General Assembly from establishing the position of Commissioner of Public Schools and conferring upon that office the day-to-day administration of the powers of the State Board of Education so long as the legislation required that the responsibilities be exercised through the Superintendent of Public Instruction or under his direction. A copy of the opinion is in Appendix O.

March 18, 1986 Meeting

At this meeting the Committee continued its discussion of the method of selecting the Superintendent of Public Instruction and the State Board of Education. The Committee heard from the Superintendent of Public Instruction, the Chairman of the State Board of Education, and the Legislative Counsel to Governor Martin.

The first speaker was Dr. A. Craig Phillips, Superintendent of Public Instruction. He provided the Committee with an analysis

of probable cost savings associated with merging the controller's office into the Department of Public Instruction. He stated that the merger would make it possible to operate the Department of Education more efficiently by eliminating costly overlap and duplication of services. The estimated savings would be approximately \$309,000.

The second speaker was Mr. Mebane Pritchett, Chairman of the State Board of Education. He stated that the State Board of Education voted to endorse the governance approach described in Senate Bill 46 because it felt that the system outlined in Senate Bill 46 would provide the sound management structure needed for the challenges of the last years of the twentieth century.

The final speaker was Mr. Ward Purrington, Legislative Counsel to Governor Martin. He stated that the Governor did not support the proposal presented by Mr. Larry Ivey, Chairman of the Ad Hoc Legislative Group of Superintendents, at the December 12, 1985 meeting of this Committee. He further stated that the Governor supported the provisions of Senate Bill 46, Second Edition, except for the provisions relating to legislative appointments to the State Board of Education. He felt that the provisions relating to the appointment of members of the State Board of Education should remain the same as they are in current law. He took no position on whether the terms of the members of the State Board of Education should be changed.

Ms. Libby Lefler, Committee Counsel, then distributed copies of a table illustrating the methods used by other states to select the State Boards of Education and chief school officers. The table is in Appendix P.

Senator Warren then reviewed the four major options available to the Committee. First, the Committee could endorse Senate Bill 46, Second Edition. Second, the Committee could endorse placing the controller under the Superintendent of Public Instruction. Third, the Committee could endorse the plan to make the Superintendent of Public Instruction the ex officio chairman of the State Board of Education and create a new position, commissioner of public schools. Fourth, the Committee could endorse making no changes to the current system.

April 16, 1986 Meeting

This was the final meeting of the Committee before the 1986 Session of the General Assembly. The Committee discussed the four options outlined at the March 18, 1986 meeting.

The Committee also heard from Mr. Ward Purrington, Legislative Counsel to Governor Martin. Mr. Purrington reported that the position of the Governor remained the same as that stated at the March 18, 1986 meeting of this Committee in that the Governor favored Senate Bill 46, Second Edition, except for the provisions relating to legislative appointments. Mr. Purrington

suggested that an alternative to Senate Bill 46, Second Edition, would be to provide that the State Board of Education would have thirteen members. The State Board of Education would consist of the Lieutenant Governor, the State Treasurer, the President of the University of North Carolina, the State President of Community Colleges, eight members appointed by the Governor, and a Chairman appointed by the Governor.

The Committee voted to continue studying the options and not make a report to the 1986 Session of the General Assembly.

September 22, 1986 Meeting

This was the first meeting of the Committee after the 1986 Session of the General Assembly. Senator Warren began the meeting by updating the Committee on the legislative action on Senate Bill 46 during the 1986 Session. Although the House Committee on the Constitution gave a favorable report on a committee substitute of the bill, the bill was re-referred to the House Committee on Education, which never reported the bill from committee.

Senator Warren also read a letter from Mebane Pritchett, Chairman of the State Board of Education, that stated that the State Board of Education continued its support for Senate Bill 46 as stated by Mr. Pritchett at the March 18, 1986 meeting of this Committee.

Ms. Libby Lefler, Committee Counsel, stated that Dr. A. Craig Phillips, Superintendent of Public Instruction, was out of town and unable to attend the meeting. He did, however, wish to convey to the Committee that he maintained his previous position, which was explained to the Committee at the December 12, 1985 meeting.

Mr. Patric Mullen, Assistant Executive Secretary for Government Relations of the North Carolina Association of Educators, spoke to the Committee in support of giving policy responsibility to the State Board of Education and administrative and implemental responsibility to the Superintendent of Public Instruction. A copy of his remarks can be found in Appendix Q.

Mr. E. Michael Latta, Executive Director of the State Advisory Council on Vocational Education, outlined a proposal that would make the Superintendent of Public Instruction secretary to the State Board of Education and chief administrative officer. The Superintendent would not have voting authority. A chart illustrating the proposal is contained in Appendix R.

Dr. Cleveland Hammonds, President of the North Carolina Association of School Administrators, was the next speaker. He restated the support of the Association for constitutional changes similar to those proposed in Senate Bill 46. A copy of his remarks from the December 12, 1985 meeting can be found in Appendix L.

Dr. Gene Causby, Executive Director of the North Carolina School Boards Association, stated that his organization continued its support for its earlier position. A copy of his remarks presented at the December 12, 1985 meeting can be found in Appendix K. Dr. Causby also suggested two strategies for the Committee's consideration. First, the Committee could prepare a constitutional amendment for consideration by the General Assembly. Second, the Committee could prepare other proposals that would not require a constitutional amendment. He suggested using the University of North Carolina system as a guide.

Mr. Ward Purrington, Legislative Counsel to Governor Martin, was the final speaker. He restated the position outlined at the April 16, 1986 meeting.

December 2, 1986 Meeting

At the final meeting the Committee voted on its recommendations and approved this report.

FINDINGS AND RECOMMENDATIONS



FINDINGS AND RECOMMENDATIONS

THE GENERAL ASSEMBLY SHOULD ENACT LEGISLATION TO PROVIDE FOR A STATEWIDE REFERENDUM TO AMEND THE CONSTITUTION TO CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE STATE BOARD OF EDUCATION AND TO MAKE THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION APPOINTIVE

Section 15 of Article 1 of the North Carolina Constitution provides that "the people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right." In an attempt to ensure that the people of the State of North Carolina have the best educational system available, it often is necessary to examine the system itself. The goal is to find a system that can best administer elementary and secondary education in our State.

In the area of governance there is a need both to promote sound management and to assign clear lines of authority and responsibility. Under the current governance structure in North Carolina, there is an appointed governing board, a popularly elected chief administrative officer, and a chief fiscal officer who is not responsible to the chief administrative officer. This system leads to confusion as to who speaks for the public schools.

After having examined evidence relating to the problems in the current governance system and proposed solutions, the Committee recommends that the General Assembly enact legislation providing for a statewide referendum on a new system through which

to govern North Carolina's public elementary and secondary school system.

The Committee feels that this approach is the most comprehensive and thorough solution to the problem of governance in North Carolina. The details of the proposed legislation are outlined below. A constitutional amendment would be required in order to implement the majority of the changes. The proposed legislation is contained in Appendix S.

A. Make the Superintendent of Public Instruction Appointive

The first change should be to provide that the Superintendent of Public Instruction would be appointed by the State Board of Education. If the Superintendent of Public Instruction were appointed by the State Board of Education, it would resolve the issue of who is responsible for and who speaks for public and elementary education in North Carolina.

B. Change the Composition of the State Board of Education To Fourteen Members

The composition of the State Board of Education should be changed to provide for fourteen members instead of the current thirteen. The new State Board of Education would consist of the Lieutenant Governor, the Treasurer, four members appointed by the General Assembly, and eight members appointed by the Governor.

Each of the members appointed by the Governor must be from a different educational district.

C. Change the Terms of the Members of the State Board of Education to Four Years

The terms of the members of the State Board of Education should be reduced to four years instead of the current eight years. Further, no member should be allowed to serve more than two consecutive terms.

D. Change the Method of Selecting the Chairman of the State Board of Education to Allow the Governor to Appoint the Chairman

The method of selecting the Chairman of the State Board of Education should be changed to allow the Governor to appoint the Chairman. Currently, the State Board of Education elects the chairman from its membership. This change would ensure accountability of the State Board of Education to an elected official.

E. Abolish the Office of the Controller and Place the Fiscal Affairs of the Department Under the Superintendent of Public Instruction

Another change recommended by the Committee is to abolish the Office of the Controller and place the fiscal affairs of the Department under the supervision of the Superintendent. Thus, all of the functions of the Department would be administered

through a single office. This change could be implemented without a constitutional change.

APPENDIX A



APPENDIX A

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
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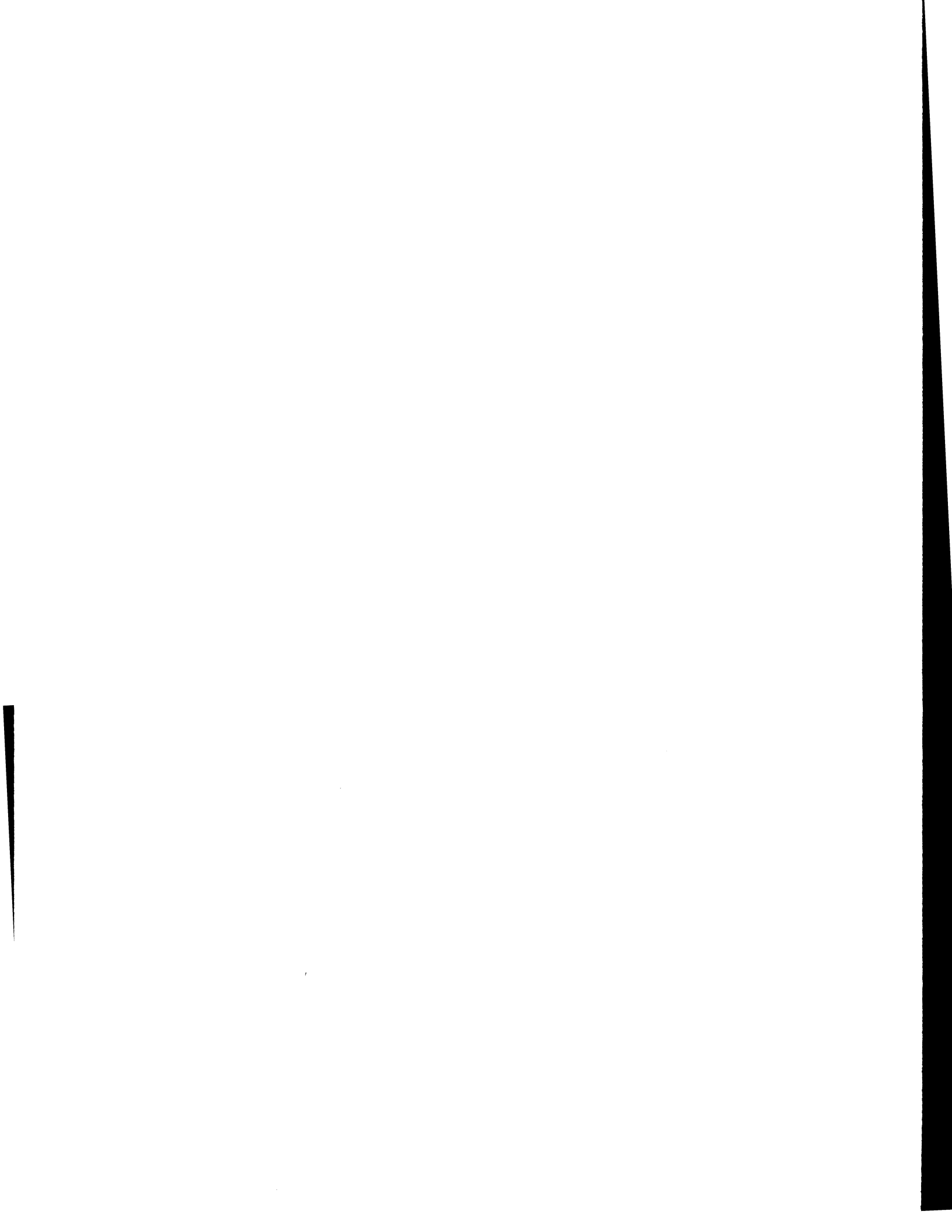


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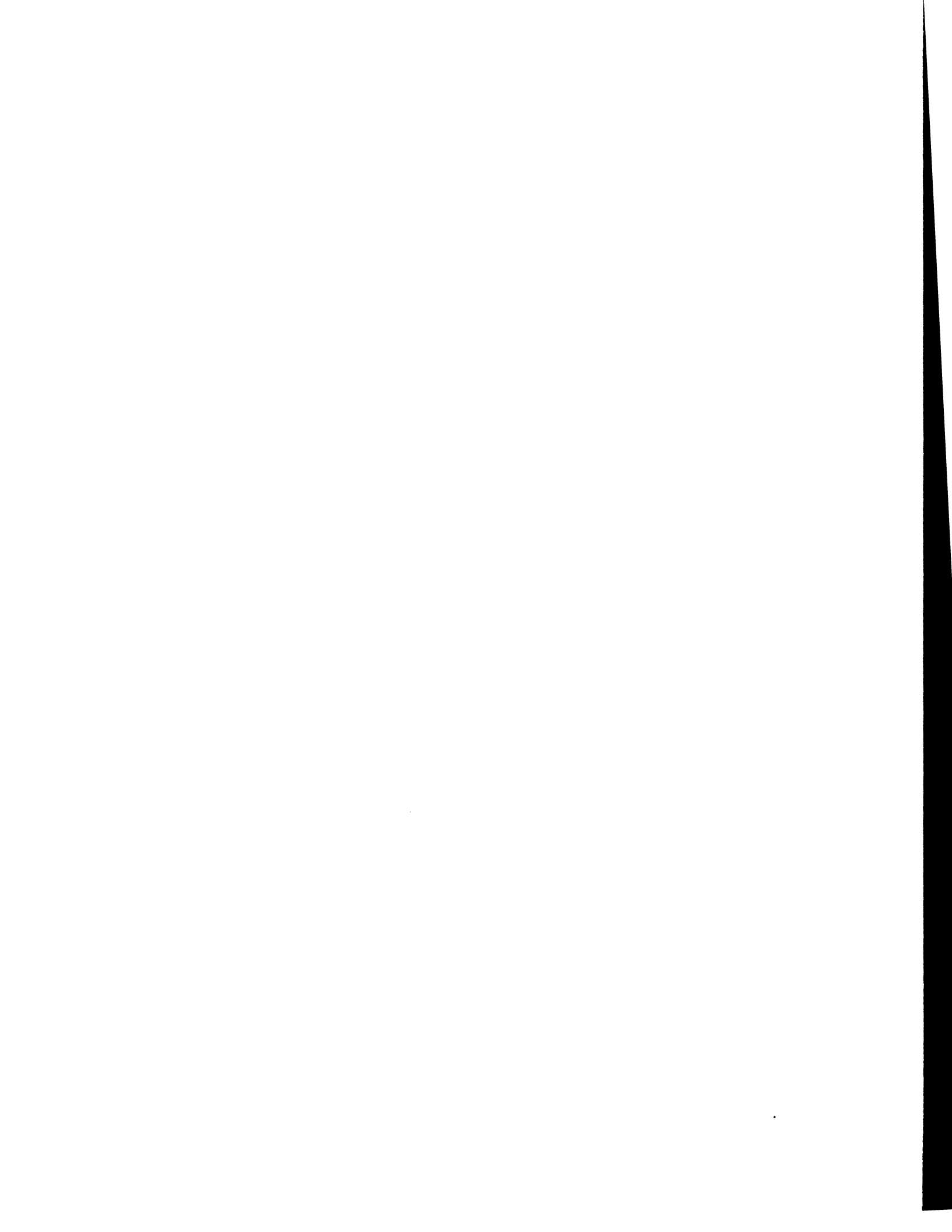
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Senator Robert D. Warren

Representative Liston B. Ramsey, Cochairman
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Representative John T. Church
Representative Bruce Ethridge
Representative Aaron Fussell
Representative Barney Paul Woodard



APPENDIX B



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985
RATIFIED BILL

CHAPTER 790
SENATE BILL 636

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, MAKING TECHNICAL AMENDMENTS THERETO, AND TO MAKE OTHER AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. Studies Authorized. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1985 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (1) Continuation of the Study of Revenue Laws (H.J.R. 17-Lilley),
- (2) Continuation of the Study of Water Pollution Control (H.J.R. 141-Evans),
- (3) Adolescent Sexuality Teaching (H.J.R. 275-Jerals),
- (4) Continuation of the Study on the Problems of the Aging (H.J.R. 322-Greenwood),
- (5) Continuation of the Study of Municipal Incorporations (H. J. R. 389-Greenwood),
- (6) School Discipline (H.J.R. 861-Colton),
- (7) Bail Bondsmen and Bail Bond Forfeiture (H. B. 967-Watkins),
- (8) Preventative Medicine (H.B. 1052-Locks),
- (9) Life Care Arrangements (H. B. 1053-Locks),
- (10) State Personnel System (H. B. 1064-Wiser),
- (11) Long-Term Health Care Insurance (H. B. 1103-Locks),
- (12) Itinerant Merchants (H. B. 1170-Lancaster),
- (13) Manufactured Housing Zoning (H. B. 1178-Ballance; S. B. 636-Plyler),
- (14) Interest Rate Regulation (H.J.R. 1227-Evans),
- (15) Underground Storage Tank Leakage Hazards and other ground water hazards (H. B. 1281-Locks),
- (16) Mental Patient Commitments (H.J.R. 1313-Miller),
- (17) High-Level Radioactive Waste Disposal (H.B. 1373-Diamont; S.B. 655-Hipps),
- (18) Stun Guns (H. J. R. 1390-McDowell),
- (19) Continuation of the Study of Water Quality in Haw River and B. Everett Jordan Reservoir (H.J.R. 1393-Hackney),
- (20) Authority of Boards of County Commissioners in Certain Counties over Commissions, Boards and Agencies (H.J.R. 1405-Holroyd),
- (21) Superintendent of Public Instruction and State Board of Education (H.J.R. 1412-Nye),
- (22) Rental Referral Agencies (H.B. 1421-Stamey),
- (23) Child Abuse Testimony Study (S. B. 165-Hipps),
- (24) Home Schooling Programs (S. J. R. 224-Winner),
- (25) Pretrial Release (S.J.R. 297-Winner),

- (26) Inmate Substance Abuse Therapy Program (S.J.R. 317-Plyler),
- (27) Inmate Work-Release Centers (S.B. 406-Swain),
- (28) Community College System (S.B. 425-Martin),
- (29) Community Service Alternative Punishment and Restitution (S.B. 495-Swain),
- (30) State Employee Salaries and Benefits (S.B. 514-Jordan),
- (31) State Infrastructure Needs (S.B. 541-Royall),
- (32) Commercial Laboratory Water Testing (S.B. 573-Taft),
- (33) Outdoor Advertising (S.B. 611-Thomas, R.P.),
- (34) Premium Tax Rate on Insurance Companies (S.B. 633-Hardison)
- (35) Continuation of the Study of Child Support (S.B. 638-Marvin),
- (36) Local Government Financing (S.B. 670-Rauch),
- (37) Medical Malpractice and Liability (S.B. 703-Taft),
- (38) Marketing of Perishable Food (S.B. 718-Basnight),
- (39) Child Protection (S.B. 802-Hipps),
- (40) Legislative Ethics and Lobbying (S.B. 829-Rauch),
- (41) Satellite Courts (S.B. 850-Barnes),
- (42) Substantive Legislation in Appropriations Bills (S.B. 851-Rand),
- (43) School Finance Act (S.B. 848-Taft).

Sec. 2. Transportation Problems at Public Facilities. The Legislative Research Commission may identify and study transportation problems at public transportation facilities in North Carolina.

Sec. 2.1. The Legislative Research Commission may study the feasibility of the prohibition of investment by the State Treasurer of stocks of the retirement systems listed in G.S. 147-69.2(b)(6), or of the assets of the trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1 and G.S. 147-69.2(19) in a financial institution that has outstanding loans to the Republic of South Africa or in stocks, securities, or other obligations of a company doing business in or with the Republic of South Africa.

Sec. 3. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1987 General Assembly, or the Commission may make an interim report to the 1986 Session and a final report to the 1987 General Assembly.

Sec. 4. Bills and Resolution References. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 5. The last sentence of G.S. 120-19.4(b) is amended by deleting the citation "G.S. 5-4" and inserting in lieu thereof the following: "G.S. 5A-12 or G.S. 5A-21, whichever is applicable".

Sec. 6. G.S. 120-99 is amended by adding a new paragraph to read:

"The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that the chairman shall sign all subpoenas on behalf of the Committee.

Sec. 7. G.S. 120-30.17 is amended by adding a new subsection to read:

"(9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it."

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1985.

ROBERT B. JORDAN III

Robert B. Jordan III
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985



HOUSE JOINT RESOLUTION 1412

Sponsors: Representative Nye.

Referred to: Rules and Operation of the House.

July 1, 1985

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY ALTERNATIVES TO A CONSTITUTIONAL AMENDMENT
3 TO REDEFINE THE DUTIES OF THE SUPERINTENDENT OF PUBLIC
4 INSTRUCTION AND TO RESTRUCTURE THE STATE BOARD OF EDUCATION.

5 Be it resolved by the House of Representatives, the Senate
6 concurring:

7 Section 1. The Legislative Research Commission may
8 study the feasibility of redefining the duties of the
9 Superintendent of Public Instruction, restructuring the State
10 Board of Education, and may consider legislative alternatives to
11 a constitutional amendment to achieve the changes. The
12 Commission may consider designating the Superintendent of Public
13 Instruction as Chairman of the State Board of Education and
14 assigning the chief administrative responsibilities for the State
15 Board of Education to that position. The Commission may also
16 consider the feasibility of creating a new position, Commissioner
17 of Public Schools, to be filled by an individual who would be
18 responsible for both programs and fiscal matters and who would be
19 appointed by the State Board of Education. Changes and
20 realignment of individual responsibilities in other offices that

HOUSE JOINT RESOLUTION 1412

1 would increase the flexibility and accountability of the
2 educational system to the State Board of Education may also be
3 reviewed.

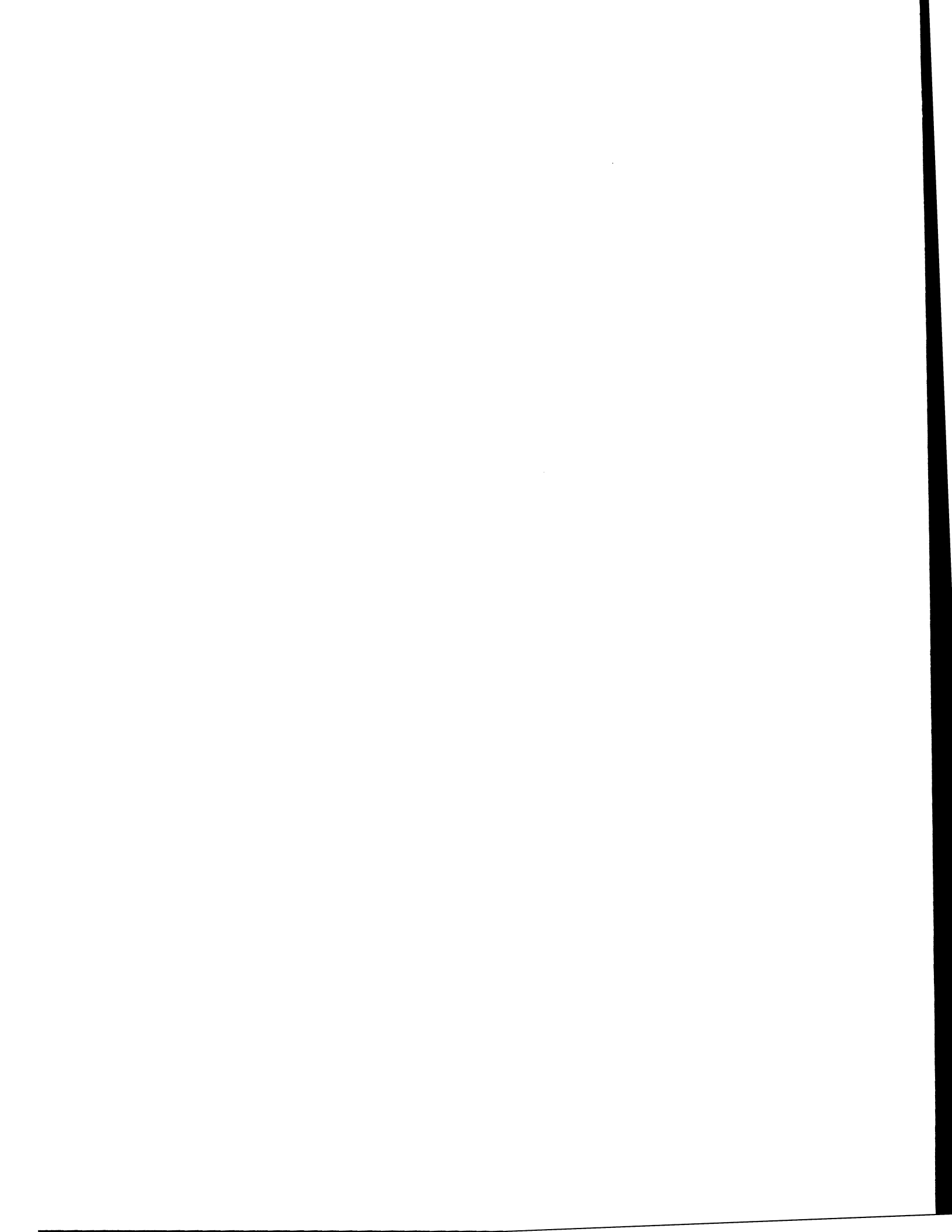
4 Sec. 2. The Commission shall make a final report of its
5 recommendations for changes in the Office of Public Instruction
6 and the State Board of Education to the 1987 General Assembly and
7 may make an interim report to the 1985 General Assembly, Regular
8 Session 1986.

9 Sec. 3. This resolution is effective upon ratification.

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APPENDIX C



APPENDIX C

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



MEMBERSHIP OF THE
LEGISLATIVE RESEARCH STUDY COMMITTEE ON
SUPERINTENDENT OF THE DEPARTMENT OF PUBLIC INSTRUCTION
AND THE STATE BOARD OF EDUCATION

Senator Robert D. Warren, Cochairman
Senator Henson P. Barnes
Dr. Parker Chesson
Senator William N. Martin
Senator Anthony E. Rand

Representative Edward N. Warren, Cochairman
Representative Betsy L. Cochrane
Representative David H. Diamont
Representative Robert C. Hunter
Representative Edd Nye

Legislative Research Commission Member -
Representative Aaron Fussell

Legal Staff - Ms. Libby Lefler

Committee Clerk - Ms. Sue Floyd



APPENDIX D



APPENDIX D

ARTICLE III EXECUTIVE

Sec. 7. Other elective officers.

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.



APPENDIX E



ARTICLE IX
EDUCATION

Section 1. Education encouraged.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. Uniform system of schools.

(1) *General and uniform system: term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. School attendance.

The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. State Board of Education.

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. Powers and duties of Board.

The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. State school fund.

The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. County school fund.

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. Higher education.

The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. Benefits of public institutions of higher education.

The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. Escheats.

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law. (1969, c. 827, § 1.)

APPENDIX F



APPENDIX F

SUBCHAPTER II. ADMINISTRATIVE ORGANIZATION OF STATE AND LOCAL EDUCATION AGENCIES.

ARTICLE 2.

State Board of Education.

§ 115C-10. Appointment of Board.

The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. No public school employee paid from State or local funds or his spouse, and no employee of the Department of Public Instruction or his spouse, may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large.

Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

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

§ 115C-11. Organization and internal procedures of Board.

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

(a1) Student advisors — The Governor is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions.

The Governor shall make initial appointments of student advisors to the State Board as follows:

- (1) One high school junior shall be appointed for a two-year term beginning September 1, 1986, and expiring June 14, 1988; and
- (2) One high school senior shall be appointed for a one-year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor shall appoint a high school junior for a two-year term beginning June 15 of that year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the Governor shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

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

(c) Special Meetings. — Special meetings of the Board may be set at any regular meeting or may be called by the chairman or by the secretary upon the approval of the chairman: Provided, a special meeting shall be called by the chairman upon the request of any five members of the Board. In case of regular meetings and special meetings, the secretary shall give notice to each member, in writing,

of the time and purpose of the meeting, by letter directed to each member at his home post-office address. Such notice must be deposited in the Raleigh Post Office at least three days prior to the date of meeting.

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

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

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

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

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

§ 115C-12. Powers and duties of the Board generally.

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The powers and duties of the State Board of Education are defined as follows:

(1) Financial Powers. — The financial powers of the Board are set forth in Article 30 of this Chapter.

- (3) Divisions of Functions of Board. — The Board shall divide its duties into two separate functions, insofar as may be practicable, as follows:
 - a. All those matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board, shall be under the direction of the Superintendent in his capacity as the constitutional administrative head of the public school system.
 - b. All those matters relating to the supervision and administration of the fiscal affairs of the public school fund committed to the administration of the State Board of Education shall be under the supervision and management of the controller.
- (4) Appointment of Controller. — The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board and who, under the direction of the Board, shall have supervision and management of the fiscal affairs of the Board.
- (5) Apportionment of Funds. — The Board shall have authority to apportion and equalize over the State all State school funds and all federal funds granted to the State for assistance to educational programs administered within or sponsored by the public school system of the State.
- (6) Power to Demand Refund for Inaccurate Apportionment Due to False Attendance Records. — When it shall be found by the State Board of Education that inaccurate attendance records have been filed with the State Board of Education which resulted in an excess allotment of funds for teacher salaries in any school unit in any school year, the school unit concerned may be required to refund to the State Board the amount allotted to said unit in excess of the amount an accurate attendance record would have justified.
- (7) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreements for the Consolidation and Merger of School Administrative Units Located in the Same County. — The Board shall have authority, in its discretion, to alter the boundaries of city school administrative units and to approve agreements submitted by county and city boards of education requesting the merger of two or more contiguous city school administrative units and the merger of city school administrative units with county school administrative units and the consolidation of all the public schools in the respective units under the administration of one board of education: Provided, that such merger of units and reorganization of school units shall not have the effect of abolishing any special taxes that may have been voted in any such units.
- (8) Power to Make Provisions for Sick Leave. — The Board shall provide for a minimum of five days per school year term of sick leave with pay for all public school employees and shall promulgate rules and regulations providing for necessary substitutes on account of said sick leave. The pay for a substitute shall be fixed by the Board. The Board may provide to each local school administrative unit not exceeding one percent (1%) of the cost of instructional services for the purpose of providing substitute teachers for those on sick leave as authorized by law or by regulations of the Board, but not exceeding the provisions made for other State employees.

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

- a. To certify and regulate the grade and salary of teachers and other school employees.
- b. To adopt and supply textbooks.
- c. To adopt rules requiring all local boards of education to implement the Basic Education Program on an incremental basis within funds appropriated for that purpose by the General Assembly and by units of local government.

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

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

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

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

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

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

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

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

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

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

- (13) **Power to Purchase Liability Insurance.** — The Board is authorized to purchase insurance to protect board members from liability incurred in the exercise of their duty as members of the Board.
- (14) **Duty to Provide Personnel Information to Local Boards.** — Upon request, the State Board of Education and the Department of Public Instruction shall furnish to any county or city board of education any and all available personnel information relating to certification, evaluation and qualification including, but not limited to, semester hours or quarterly hours completed, graduate work, grades, scores, etc., that are on that date in the files of the State Board of Education or Department of Public Instruction.
- (15) **Duty to Develop Noncertified Personnel Position Evaluation Descriptions.** — The Board is authorized and directed to develop position evaluation descriptions covering those positions in local school administrative units for which certification by the State Board of Education is not normally a prerequisite. The position evaluation descriptions required in this subdivision are to be used by local boards of education as the basis for assignment of noncertified employees to an appropriate pay grade in accordance with salary grades and ranges adopted by the State Board of Education. No appropriations are required by this subdivision.
- (16) **Power with Regard to Salary Schedules.** —
- a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of Education is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.

- b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, property and cost clerks, aides, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.
 - c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of Education. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission. These schedules shall apply if the local board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations.
- (17) Power to provide for school transportation programs. The State Board of Education is authorized and empowered to promulgate such policies, rules, and regulations as it may deem necessary and desirable for the operation of a public school transportation system by each local administrative unit in the State. Such policies, rules, and regulations shall include, but are not limited to, fund allocations and fiscal support to assure the effective and efficient use of funds appropriated by the General Assembly in support of the school transportation system. Nothing herein shall be construed to affect in any way or to lessen in any way the full and complete authority of local boards of education to assign pupils to schools in accordance with G.S. 115C-366.
- (18) Duty to Develop and Implement a Central Payroll System. — The State Board of Education shall develop and implement a central payroll system for all payments from State or federal funds for employees of local school administrative units as selected by the State Board. By the 1987-88 school year, all State-funded and federally funded employees of local school administrative units shall be paid through this system.
- Payments through the central payroll system shall be made by electronic funds transferred to a financial institution in an account designated by the employee; however, the State Board may authorize payment by payroll check to certain classes of temporary employees that the State Board finds it would be administratively more efficient to pay in that manner.
- All employees paid through the central payroll system shall be paid monthly on one of two statewide payroll dates established by the State Board. The State Board shall designate which classes of employees shall be paid on each of the two dates. This paragraph may not be construed to authorize payment to any employee for work not yet done.
- Each employee shall receive a statement of his pay level and annual salary with the first salary payment of each school year.
- Payments made to employees from non-State and non-federal funds, including local supplements, shall be made through the local payroll system unless the local school administrative unit is included in the central payroll system and its local board of education requests in writing that these payments be made through the central payroll system.

§ 115C-13. Duty to maintain confidentiality of certain records.

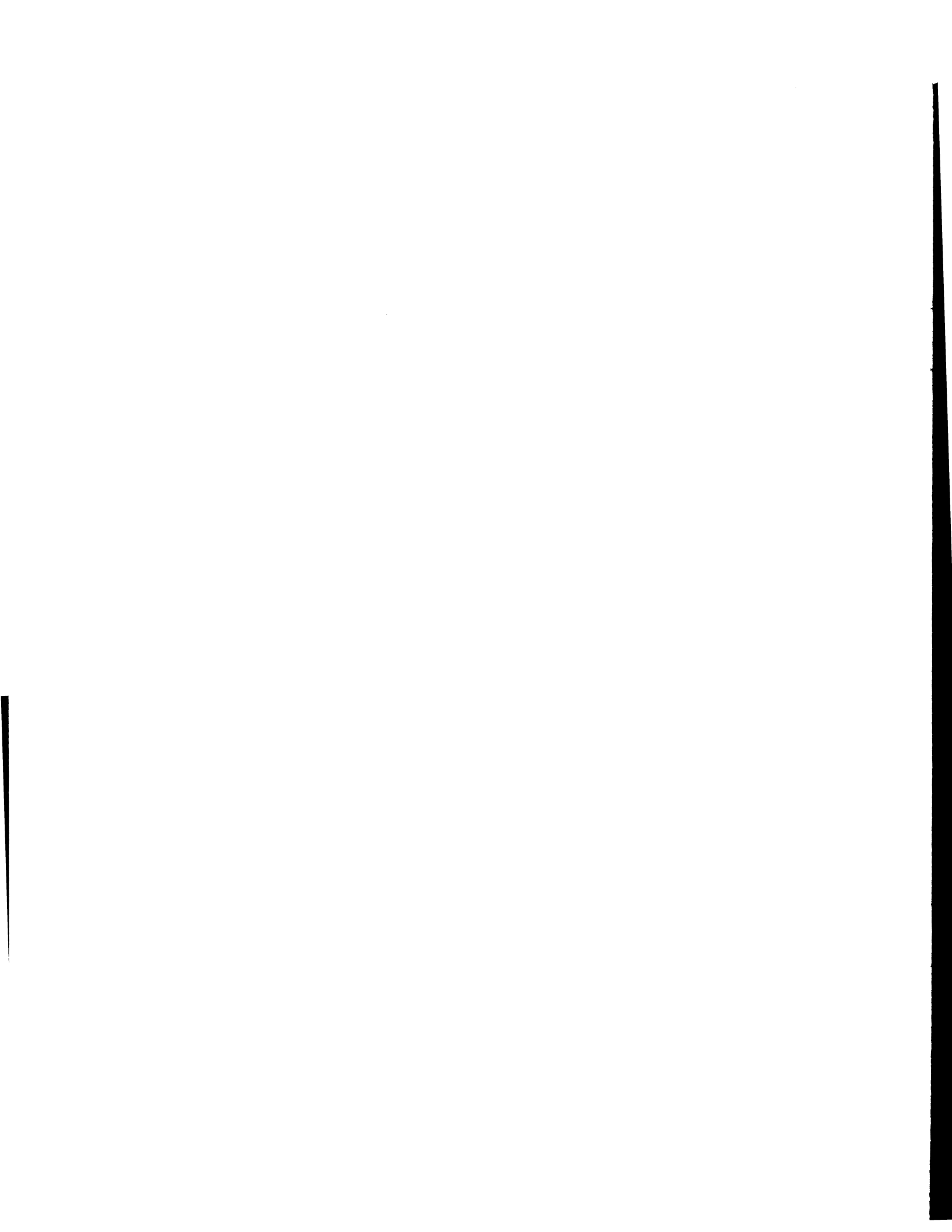
Except as otherwise provided by federal law, local boards of education and their officers and employees shall provide to the State Board and to the Superintendent all information needed to carry out their duties. It is unlawful for any member of the State Board of Education, the Superintendent of Public Instruction, or any employee or officer of the State Board of Education or the Department of Public Instruction to disclose any of this information that the local board or its officers or employees could not lawfully disclose. This disclosure is a misdemeanor, punishable by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000), imprisonment, or both.

§ 115C-14. Election to be paid by payroll check.

Notwithstanding the provisions of section 145 of Chapter 757 of the 1985 Session Laws, an employee who has received at least one payroll check from a local school administrative unit may elect, when that local school administrative unit is included in the central payroll system, to continue to be paid by payroll check instead of by electronic funds transfer. This election shall be made in writing on a form provided by the State Board. An employee, who has been paid by electronic funds transfer through the central payroll system by a local school administrative unit may not elect to be paid by that local school administrative unit via payroll check.

The payroll check of an employee who elects to be paid by payroll check pursuant to the provisions of this section shall be mailed to the employee from the office of the State Board in Raleigh on the day it is due.

APPENDIX G



ARTICLE 4.

Office of the Controller.

§ 115C-27. Appointment of controller; salary.

The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board. The salary of the Controller shall be fixed by the General Assembly in the Current Operations Appropriations Act.

§ 115C-28. Fiscal affairs of the Board defined.

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

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

§ 115C-29. Controller's powers and duties generally.

(a) The controller is constituted the executive administrator of the Board in the supervision and management of the fiscal affairs of the Board. In this capacity it shall be his duty, under the direction of the Board, to administer the funds provided for the operation of the schools of the State on such standards as may be determined by the Board and always within the total funds appropriated therefor.

(b) The controller, under the direction of the Board, shall perform the following duties:

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

- b. Where the order covers salary payment to any employee that the amount thereof is within the salary schedule or salary rating of the particular employee.
- (5) He shall procure, through the Department of Administration, contracts for the purchase of the estimated needs and requirements of the several local school administrative units, covering the items of janitor supplies, instructional supplies, supplies used by the State Board of Education, and all other supplies, the payment for which is made from funds committed to the administration of the Board.
 - (6) He shall purchase from the various publishers the textbooks needed and required in the public schools in accordance with contracts made by the State Board of Education.
 - (7) Repealed by Session Laws 1983, c. 913, s. 16, effective July 22, 1983.
 - (8) He shall attend all meetings of the Board and shall furnish all such information and data concerning the fiscal affairs of the Board as the Board may require.
 - (9) He shall employ all necessary administrative and supervisory employees who work under his direction in the administration of the fiscal affairs of the Board, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with Chapter 126 of the General Statutes, the State Personnel System.
 - (10) He shall report directly to the Board upon all matters coming within his supervision and management.
 - (11) He shall furnish to the Superintendent such information relating to fiscal affairs as may be necessary in the administration of his official duties.
 - (11a) He shall have responsibility for the successful implementation of the central payroll system. This responsibility shall include recommending to the Board a systematic evaluation and selection process for qualifying vendors to specify payroll software requirements, systems software requirements, systems software and hardware, and any other expertise necessary to the central payroll requirements definition, system design, or implementation. It shall further include the responsibility to recommend to the Board termination of any contractual relationship where the contractor's performance is not meeting previously agreed upon performance standards, product standards, or deadlines. He shall report his progress monthly to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Commission.
 - (12) He shall perform such other duties as may be assigned to him by the Board from time to time.

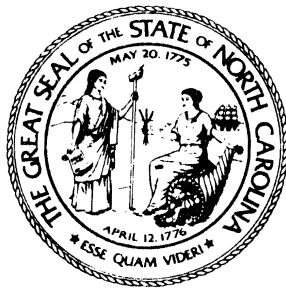


APPENDIX H



APPENDIX H

REPORT OF THE PUBLIC EDUCATION POLICY COUNCIL



REPORT TO THE 1985 GENERAL ASSEMBLY OF NORTH CAROLINA

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GOVERNANCE

GOVERNANCE BACKGROUND

The present system by which North Carolina's system of public elementary and secondary schools is governed has caused steadily increasing concern in recent years. No other governmental institution in the state, at the local level or at the state level, involves an appointed governing board, a popularly elected chief administrative officer and a chief fiscal officer who is not directly responsible to the chief administrative officer. The result has been steadily increasing confusion as to who is responsible for and who speaks for public elementary and secondary education in North Carolina. Attempts to solve the problem through piecemeal statutory changes, through appointments or through closer personal relationships among the principals have only further confused or obscured the basic structural problem.

In the course of its discussions, the Council identified several specific problems and issues:

1. The need to promote sound management and assign clear lines of authority and responsibility in our system of educational governance, to create lines of authority that enhance rather than block efforts to delivery quality education.

2. The need for the General Assembly, as the ultimate state-level policy making body, to review the state's elementary and secondary school structure in detail, and to review in context the many proposals for change and reform of that system and its components. The plethora of commission and task force reports which have been issued in recent years, and the fact that 75 to 80 percent of the state's general fund revenues are spent on education at all levels (40 to 45 percent on elementary and secondary education) suggest the necessity of a thorough examination and understanding by the state's leading policy makers. Only through such a review can a consensus evolve as to appropriate lines and levels of responsibility for our public elementary and secondary schools.

3. The need to create a governing authority that reflects input from (and responsiveness to) the General Assembly, as the top policy making body in the state as well as from the executive branch. The need to eliminate political influence in educational decision making or governance, or to balance that influence which remains inevitable, was clear to the Council from the outset. To be effective, any board created to govern our elementary and secondary education system must include representation from all sectors.

4. The need to maintain and expand grass roots participation in the governance system. As participation by both executive and legislative branches of state government is

necessary for an effective system of governance, so too is participation by the citizens of the state.

5. The need to reduce or eliminate any potential for conflict of interest on the part of those involved in educational governance.

The Council's Governance Committee considered a number of these issues as it reviewed governance models. After a review of North Carolina's present system and its evolution and an examination of governance models in other states, the committee looked closely at six possible models. The model upon which the committee agreed, and which the full Council adopted as a recommendation to the General Assembly, is outlined below.

GOVERNANCE RECOMMENDATIONS

1. The Council recommends that the General Assembly enact legislation calling for a statewide referendum on a new system through which to govern North Carolina's public elementary and secondary school system. (See Appendix J.) The proposed system should incorporate the following elements:

A. A 21-member State Board of Education to include:

- (1) Eight members appointed by the Governor, one from each of the state's educational districts;
- (2) Eleven members elected by the General

Assembly, one from each of the state's congressional districts (see below);

(3) The Lieutenant Governor and State Treasurer;

- B. Four-year terms for Board members, with a two-term limit;
- C. Provisions requiring those who are appointed or elected to the Board to resign any position which might cause a conflict of interest;
- D. A State Superintendent of Public Education to be appointed by the Board;
- E. A Controller to be appointed by the State Superintendent, subject to the approval of the State Board;
- F. A nominating process through which local boards of education, through county boards of commissioners, shall submit names of those to be selected by the General Assembly as members of the Board.

(See Appendix K.)

2. The Council recommends that the Public Education Policy Council be continued for four years.

APPENDIX L

GOVERNANCE COMMITTEE DELIBERATIONS

During their deliberations and discussions, the members of the Governance Committee raised a number of issues, problems, concerns, and areas of confusion. Some of the considerations are as follows:

1. Current governance lines are not clear and the lack of clarity is an impediment to educational policy in North Carolina.

2. The statutory responsibility involved and the relationships among the State Board, the State Superintendent, and the Controller need to be more clearly defined to adhere to principles of sound management.

3. The program and fiscal operations must be compatible and consistent, and it is felt that this cannot be accomplished as long as the State Superintendent and the Controller can act independently of one another.

4. There are too many voices speaking officially for the needs of public schools, and this probably weakens the cause of elementary and secondary education in the General Assembly.

5. A working compatibility between an elected chief executive officer of the public schools and an appointed board if necessary.

6. Many opinions were expressed regarding membership of the State Board, including:

- a. Whether the Board should be entirely lay.
- b. Whether the Lieutenant Governor should remain a member of the Board.
- c. Whether the State Treasurer should remain a member of the State Board.
- d. Whether electing members to the State Board on a geographical basis will result in a more complicated and expensive process without encouragement of qualified persons.
- e. Whether the chief administrative officer of the public school system should be a nonvoting member of the Board.

7. If a majority of the appointments to the State Board are not made by the Governor, then a new level of potential conflict will arise - DPI, General Assembly and the Executive branch.

8. Election of the State Board directly by the people or by the General Assembly are possible methods to consider. The General Assembly might choose from a list of nominees submitted by local boards of education.

9. The initial justification for an eight-year term for State Board members is probably no longer valid.

10. The State Superintendent should be appointed by the Governor since the Governor is largely responsible for our educational system.

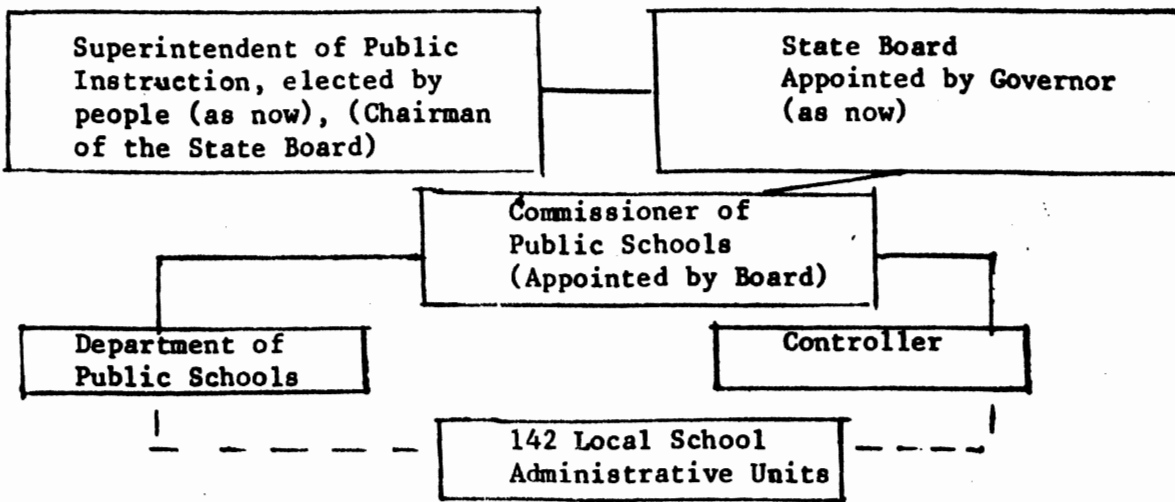
11. An organization or authority separate from the State Board should be constituted to govern standards for admission to the profession and monitoring.

12. Educators should have their own examining and licensing board.

13. A fifth year of internship should be required before certification.

14. Evaluation of teachers who are not tenured should be conducted monthly, not semi-annually.

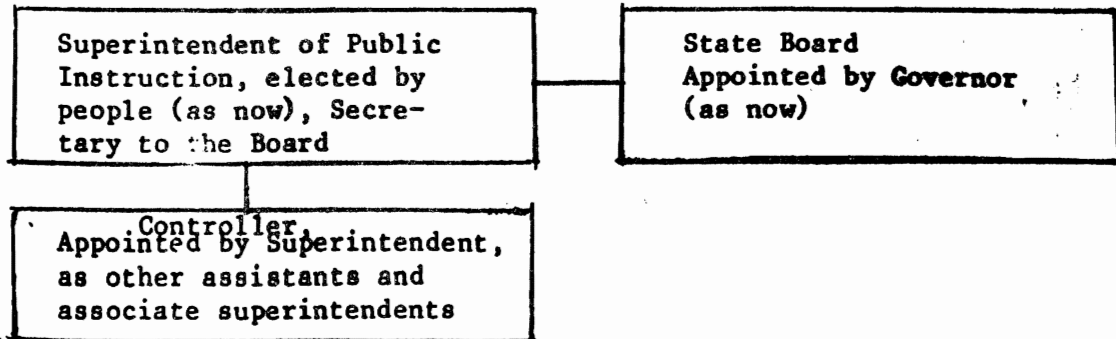
I. COMMISSIONER MODEL



Notes:

1. Unless eight-year term of office for State Board members is changed, no constitutional changes are necessary to effect this model; but change would be necessary to restore Superintendent's voting power on the Board if he is to be made Chairman.
2. Creation of Commissioner position distinguishes Chief Administrative Officer (Superintendent, as required by Constitution) from Chief Executive Officer (Commissioner under this model).
3. Number of terms for Board members could be limited.

II. STRONG SUPERINTENDENT MODEL

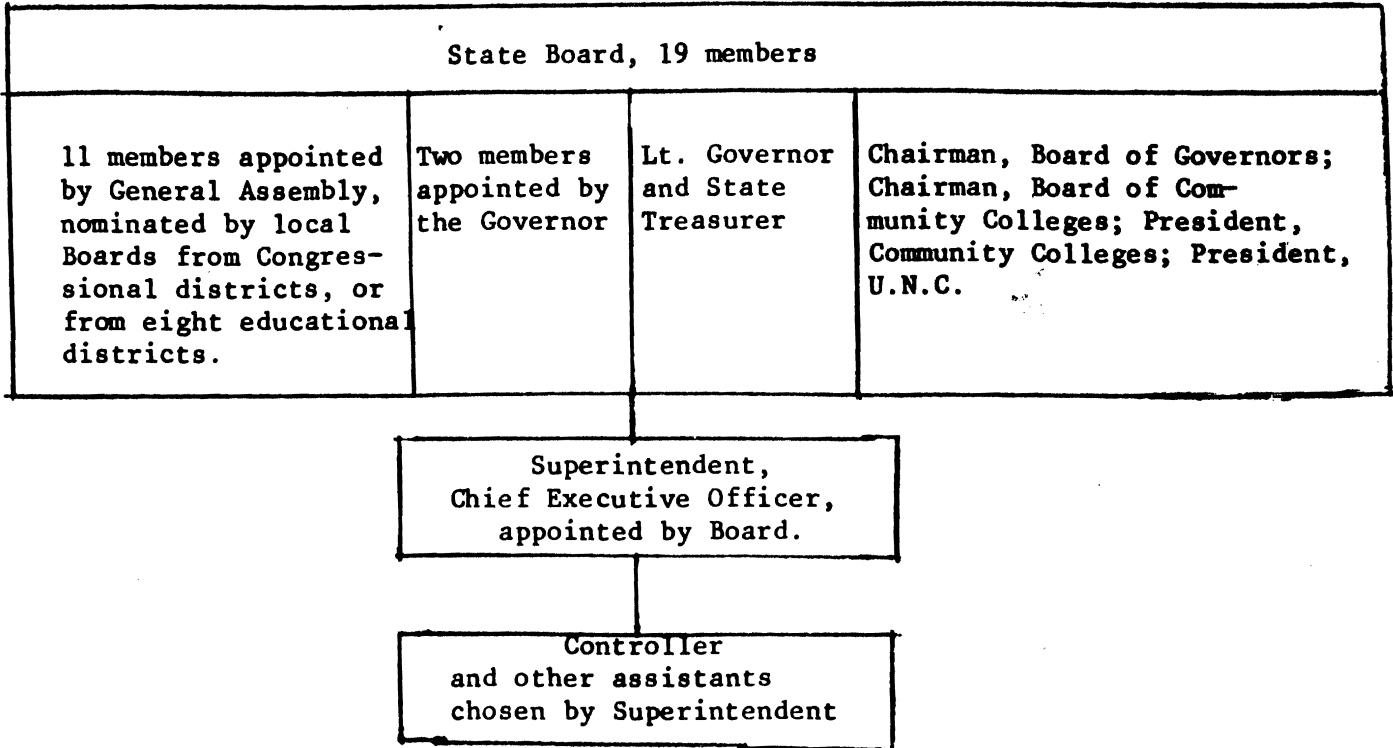


Notes:

1. Unless eight-year terms of Board members is changed or Superintendent is made a voting member of the Board, no constitutional changes are necessary to effect this model. Number of terms for members could be limited.
2. Direct line authority from Superintendent down through Controller; but, Board gives up authority to appoint Controller and Governor gives up power to approve appointment of Controller, now in GS 115C-27
3. Model could also accommodate full-time Board members with officers in educational districts to observe and report on education at the local level at once-a-month meetings of State Board.

Model III

III. STRONG LEGISLATURE MODEL

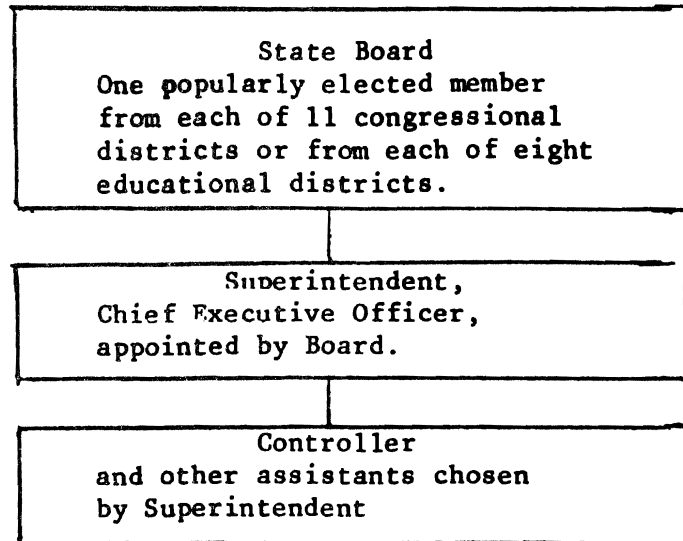


Notes:

1. Constitutional changes, thus popular referendum, necessary to effect this model.
2. Assuming cross membership, statutes relating to Community College Board and Board of Governors would also be necessary.
3. Board, presumably more responsive to General Assembly, is also larger with more cumbersome system of appointment.
4. Executive branch appointment power significantly reduced; but, membership on Board retained.
5. Number of terms to be served by appointed Board members could be limited.

Example

IV. POPULARLY ELECTED BOARD MODEL

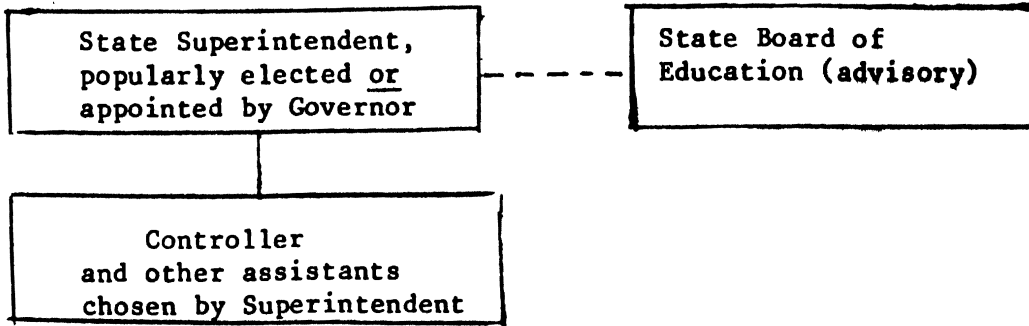


Notes:

1. Constitutional changes, thus popular referendum, necessary to effect this model.
2. Model does not specify length of Board members' terms, whether staggered, whether partisan or non-partisan.
3. Popular election risks interest group control of members through campaign activity and financial support.
4. Model provides for straight line of authority from Board through Chief Executive Office to Controller.
5. Model could accommodate full-time paid Board members with offices in congressional or educational districts.

Eliminate

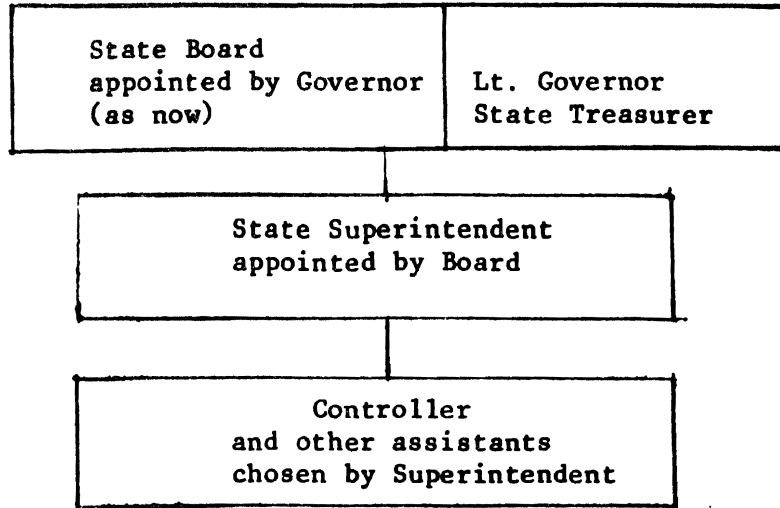
V. ADVISORY BOARD PLAN



Notes:

1. Constitutional changes, thus popular referendum, necessary to effect this model.
2. Length of term, method of selection, etc., not specified as to Board members.
3. Model provides for straight line authority, strengthens Superintendent and eliminates check of stronger Board currently operating.

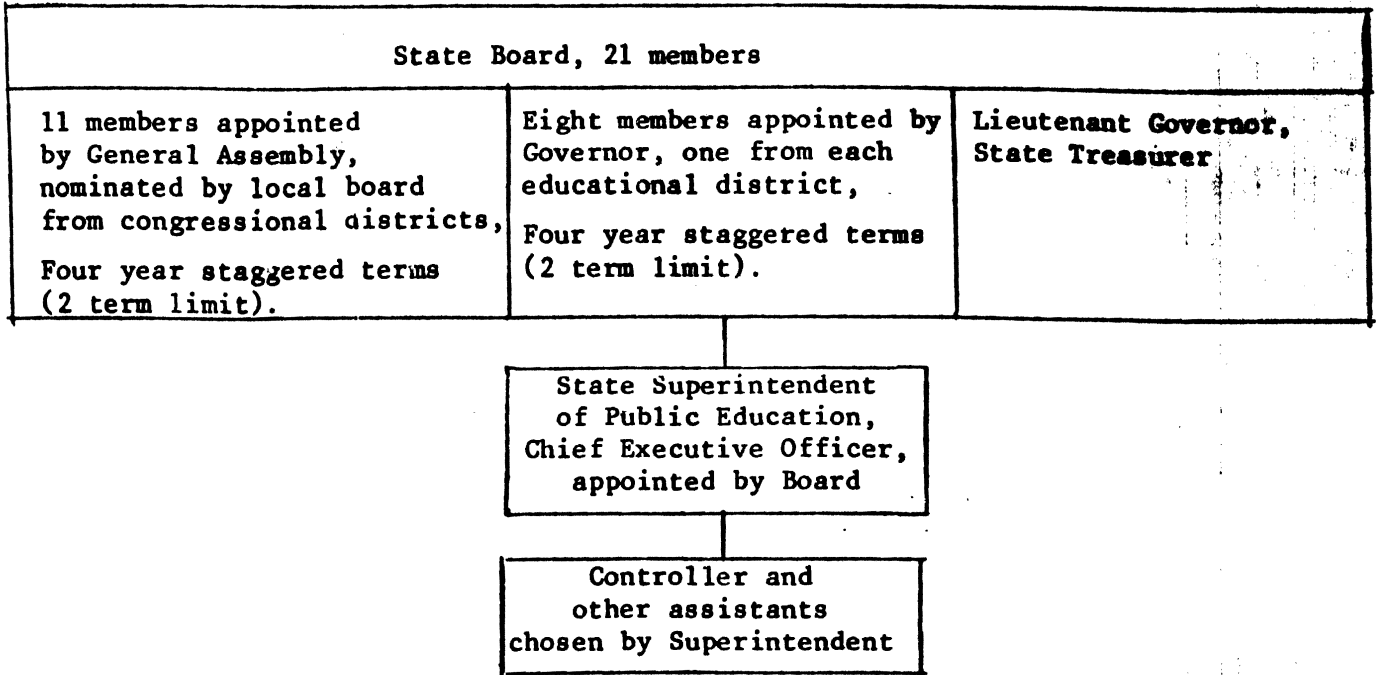
VI. STRONG GOVERNOR MODEL



Notes:

1. Constitutional changes, thus popular referendum, necessary to effect this model..
2. Executive branch, Governor, strengthened, eliminates check of separately elected Superintendent.
3. Only roles of legislature is approval of State Board members and budget/appropriations power.
4. Length of term and number of terms to be served by Board members could be limited.

LARGE BOARD MODEL



Notes:

1. Constitutional changes necessary to effect this model.
2. Board is larger, more cumbersome than at present.



North Carolina General Assembly
 Senate Chamber
 State Legislative Building
 Raleigh 27611

February 28, 1984

MEMORANDUM

TO: Members, Governance Committee of the
 Public Education Policy Council

FROM: Jim Blackburn, Counsel

RE: Education Governance, Southeastern States

Outlined below are the methods of selecting state boards, chief state school officers and chief fiscal officers in eight southeastern states: Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee and Virginia. I have summarized the systems as follows:

<u>State Boards</u>		<u>Chief School Officer</u>	
Elected	2	Elected	4
Appointed	5	Appointed	4
(3 by Governor, 1 by Legislature, 1 by combination Governor and Legislature)		(2 by Governor, 2 by Board)	
Part elected and part appointed	1	All eight appoint chief fiscal officers	

Following is a state-by-state breakdown.

I. Alabama

- A. State Board of Education. Eight members serving staggered four year terms, elected by the state's eight congressional districts as they existed prior to 1981 redistricting. Governor serves as Chairman of the Board.
- B. Chief State School Officer. State Superintendent of Education appointed by and serving at the pleasure of the State Board for up to four year contract period.
- C. Fiscal Affairs. Budget Officer, responsible for budget matters within the department, and assistant superintendent serving as Director of the Division of Administration and Finance are both hired by the State Board on the recommendation of the State Superintendent. Both are responsible to the State Superintendent.

II. Florida

- A. State Board of Education. Consists of Governor (Chairman), Secretary of State, State Treasurer, Attorney General and Commissioner of Education. All serve by virtue of holding statewide elective office (all four year terms).
- B. Chief State School Officer. Commissioner of Education is elected statewide to a four year term.
- C. Fiscal Affairs. The Commissioner, with the approval of the Board, hires an Associate Deputy Commissioner for Planning and Budgeting who reports to one of five Division Directors. Division Directors are responsible to one of two Deputy Commissioners who in turn reports to the Commissioner.

III. Georgia

- A. State Board of Education. Ten members, appointed to staggered terms of seven years by the Governor with approval of the State Senate.
- B. Chief State School Officer. The State Superintendent of Schools is elected statewide to a four year term.
- C. Fiscal Affairs. A Budget Officer, hired by the State Superintendent with the approval of the Board, is responsible to the State Superintendent.

IV. Louisiana

- A. State Board of Education. Consists of 11 members, eight elected from different regions to six-year terms and three appointed by Governor.
- B. Chief State School Officer. The State Superintendent of Education is elected on a statewide basis to a four-year term.
- C. Fiscal Affairs. A Deputy Superintendent for Management and Finance is selected by, responsible to and serves at the pleasure of the State Superintendent. The Deputy heads one of five offices in the Department.

V. Mississippi (New system this year)

- A. State Board of Education. Consists of nine members, five appointed by Governor and two each appointed by Speaker of House and Lt. Governor. All serve staggered nine-year terms. Until this year, Board was made up of elected Superintendent of Education (Chairman), the Secretary of State and the Attorney General, all of whom are elected statewide to four-year terms.

- B. Chief State School Officer. Formerly elected (see above). The Chief State School Officer is now appointed by Board.
- C. Fiscal Affairs. Director of Division of Administration and Finance (one of six divisions) is hired by and responsible to State Superintendent. This remains unchanged.

VI. South Carolina

- A. State Board of Education. Consists of 16 members, one from each judicial district, chosen by the state legislature and serving staggered four-year terms.
- B. Chief State School Officer. The State Superintendent of Education served as an ex officio member of, and Secretary to the State Board. He is elected statewide for a four-year term.
- C. Fiscal Affairs. The Director of the Office of Finance and Operations, hired by the State Superintendent, reports to a Deputy Superintendent who in turn reports to the State Superintendent.

VII. Tennessee

- A. State Board of Education. Consists of 15 members serving staggered nine-year terms and appointed by the Governor with required geographical diversity and members of both political parties. The Governor and the Commissioner of Education serve as ex officio members of the Board, the latter serving as chairman.
- B. Chief State School Officer. The Commissioner of Education is appointed by and serves at the pleasure of the Governor, who is elected to a four-year term.
- C. Fiscal Affairs. An Assistant Commissioner for Fiscal Services is appointed by and serves at the pleasure of the Commissioner.

VIII. Virginia

- A. State Board of Education. Consists of nine members, appointed by the Governor to four-year terms (two term limit) from geographic areas. Appointments are confirmed by the General Assembly and terms are staggered.
- B. Chief State School Officer. Superintendent of Public Instruction is appointed by the Governor, subject to confirmation by the General Assembly.

Members, Governance Committee of the
Public Education Policy Council
February 28, 1984
Page 4

- C. Fiscal Affairs. Associate Superintendent for Administration and Finance (one of four associate superintendents) reports directly to the State Superintendent; employment of Associate Superintendent is subject to approval of State Board.

JB:jh



North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh 27611

February 28, 1984

MEMORANDUM

TO: Members, Governance Committee of the
Public Education Policy Council

FROM: Jim Blackburn, Counsel

RE: Selection of State Boards and Chief State School Officers

I. According to available information, following is a breakdown of the methods by which State Boards of Education are chosen in the 50 states:

1. Gubernatorial Appointment		31
2. Election	By people	12
	By Legislature	2
	By local board members	1
3. Partial election, partial gubernatorial appointment		1
4. Partial appointment by Governor		1
	Partial appointment by Legislature	

5. No State Board 2

II. The breakdown of method of selecting chief state school officers is as follows:

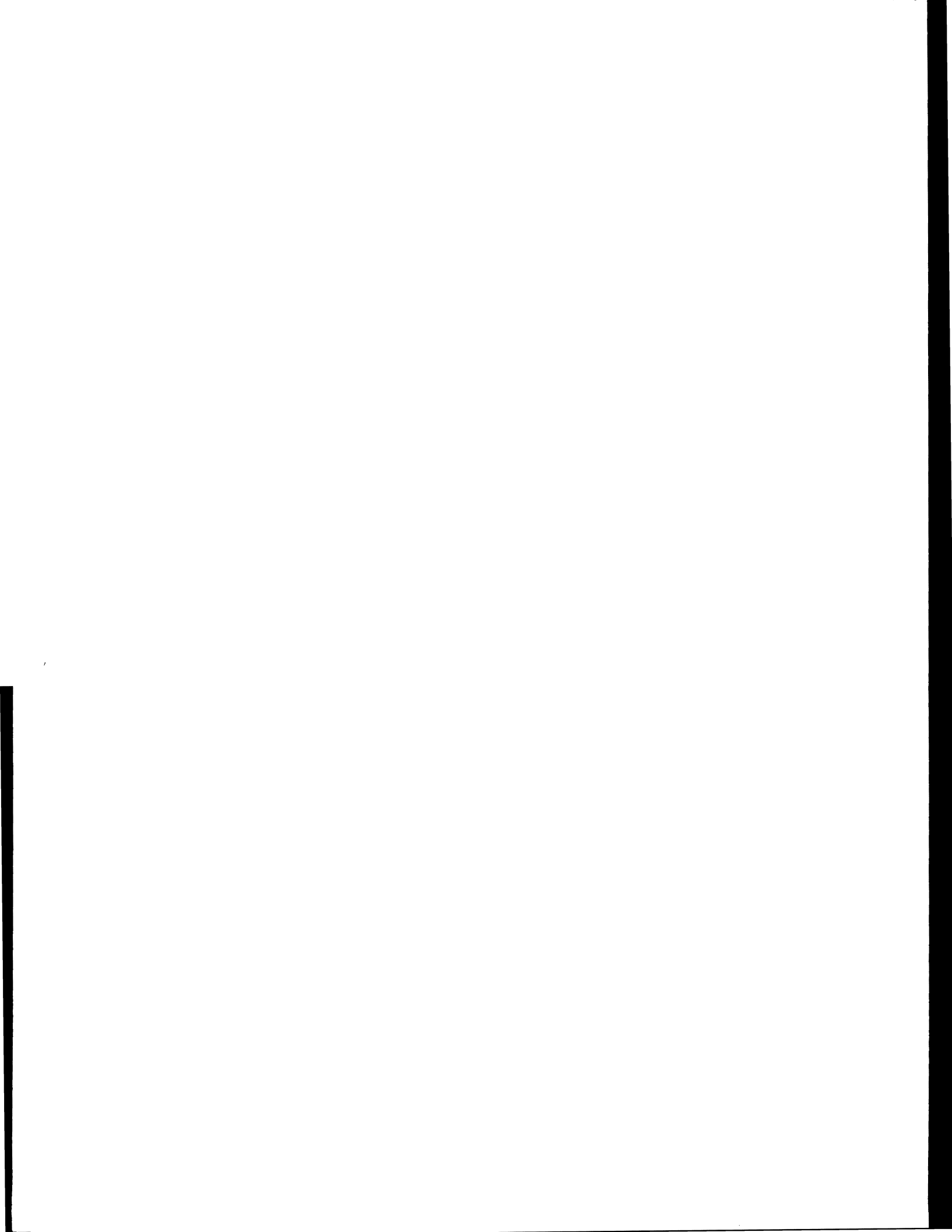
1. Popular election	18
2. Appointed by Board	28
3. Appointed by Governor	4

III. With minor variations (see notes below), there are eight models of education governance, broken down as follows:

	Number of states
1. Appointed Board with Board appointed Superintendent. All Boards are appointed by Governor except Mississippi (five members appointed by Governor, two each by Speaker and Lt. Governor) and New York (16 members chosen by Legislature).	17
2. Gubernatorial appointment of Board <u>and</u> Superintendent.	4
3. Appointed Board with elected Superintendent. All Boards appointed by Governor except South Carolina (16 members chosen by Legislature).	13
4. No Board, elected Superintendent.	2
5. Partially elected (eight members) and partially appointed (three members, by Governor) Board, with elected Superintendent.	1
6. Board elected by local school Board members with elected Superintendent.	1
7. Both Superintendent and Board elected. Board composed of five statewide elected officials, including Governor, Commissioner of Education.	1
8. Elected Board with Board-appointed Superintendent	11

JB:jh

APPENDIX I



APPENDIX I
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

S

3

SENATE BILL 46
Committee Substitute Adopted 4/26/85
House Committee Substitute Favorable 6/18/86

Short Title: Make Superintendent Appointive. (Public)

Sponsors: Senator

Referred to: Education.

February 21, 1985

1 A BILL TO BE ENTITLED

2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE
3 THAT THE LIEUTENANT GOVERNOR SHALL BE CHAIRMAN OF THE STATE
4 BOARD OF EDUCATION AND TO PROVIDE THAT THE SUPERINTENDENT OF
5 PUBLIC INSTRUCTION SHALL BE APPOINTED BY THE STATE BOARD OF
6 EDUCATION.

7 The General Assembly of North Carolina enacts:

8 Sec. 1. The first sentence of Section 6 of Article III
9 of the Constitution of North Carolina is rewritten to read: "The
10 Lieutenant Governor shall be the Chairman of the State Board of
11 Education."

12 Sec. 2. Subsection (2) of Section 4 of Article IX of
13 the Constitution of North Carolina is rewritten to read:

14 "(2) Superintendent of Public Instruction. The Superintendent
15 of Public Instruction shall be appointed by the State Board of
16 Education and shall serve at its pleasure. The Superintendent of
17 Public Instruction shall be the secretary and chief
18 administrative officer of the State Board of Education."

19 Sec. 3. Section 7(1) of Article III of the Constitution
20 of North Carolina is amended by deleting ", a Superintendent of
21

1 Public Instruction", and is further amended by deleting "1972",
2 and substituting "1988".

3 Sec. 4. Section 7(1) of Article III of the Constitution
4 of North Carolina is amended by adding the following at the end:

5 "The term of office of the Superintendent of Public Instruction
6 elected in 1984 shall expire on June 30, 1989."

7 Sec. 5. The amendments set out in Sections 1 through 4
8 of this act shall be submitted to the qualified voters of the
9 State at the general election to be held in November 1986. The
10 election shall be held and conducted under the laws then
11 governing general elections in this State.

12 Sec. 6. At the general election, each qualified voter
13 presenting himself to vote shall be provided a ballot on which
14 shall be printed the following:

15 "□ FOR constitutional amendment providing for service
16 of the Lieutenant Governor as Chairman of the State
17 Board of Education and appointment of the
18 Superintendent of Public Instruction by the State
19 Board of Education.

20 "■ AGAINST constitutional amendment providing for
21 service of the Lieutenant Governor as Chairman of
22 the State Board of Education and appointment of the
23 Superintendent of Public Instruction by the State
24 Board of Education."

25 Sec. 7. If a majority of the votes cast are in favor of
26 the amendments set out in Sections 1 through 4 of this act, then
27 the amendments shall be certified by the State Board of Elections
28 to the Secretary of State, who shall enroll the amendments among

1 the permanent records of his office. The amendments shall become
2 effective as follows: Sections 1 and 2 shall become effective
3 July 1, 1989; Section 3 shall become effective beginning with the
4 1988 election; Section 4 shall become effective upon
5 certification of the results of the election on the amendments.

6 Sec. 8. G.S. 163-1 is amended by deleting all reference
7 to the Superintendent of Public Instruction as an elective
8 officer.

9 Sec. 9. G. S. 163-8 is amended by deleting
10 "Superintendent of Public Instruction,".

11 Sec. 10. G.S. 147-11.1(b) (3) is amended by deleting
12 "Superintendent of Public Instruction,".

13 Sec. 11. G. S. 147-11.1(c) (3) is amended by deleting
14 "Superintendent of Public Instruction,".

15 Sec. 12. G.S. 143A-42 is amended by deleting "Article
16 II, Sec. 7", and substituting "Article IX, Section 4(2)", and by
17 deleting "115", and substituting "115C".

18 Sec. 13. The first sentence of G.S. 115C-11(a) is
19 rewritten to read: "The Lieutenant Governor shall be the
20 chairman of the State Board of Education. The Board shall
21 elect from its membership a vice-chairman and any other
22 officers it deems appropriate."

23 Sec. 14. G.S. 115C-18 is rewritten to read:

24 "§ 115C-18. Appointment of State Superintendent of Public
25 Instruction.--The Superintendent of Public Instruction shall be
26 appointed by the State Board of Education and shall serve at the
27 pleasure of the Board.

28

1 Sec. 15. Sections 7 through 14 of this act shall only
2 become effective if the constitutional amendments proposed by
3 Sections 1 through 4 of this act are approved by the qualified
4 voters of this State, and in such case shall become effective as
5 follows: Sections 8 and 9 shall become effective beginning with
6 the 1988 election, and Sections 10 through 14 shall become
7 effective July 1, 1989.

8 Sec. 16. This act is effective upon ratification.
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

2

S

SENATE BILL 46
Committee Substitute Adopted 4/26/85

Short Title: Make Superintendent Appointive. (Public)

Sponsors: Senator

Referred to: Education.

February 21, 1985

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION AND THE GENERAL STATUTES TO
2 CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE STATE BOARD
3 OF EDUCATION AND TO MAKE THE OFFICE OF THE SUPERINTENDENT OF
4 PUBLIC INSTRUCTION APPOINTIVE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Section 7(1) of Article III of the
7 Constitution of North Carolina is amended by deleting the words
8 "a Superintendent of Public Instruction,".

9 Sec. 1.1. Section 8 of Article III of the Constitution
10 of North Carolina is amended by adding the following immediately
11 before the period at the end, " and the Superintendent of Public
12 Instruction".

13 Sec. 2. Section 4(1) of Article IX of the Constitution
14 of North Carolina is rewritten to read:

15 "Sec. 4. State Board of Education.

16 (1) Board. The State Board of Education shall consist of the
17 Lieutenant Governor, the State Treasurer, eight members appointed
18 by the Governor, and four members appointed by the General
19 Assembly. Appointments shall be for four-year terms, except that

20

1 two of the appointments made by the General Assembly and four of
2 the appointments made by the Governor in 1987 shall be for two-
3 year terms. The Governor shall select a chairman from the
4 Board's membership."

5 Sec. 2.1. Section 4(2) of Article IX of the
6 Constitution of North Carolina is rewritten to read:

7 "(2) The State Superintendent of Public Education shall be the
8 secretary and chief administrative officer of the State Board of
9 Education. He shall be appointed by the State Board of
10 Education."

11 Sec. 3. The amendments set forth in Sections 1 through
12 2.1 of this act shall be submitted to the qualified voters of the
13 State at the statewide general election in November of 1986,
14 which shall be conducted under the laws then governing elections
15 in the State. At that election, each qualified voter who desires
16 to vote shall be provided a ballot on which shall be printed the
17 following:

18 "□ FOR constitutional amendments to change the
19 Superintendent of Public Instruction from an
20 elective official to an appointive official and to
21 change the method of selecting members of the State
22 Board of Education.

23 □ AGAINST constitutional amendments to change the
24 Superintendent of Public Instruction from an
25 elective official to an appointive official and to
26 change the method of selecting members of the State
27 Board of Education."
28

1 Those qualified voters favoring the amendments shall vote by
2 marking an "X" or a check mark in the square beside the statement
3 beginning "FOR", and those qualified voters opposed to the
4 amendments shall vote by marking an "X" or a check mark in the
5 square beside the statement beginning "AGAINST".

6 Notwithstanding the foregoing provisions of this
7 section, voting machines may be used in accordance with rules and
8 regulations prescribed by the State Board of Elections.

9 Sec. 4. If a majority of votes cast thereon are in
10 favor of the constitutional amendments, the State Board of
11 Elections shall certify the amendments to the Secretary of State
12 who shall enroll the amendments so certified among the permanent
13 records of his office. The constitutional amendments set out in
14 Sections 1 and 2 of this act shall become effective July 1, 1987,
15 except that appointments to the State Board of Education for the
16 terms beginning July 1, 1987, shall be made prior to July 1,
17 1987. The constitutional amendment set out in Section 2.1 of
18 this act shall become effective December 31, 1988, or when a
19 vacancy occurs in the office of Superintendent of Public
20 Instruction, whichever is sooner, but not earlier than July 1,
21 1987. The constitutional amendment set out in Section 1.1 of
22 this act shall become effective July 1, 1987, but shall expire
23 December 31, 1988, or when a vacancy occurs in the office of
24 Superintendent of Public Instruction, whichever is sooner, but
25 shall not expire earlier than July 1, 1987.

26 Sec. 5. G.S. 163-1 is amended by deleting all reference
27 to the Superintendent of Public Instruction as an elective
28 officer.

1 Sec. 5.1. G.S. 163-8 is amended by deleting
2 "Superintendent of Public Instruction,".

3 Sec. 6., G.S. 143A-42 is rewritten to read as follows:

4 "§ 143A-42. State Superintendent of Public Education; transfer
5 of office and Department of Public Instruction; powers and
6 duties.--The Office of the State Superintendent of Public
7 Education, as provided for by Article IX, Sec. 4(2), of the
8 Constitution of North Carolina, and the Department of Public
9 Instruction are transferred to the Department of Public
10 Education. The State Superintendent of Public Education shall be
11 the secretary and chief administrative officer of the State Board
12 of Education, and shall have all powers and duties conferred by
13 the Constitution, by the State Board of Education, by Chapter
14 115C of the General Statutes, and by the laws of this State."

15 Sec. 7., G.S. 115C-10 is rewritten to read:

16 "§ 115C-10. State Board of Education.--(a) Composition of
17 State Board. The State Board of Education shall consist of the
18 Lieutenant Governor, the State Treasurer, eight members appointed
19 by the Governor, two members appointed by the General Assembly on
20 the recommendation of the President of the Senate, and two
21 members appointed by the General Assembly on the recommendation
22 of the Speaker of the House of Representatives.

23 (b) Appointments made by the Governor. Each of the eight
24 members appointed by the Governor shall reside in a different
25 educational district of the State.

26 (c) Appointments made by the General Assembly. The four
27 members appointed by the General Assembly shall be selected at
28 large.

1 (d) Terms of office. The terms of office of the appointive
2 members shall be for four years beginning July 1 of the year of
3 appointment, except that two of the appointments made by the
4 General Assembly and four of the appointments made by the
5 Governor in 1987 shall be for two-year terms. The terms shall be
6 staggered so that two appointments by the General Assembly and
7 four of the appointments by the Governor expire every two years.
8 One of the members every two years shall be appointed by the
9 General Assembly on the recommendation of the President of the
10 Senate and one of the members every two years shall be appointed
11 by the General Assembly on the recommendation of the Speaker of
12 the House of Representatives.

13 (e) Limitations on membership.

14 (1) No member shall serve more than two full
15 consecutive terms.

16 (2) No member of the General Assembly, no member of the
17 judiciary, no public school employee, whether State
18 or local, no private elementary and secondary
19 school employee, and no spouse of any of these
20 persons, may serve as any appointive member,
21 including the chairman, on the Board. Any such
22 person elected or appointed to the Board may serve
23 if he resigns his position before taking office.

24 (f) Vacancies. In the event of a vacancy on the Board, the
25 vacancy shall be filled for the remainder of the unexpired term
26 by the official or body that made the original appointment. The
27 State Superintendent of Public Education shall notify the
28 appropriate official or body of the vacancy."

1 Sec. 7.1. The terms of all members of the State Board
2 of Education shall expire June 30, 1987. The terms of new
3 members of the Board, as reconstituted by this act, shall begin
4 July 1, 1987.

5 Two of the terms of the members appointed by the General
6 Assembly and four of the terms of the members appointed by the
7 Governor shall expire June 30, 1989. The General Assembly shall
8 designate when the appointments are made which two terms shall
9 expire June 30, 1989. One of the appointments shall have been
10 recommended by the President of the Senate and one by the Speaker
11 of the House of Representatives. The Governor also shall
12 designate when the appointments are made which four terms shall
13 expire June 30, 1989.

14 Sec. 8. The first sentence of G.S. 115C-11(a) is
15 rewritten to read:

16 "The chairman of the State Board of Education shall be selected
17 by the Governor from the Board's membership. The Board shall
18 elect from its membership a vice-chairman and any other officers
19 it deems appropriate."

20 Sec. 9. G.S. 115C-12(3) and G.S. 115C-12(4) are
21 repealed.

22 Sec. 10. G.S. 115C-18 is rewritten to read:

23 "§ 115C-18. Appointment of State Superintendent of Public
24 Education.--The State Superintendent of Public Education shall be
25 appointed by the State Board of Education and shall serve at the
26 pleasure of the Board."

27 Sec. 11. G.S. 115C-21(a) (5) is rewritten to read:
28

1 "(5) To have under his direction, in his capacity as the
2 constitutional administrative head of the public school system,
3 all those matters relating to the supervision and administration
4 of the public school system."

5 Sec. 12. G.S. 115C-21(a) is amended by adding the
6 following subdivisions:

7 "(6) He shall maintain a record or system of bookkeeping which
8 shall reflect at all times the status of all educational funds
9 committed to the administration of the Board and particularly the
10 following:

- 11 a. State appropriation for maintenance of the public
12 school term, which shall include all the objects of
13 expenditure enumerated in G.S. 115C-426.
- 14 b. State appropriation and any other funds provided for
15 the purchase and rental of public school textbooks.
- 16 c. State literary and building funds and such other
17 building funds as may be hereafter provided by the
18 General Assembly for loans, or grants, to local
19 boards of education for school building purposes.
- 20 d. State and federal funds for vocational education and
21 other funds as may be provided by act of Congress
22 for assistance to the educational program.
- 23 e. State appropriation for the maintenance of the Board
24 and its office personnel and including all
25 employees serving under the Board.
- 26 f. Any miscellaneous funds within the jurisdiction of
27 the Board not included in the above.
- 28

1 (7) He shall prepare all forms and questionnaires necessary to
2 furnish information and data for the consideration of the Board
3 in preparing the State budget estimates required to be determined
4 by the Board as to each local school administrative unit.

5 (8) He shall certify to each local school administrative unit
6 the teacher allotment as determined by the Board under G.S. 115C-
7 301. The superintendent of the administrative units shall then
8 certify to the Superintendent the names of the persons employed
9 as teachers and principals by districts. The Superintendent
10 shall then determine the certificate ratings of the teachers and
11 principals and determine in accordance with the State standard
12 salary schedule for teachers and principals, the salary rating of
13 each person so certified. He shall then determine, in accordance
14 with the schedule of salaries established, the total cost of
15 salaries in each local school administrative unit for teachers
16 and principals to be included in the State budget for the current
17 fiscal year.

18 (9) He shall satisfy himself before issuing any requisition
19 upon the Department of Administration for payment out of the
20 State Treasury of any funds placed to the credit of any local
21 school administrative unit, under the provisions of G.S. 115C-
22 438:

- 23 a. That funds are lawfully available for the payment of
24 such requisition; and
25 b. Where the order covers salary payment to any
26 employee that the amount thereof is within the
27 salary schedule or salary rating of the particular
28 employee.

1 (10) He shall procure, through the Department of
2 Administration, contracts for the purchase of the estimated needs
3 and requirements of the several local school administrative
4 units, covering the items of janitor supplies, instructional
5 supplies, supplies used by the State Board of Education, and all
6 other supplies, the payment for which is made from funds
7 committed to the administration of the Board.

8 (11) He shall purchase from the various publishers the
9 textbooks needed and required in the public schools in accordance
10 with contracts made by the State Board of Education."

11 Sec. 13. Article 4 of Chapter 115C of the General
12 Statutes is repealed.

13 Sec. 14. Chapter 115C of the General Statutes is
14 amended by deleting the words "Superintendent of Public
15 Instruction" wherever they appear and substituting the words
16 "State Superintendent of Public Education".

17 Sec. 15. Sections 1 through 4 and 15 of this act are
18 effective upon ratification. Sections 5 through 14 of this act
19 shall become effective only if the voters approve the
20 constitutional amendments proposed by Sections 1 through 2.1 of
21 this act. Sections 5, 5.1, 7, and 8 of this act shall become
22 effective July 1, 1987. Section 7.1 of this act shall become
23 effective on the date of certification of the results of the
24 amendments proposed by Sections 1 through 2.1 of this act.
25 Sections 6 and 9 through 14 of this act shall become effective
26 January 1, 1989.

27
28



Short Title: Make Superintendent Appointive.. (Public)

Sponsors: Senators Warren; Rauch, Harris, McDuffie..

Referred to: Education..

February 21, 1985

1

A BILL TO BE ENTITLED

2 AN ACT TO AMEND THE CONSTITUTION AND THE GENERAL STATUTES TO
3 CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE STATE BOARD
4 OF EDUCATION AND TO MAKE THE OFFICE OF THE SUPERINTENDENT OF
5 PUBLIC INSTRUCTION APPOINTIVE..

6 The General Assembly of North Carolina enacts:

7 Section 1.. Section 7(1) of Article III of the
8 Constitution of North Carolina is hereby amended by deleting the
9 words "a Superintendent of Public Instruction,"..

10 Sec. 2.. Section 4 of Article IX of the Constitution of
11 North Carolina is rewritten to read:

12 "Sec. 4.. State Board of Education..

13 (1) Board.. The State Board of Education shall consist of the
14 Lieutenant Governor, the State Treasurer, eight members appointed
15 by the Governor, one from each of the eight educational districts
16 of the State, as designated by the General Assembly, and one
17 member from each of the State's congressional districts elected
18 by the General Assembly.. Appointments and elections shall be for
19 overlapping terms of four years and no person elected by the
20 General Assembly or appointed by the Governor shall be eligible

21

1 for appointment or election, by the same appointing or electing
2 authority, to more than two consecutive terms as a member of the
3 Board.

4 (2) State Superintendent of Public Education.. The State
5 Superintendent of Public Education shall be the secretary and
6 chief administrative officer of the State Board of Education.. He
7 shall be appointed by the State Board of Education."

8 Sec.. 3.. The amendments set out in Sections 1 and 2 of
9 this act shall be submitted to the qualified voters of the State
10 at the general election held on the first Tuesday following the
11 first Monday in November 1986.. In such election, each qualified
12 voter shall be provided a ballot on which shall be printed the
13 following:

14 "■ FOR constitutional amendments to change the Superintendent
15 of Public Instruction from an elective official to an appointive
16 official and to change the method of selecting members of the
17 State Board of Education..

18 ■ AGAINST constitutional amendments to change the
19 Superintendent of Public Instruction from an elective official to
20 an appointive official and to change the method of selecting
21 members of the State Board of Education."

22 Those qualified voters favoring the amendments set out
23 in Sections 1 and 2 of this act shall vote by making an X or
24 appropriate mark in the space beside the statement beginning
25 "FOR", and those qualified voters opposing said amendments shall
26 vote by making an X or appropriate mark in the space beside the
27 statement beginning "AGAINST"..

28

1 Notwithstanding the foregoing provisions of this
2 section, voting machines may be used in accordance with the rules
3 and regulations prescribed by the State Board of Elections.

4 Sec. 4. If a majority of the votes cast in such a
5 general election be in favor of the amendment, the Governor shall
6 certify the amendment under the Great Seal of the State to the
7 Secretary of State, who shall enroll the amendment so certified
8 among the permanent records of his office.

9 Sec. 5. G.S. 163-1 is amended by deleting all reference
10 to the Superintendent of Public Instruction as an elective
11 officer.

12 Sec. 6. G.S. 143A-42 is rewritten to read as follows:

13 "§ 143A-42. State Superintendent of Public Education; transfer
14 of office and Department of Public Instruction; powers and
15 duties.--The Office of the State Superintendent of Public
16 Education, as provided for by Article IX, Sec. 4(2), of the
17 Constitution, and the Department of Public Instruction are hereby
18 transferred to the Department of Public Education. The State
19 Superintendent of Public Education shall be the secretary and
20 chief administrative officer of the State Board of Education, and
21 shall have such powers and duties as are conferred by the
22 Constitution, by the State Board of Education, Chapter 115C of
23 the General Statutes, and the laws of this State."

24 Sec. 7. G.S. 115C-10 is rewritten to read:

25 "§ 115C-10. State Board of Education.--(a) The State Board of
26 Education shall consist of the Lieutenant Governor, the State
27 Treasurer, eight members appointed by the Governor, one from each
28 of the eight educational districts of the State, and 11 members

1 elected by the General Assembly, one from each of the State's
2 congressional districts. Appointments and elections shall be for
3 overlapping terms of four years and, except as provided in
4 subsection (d), no person elected by the General Assembly or
5 appointed by the Governor shall be eligible for appointment or
6 election, by the same appointing or electing authority, to more
7 than two consecutive terms as a member of the Board.

8 (b) Appointments by the Governor. On or before the 60th
9 legislative day of the 1987 General Assembly, the Governor shall
10 submit to the Secretary of State and to the Superintendent of
11 Public Instruction the names of eight persons appointed by him to
12 the State Board of Education. Four of these persons shall be
13 appointed for two-year terms, representing educational districts
14 one, three, five, and seven. Four of these persons shall be
15 appointed for four-year terms, representing educational districts
16 two, four, six and eight. Beginning in 1989, during each regular
17 session of the General Assembly, the Governor shall transmit to
18 the Secretary of State and to the State Superintendent of Public
19 Education, on or before the 60th legislative day of the General
20 Assembly, the names of the persons appointed by him to serve
21 overlapping terms of four years.

22 (c) Members Elected by General Assembly. The presiding
23 officer of each house of the General Assembly shall transmit to
24 the Secretary of State and to the State Superintendent of Public
25 Education, on or before the 60th legislative day of the General
26 Assembly, the names of the persons elected by that chamber to
27 membership on the Board. Elections shall be for overlapping
28

1 terms of four years with members representing each congressional
2 district chosen alternately as follows:

3 (1) The member representing the first congressional
4 district shall be elected by the House in 1987 for
5 a two-year term. The member representing the first
6 congressional district shall be elected by the
7 Senate in 1989, and every eight years thereafter,
8 for a four-year term. The member representing the
9 first congressional district shall be elected by
10 the House in 1993, and every eight years
11 thereafter, for a four-year term.

12 (2) The member representing the second congressional
13 district shall be elected by the Senate in 1987,
14 and every eight years thereafter, for a four-year
15 term. The member representing the second
16 congressional district shall be elected by the
17 House in 1991, and every eight years thereafter,
18 for a four-year term.

19 (3) The member representing the third congressional
20 district shall be elected by the House in 1987, and
21 every eight years thereafter, for a four-year term.
22 The member representing the third congressional
23 district shall be elected by the Senate in 1991,
24 and every eight years thereafter, for a four-year
25 term.

26 (4) The member representing the fourth congressional
27 district shall be elected by the Senate in 1987 for
28 a two-year term. The member representing the

1 fourth congressional district shall be elected by
2 the House in 1989, and every eight years
3 thereafter, for a four-year term.. The member
4 representing the fourth congressional district
5 shall be elected by the Senate in 1993, and every
6 eight years thereafter, for a four-year term..

7 (5) The member representing the fifth congressional
8 district shall be elected by the House in 1987 for
9 a two-year term.. The member representing the fifth
10 congressional district shall be elected by the
11 Senate in 1989, and every eight years thereafter,
12 for a four-year term.. The member representing the
13 fifth congressional district shall be elected by
14 the House in 1993, and every eight years
15 thereafter, for a four-year term..

16 (6) The member representing the sixth congressional
17 district shall be elected by the Senate in 1987,
18 and every eight years thereafter, for a four-year
19 term.. The member representing the sixth
20 congressional district shall be elected by the
21 House in 1991, and every eight years thereafter,
22 for a four-year term..

23 (7) The member representing the seventh congressional
24 district shall be elected by the House in 1987, and
25 every eight years thereafter, for a four-year term..
26 The member representing the seventh congressional
27 district shall be elected by the Senate in 1991,
28

1 and every eight years thereafter, for a four-year
2 term..

3 (8) The member representing the eighth congressional
4 district shall be elected by the Senate in 1987 for
5 a two-year term.. The member representing the
6 eighth congressional district shall be elected by
7 the House in 1989, and every eight years
8 thereafter, for a four-year term.. The member
9 representing the eighth congressional district
10 shall be elected by the Senate in 1993, and every
11 eight years thereafter, for a four-year term..

12 (9) The member representing the ninth congressional
13 district shall be elected by the House in 1987 for
14 a two-year term.. The member representing the ninth
15 congressional district shall be elected by the
16 Senate in 1989, and every eight years thereafter,
17 for a four-year term.. The member representing the
18 ninth congressional district shall be elected by
19 the House in 1993, and every eight years
20 thereafter, for a four-year term..

21 (10) The member representing the tenth congressional
22 district shall be elected by the Senate in 1987,
23 and every eight years thereafter, for a four-year
24 term.. The member representing the tenth
25 congressional district shall be elected by the
26 House in 1991, and every eight years thereafter,
27 for a four-year term..

28

1 (11) The member representing the eleventh congressional
2 district shall be elected by the House in 1987, and
3 every eight years thereafter, for a four-year term.
4 The member representing the eleventh congressional
5 district shall be elected by the Senate in 1991,
6 and every eight years thereafter, for a four-year
7 term..

8 (d) Nominations for Election by the General Assembly.. Not
9 later than October 15 of the year preceding the expiration of the
10 term of any member of the State Board elected by the General
11 Assembly, the State Superintendent shall notify the
12 superintenedent of each local school administrative unit and the
13 chairman of the board of county commissioners in each county in
14 the appropriate congressional district of the expiration of the
15 term. In 1986 only, the deadline for notification shall be one
16 week following the certification of adoption of the
17 Constitutional amendment as provided in Section 4 of this act..

18 The notice shall contain, at a minimum, the deadline for
19 submission of nominees and the name and address of the
20 appropriate presiding officer, depending on which house of the
21 General Assembly has responsibility for electing the Board member
22 from that district.. Each local board of education in the
23 congressional district shall have the privilege of selecting one
24 nominee for membership on the State Board and submitting the name
25 of the nominee to the board of commissioners of the county where
26 the board is located.. In the event a local school administrative
27 unit is located in more than one county, the name of the nominee
28 of the board of education for that unit shall be submitted to the

1 board of commissioners of the county wherein the nominee resides.
2 The board of commissioners shall accept or reject the
3 nominations. In the event the nomination is accepted, the board
4 of commissioners shall transmit the name of the nominee to the
5 appropriate presiding officer of the General Assembly. If the
6 nomination is rejected, the board of county commissioners shall
7 notify the local board of education in order that the name of
8 another nominee may be submitted. In the event more than one
9 local board of education in a county submits nominations, the
10 board of county commissioners shall select one nominee from among
11 the names submitted by the boards of education. In any event, on
12 or before February 15 of the year in which the term of the State
13 Board of Education member expires, the board of commissioners of
14 each county in the congressional district shall notify the
15 presiding officer of the House or Senate, whichever is to elect
16 the member from that congressional district, of the name of one
17 nominee from that county. If the board of commissioners receives
18 no recommendation from the local board or boards of education in
19 that county, the board of commissioners shall so notify the
20 appropriate presiding officer.

21 (e) Election by the General Assembly. At each session of the
22 General Assembly held in an odd-numbered year, the presiding
23 officer of each house shall assign to the Committee on Education
24 of that house the duty of receiving the names of persons
25 nominated for election by that house to membership on the Board.
26 In order for a person to have standing to be considered, that
27 person shall be formally proposed as provided in subsection (d)
28 above or shall have obtained the signatures of not less than one

1 percent (1%) of the registered voters in his county of residence
2 and shall have presented such petition, certified by the chairman
3 of the local board of elections, to the presiding officer of the
4 electing house of the General Assembly on or before February 15
5 of the year in which the term expires. At the election session
6 of the house designated to elect the member, the committee shall
7 report its list of recommended nominees. That house shall then
8 proceed to an election of members of the Board. In order to be
9 chosen, a nominee shall receive the votes of a majority of all
10 members present and voting. When the house has chosen one person
11 for each place to be filled on the State Board, the chairman of
12 the committee shall make a motion for the simultaneous election
13 of those persons by the house to the indicated positions and for
14 the indicated terms. The roll shall then be called
15 electronically. If a majority of those voting shall vote 'aye,'
16 the persons named in the motion shall be declared to have been
17 elected. Each house may adopt rules consistent with this section
18 with respect to the election by that house of members of the
19 State Board.

20 (f) Vacancies. In the event of vacancy on the Board, the
21 vacancy shall be filled by whichever authority made the original
22 appointment. The State Superintendent of Public Education shall
23 notify the appropriate authority of the vacancy. Where the
24 vacancy is to be filled by the Governor, he shall transmit the
25 name of the appointee as soon as possible as provided in
26 subsection (b). Where the vacancy is to be filled by either
27 house of the General Assembly, the appropriate presiding officer
28 shall transmit the name of the person elected as soon as possible

1 after the beginning of the next regular session of the General
2 Assembly. . . By whichever authority the vacancy is filled, if more
3 than half of the unexpired term remains to be served, the
4 appointee shall be eligible for appointment or election to one
5 full four-year term in addition to the unexpired term. . . If less
6 than half of the unexpired term remains to be served, the
7 appointee shall be eligible for appointment or election to two
8 additional four-year terms in addition to the unexpired term. . .

9 (g) Limitations on Membership. . . No member of the General
10 Assembly, no officer or employee of the State except those
11 designated in the Constitution of the State of North Carolina, no
12 officer or employee of an institution under the jurisdiction of
13 the State Board or any local board, no officer or employee of any
14 organization or association of public school employees and no
15 spouse of any of these persons, shall be eligible to serve on the
16 State Board. . .

17 Notwithstanding the above, officers or employees of the State,
18 members of local boards of education, members of boards of county
19 commissioners, members of district school committees, employees
20 of local boards of education and officers and employees of
21 organizations or associations of public school employees shall be
22 eligible for nomination to membership on the State Board:
23 Provided, however, that any such person elected or appointed to
24 the State Board shall resign his position before taking office. . .

25 (h) Terms of Office. . . All terms shall commence on July 1 of
26 odd-numbered years. . .

27 Sec. 8. . . G. S. , 115C-11(a) is rewritten to read:
28

1 "(a) Presiding Officer.. The Governor shall convene the
2 membership of the State Board on July 1, 1987, or as soon as
3 feasible thereafter.. The State Board at that meeting, and every
4 two years thereafter, shall elect from its appointed or elected
5 membership a chairman.. No member shall be eligible to serve more
6 than two consecutive two-year terms as chairman.. At its meeting
7 after July 1, 1987, and every two years thereafter, the Board
8 shall also elect a vice-chairman and such other officers as it
9 may deem necessary.. A majority of the Board shall constitute a
10 quorum for the transaction of business.. Per diem and expenses of
11 the members of the Board appointed by the Governor and elected by
12 the General Assembly shall be provided by the General Assembly..

13 The chairman of the Board shall preside at all meetings of the
14 Board.. In the absence of the chairman, the vice-chairman shall
15 preside; in the absence of both the chairman and the vice-
16 chairman, the Board shall name one of its own members as chairman
17 pro tempore."

18 Sec..9.. G.S.. 115C-12(4) is repealed..

19 Sec..10.. G.S.. 115C-18 is rewritten to read:

20 "§ 115C-18.. Appointment of State Superintendent of Public
21 Education.--The State Superintendent of Public Education shall be
22 appointed by the State Board of Education and shall serve at the
23 pleasure of the Board."

24 Sec.. 11.. G.S., 115C-21(a)(1) is amended by adding
25 following the first sentence the following:

26 "These shall include a Division of Fiscal Affairs which shall
27 be under the direction of a Controller, to be appointed by the
28

1 State Superintendent of Public Education subject to the approval
2 of the State Board of Education."

3 Sec. 12. G.S. 115C-21(a) (5) is rewritten to read:

4 "(5) To have under his direction, in his capacity as the
5 constitutional administrative head of the public school system,
6 all those matters relating to the supervision and administration
7 of the public school system."

8 Sec. 13. G.S. 115C-27 is repealed.

9 Sec. 14. G.S. 115C-29(a) is rewritten to read:

10 "It shall be the duty of the Controller, under the direction of
11 the Board and the State Superintendent of Public Education to
12 administer the funds provided for the operation of the schools of
13 the State on such standards as may be determined by the Board and
14 always within the total funds appropriated therefor."

15 Sec. 15. G.S. 115C-29(b) is amended by rewriting the
16 introductory language before subdivision (1) to read:

17 "(b) The Controller, under the direction of the Board and the
18 State Superintendent of Public Education, shall perform the
19 following duties:"

20 Sec. 16. G.S. 115C-29(b) is further amended by
21 rewriting subdivision (8) to read:

22 "(8) He shall attend all meetings of the Board and shall
23 furnish all such information and data concerning the fiscal
24 affairs of the Board as the Board or the Superintendent may
25 require."

26 Sec. 17. G.S. 115C-29(b) is further amended by
27 rewriting subdivision (12) to read:

28

1 "(12) He shall perform such other duties as may be assigned to
2 him by the Board or by the State Superintendent of Public
3 Education from time to time."

4 Sec. 18. Subdivisions (9) and (10) of G.S. 115C-29(b)
5 are repealed.

6 Sec. 19. Chapter 115C of the General Statutes is
7 amended by deleting the words "Superintendent of Public
8 Instruction" wherever they appear and substituting the words
9 "State Superintendent of Public Education".

10 Sec. 20. Sections 1 through 4 of this act are effective
11 upon ratification. Upon certification of adoption of the
12 constitutional amendment as provided in Section 4 of this act,
13 Sections 7 and 8 shall become effective immediately while
14 Sections 5, 6 and 9 through 19 shall become effective January 1,
15 1989.

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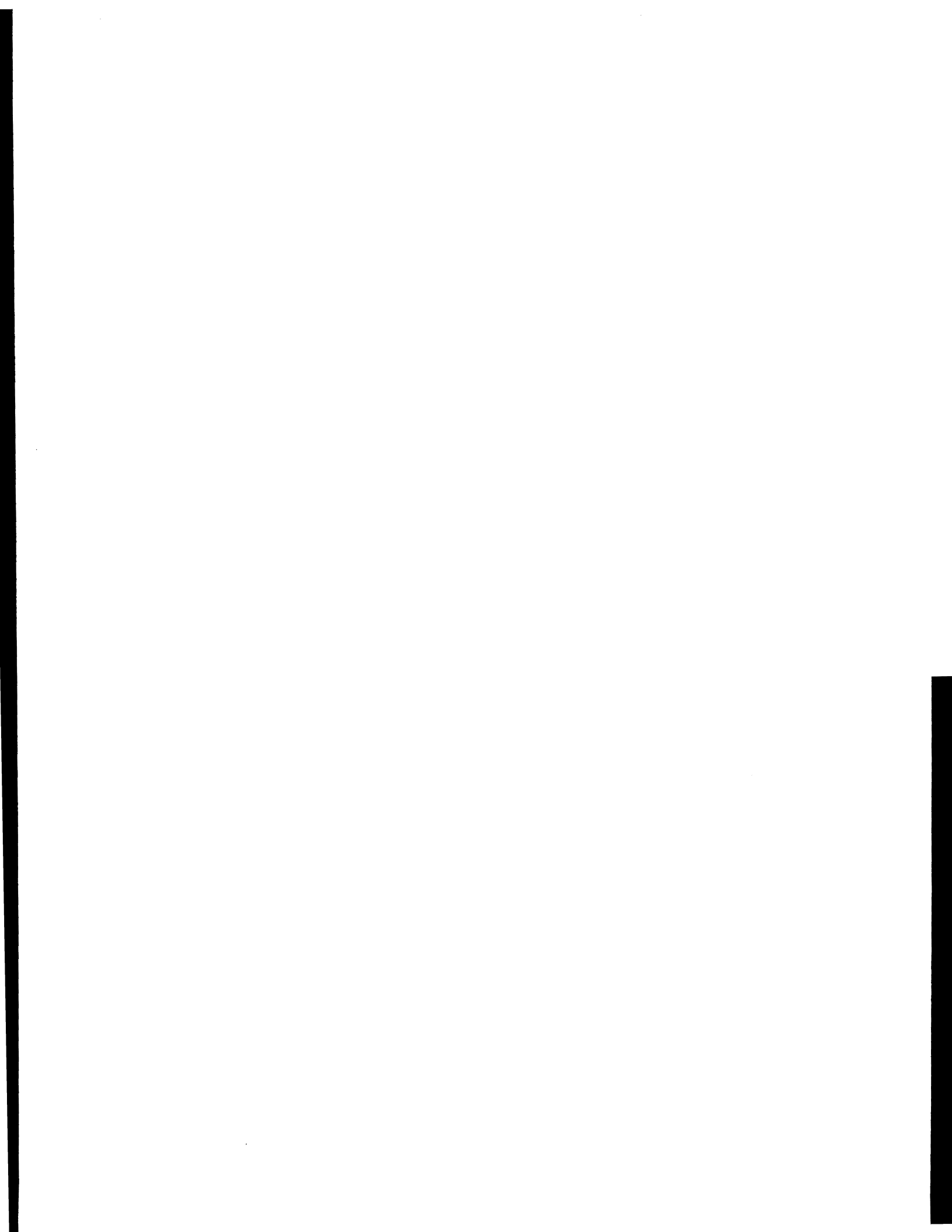
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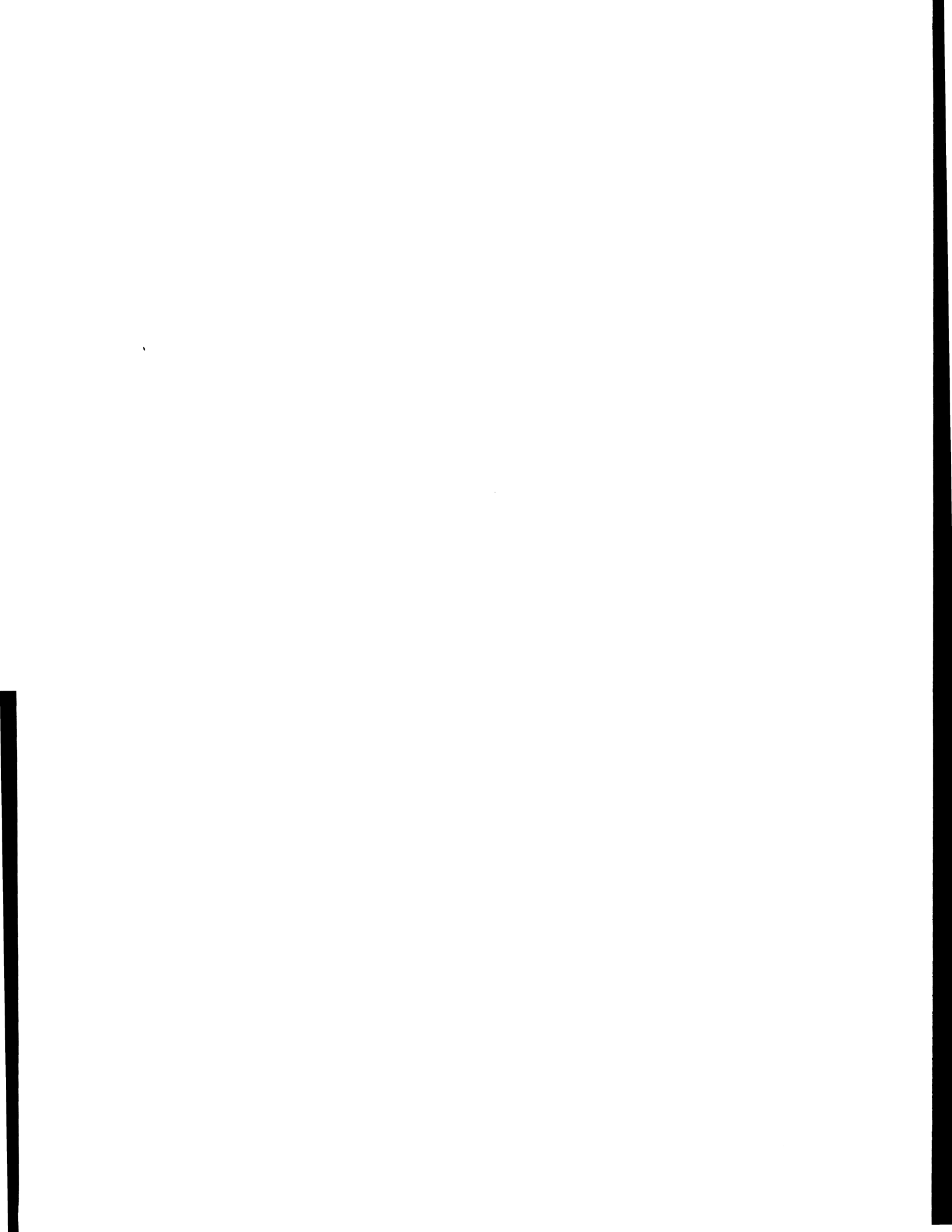
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APENDIX J



APPENDIX J

WHO'S IN CHARGE OF THE PUBLIC SCHOOLS?

by

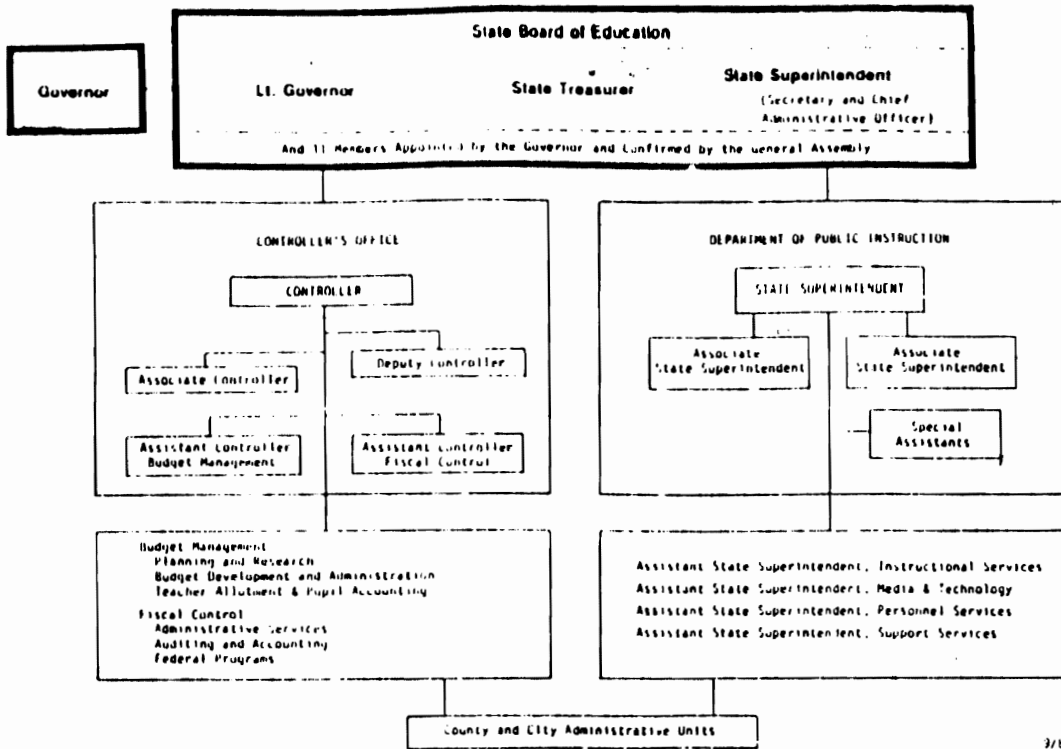
E. Michael Latta
Executive Director

State Advisory Council on Education*

"Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged," declares the North Carolina Constitution. To assist in accomplishing this State principle, the State Constitution requires that "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools. . . ." In order to provide overall direction to the public schools, the State Constitution further requires that "The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support . . . and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly."

From this constitutional base, the State Board of Education has substantial power. For example, the General Assembly appropriated to this Board for the 1984-85 school year nearly \$2 billion, representing about forty-four percent (44%) of the State's General Fund. These funds have been allocated by the State Board to the one hundred forty-one (141) local boards of education that employ personnel and implement programs based on the standards set by the State Board of Education. To facilitate the management of these funds and to supervise the school programs throughout the State, a North Carolina Department of Public Education has been established. The main office is in Raleigh, with most operations being housed in the Education Building. A recent organizational chart for the State Department of Public Education looks like this:

North Carolina Department of Public Education



As is shown, the State Department of Public Education is headed by the State Board of Education. Thirteen (13) individuals make up the State Board. The State Constitution requires that the Lieutenant Governor; the State Treasurer; and eleven members appointed by the Governor, subject to confirmation by the General Assembly, constitute the Board. At least one member must come from each of the eight public school districts which have been established by the General Assembly. Appointment to the Board is for overlapping terms of eight (8) years.

The State Constitution also requires that a State Superintendent serve as the "secretary and chief administrative officer" of the Board (see chart). But, because the State Superintendent of Public Instruction is an elected official, he cannot be hired, fired, or directed by the Board, even though his major duties are to supervise the educational programs in the State which

have been approved by the State Board. Conversely, the State Board employs a Controller (see chart) who is the fiscal officer of the Board. The Controller is not a constitutional officer, and is thereby appointed (hired) by the Board, subject to the Governor, and serves at the will of the Board.

In review, the State Board is charged by the Constitution to administer and supervise the public school enterprise in the State; yet, it has two officers through whom these responsibilities are to be accomplished--one elected by the people and one appointed by the Board. This organizational arrangement is very unique; no other State in the Union has such a structure for a State Department of Public Education.

It should have surprised no one when the Second Session of the 1981 General Assembly enacted a law which created a "Select Committee to Study The Department of Public Education." The Committee studied the fiscal and operational functions of the Department, including the "constitutional tension" created by the separate but interrelated power of the State Superintendent and the State Board of Education. A report was provided to the 1983 General Assembly on the Committee's recommendations; however, the main recommendations were not enacted into law. Thereby, the 1983 General Assembly created a Public Education Policy Council to continue the work begun by the "Select Committee of 1981."

The debate about the organizational arrangement of the Department of Public Education is not new. For example, the 1968 Governor's Study Commission on the Public School System of North Carolina recommended that "... the Superintendent of Public Instruction be appointed by, and made answerable to, the State Board of Education." In 1975, the Fiscal Research Division of the General Assembly recommended that "The Constitution of North Carolina should be amended to change the present methods of selecting the SBE [State Board of Education] and the State Superintendent."

At the May 1982 meeting of the State Board of Education, the Chairman

called for a different organizational structure. In part, he said:

"It is time that thoughtful people interested in the governance of public education in North Carolina at the state level offer some guidance in this complex problem.

"We must combine, under one executive, program and fiscal functions at the state level, under the control of the State Board. The management advantages of this organizational structure are obvious.

"This will require some important constitutional and statutory changes."

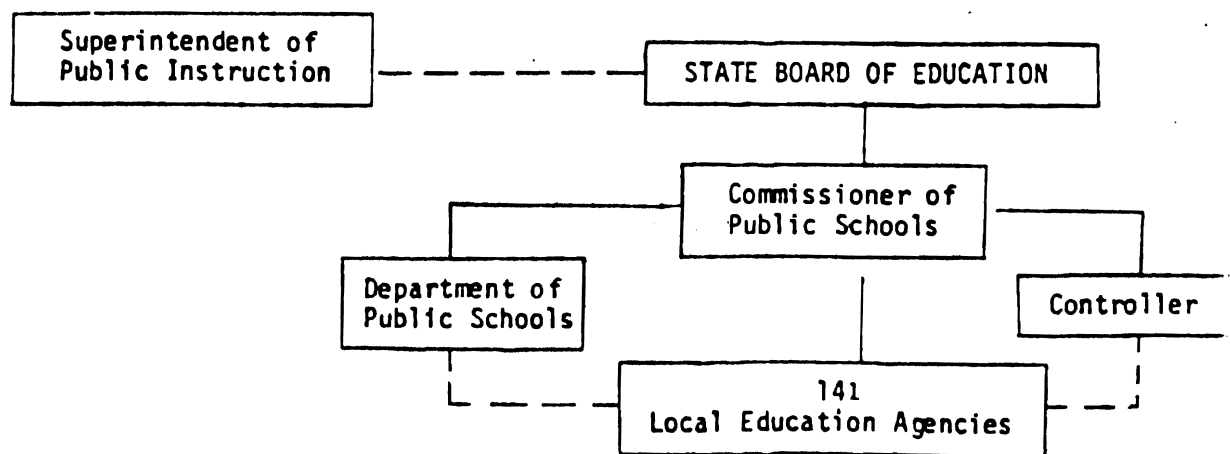
The current Chairman of the State board recently testified that the present structure works because of the "good graces" of the people in the positions.

Because changing the State's Constitution requires both legislative action and an affirmative vote by the people of this State, the previous recommendations concerning the organizational structure of the Department of Public Education have not been undertaken. With a realization that some changes are needed, an Option is proposed which can be implemented without the necessity of constitutional changes and which has the possibility of dealing with the organizational problems that have faced the State Board of Education over the last several years.

The proposed organizational structure for the State Department would look like this:

PROPOSED STATE DEPARTMENT OF PUBLIC EDUCATION

Under the State Board of Education
(Grades Kindergarten - High School)



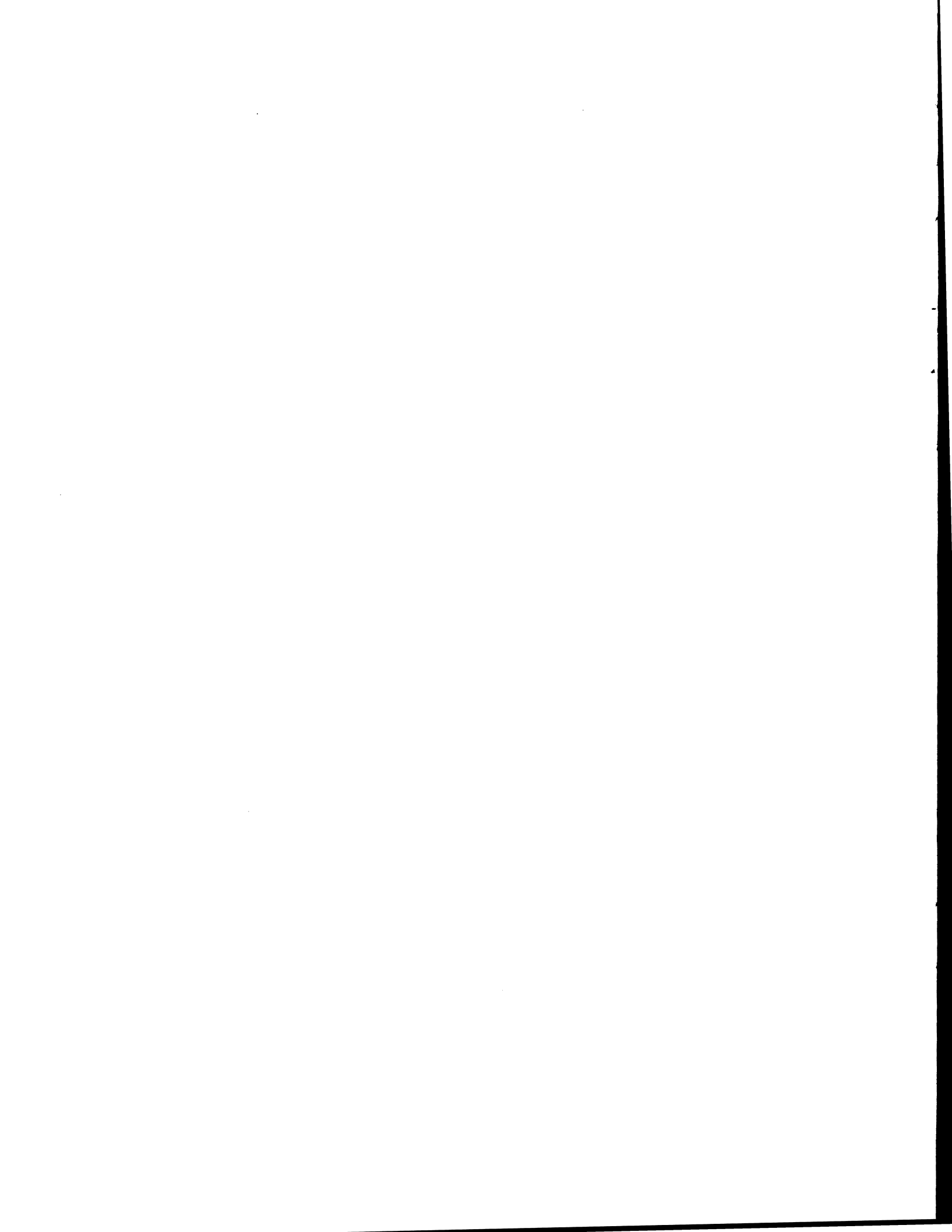
To facilitate this proposal, it is only necessary for the General Assembly to rewrite relevant sections of the public school laws, as appropriate and needed, to redefine the duties of the elected State Superintendent. The superintendent's duties should be specifically set out in the public school code as those required by the Constitution; namely, to be the "chief administrative officer and secretary" to the Board. The state statutes should say that the term "chief administrative officer" means that the State Superintendent of Public Instruction is the "Chairman of the State Board of Education" and that the term "secretary" means to take the minutes of the Board, but without voting authority. Also, the General Assembly would need to strike the terms "State Superintendent of Public Instruction" and "Controller" wherever they now appear in the public school laws, with the term "Commissioner of Public Schools" being substituted, and with the provision that the "Commissioner" would be employed by the Board and serve at its pleasure. Under this arrangement, a "Commissioner of Public Schools" would be responsible for both programs and fiscal matters. This proposal includes the most important elements of accountability and flexibility. It creates a structure which should be responsive to the State Board of Education, with incentives for efficient and effective management. It centralizes in one person's hands--a Commissioner of Public Schools, directed by the State Board--the management of the public schools. The Commissioner of Public Schools should be expected to communicate with and work with the local boards of education and local superintendents of schools to improve the quality of education for the young people of the State. Moreover, the proposal can be accomplished by legislative action now. If constitutional changes are needed, they can be dealt with later.

Everything the State Board of Education does, in one way or another, affects the public schools and the people who work therein. Now is a good time to

formulate "a better idea" for our State school structure. It is believed that the aforementioned Option is the better idea. At least, it clarifies who is in charge of the public schools without having to change the Constitution.

*The State Council is charged by federal law to advise to the State Board of Education on policy and planning matters which will improve programs, services, and activities of the State Board. The proposed Option in this article was adopted by The Council and was offered to the State Board for their consideration in 1982.

APPENDIX K



**OFFICERS****PRESIDENT**

Terrell Duncan
Burlington

1st VICE-PRESIDENT

Pennie Battle
Gates

2nd VICE-PRESIDENT

Shelby Shore
Yadkin

TREASURER

Bob Cabaniss
Cleveland

IMMEDIATE**PAST PRESIDENT**

Oliver Smith
Lenoir

DIRECTORS

Hardy Caldwell
Henderson

Linda S. Chandler
Durham

Howard Dorsett
Montgomery

Grover Edwards
Northampton

Walter Faribault
Orange

Molly Gambill
Ashe

Tom Hewitt
Wet

Bobby Rex Kornegay
Wayne

Mary Ellen Maxwell
Currituck

James Mebane
Guilford

Dr. Virginia Morgan
Union

Kristi Neal
McDowell

Dr. Ted Parrish
Chapel Hill-Carrboro

James R. Raper
Beaufort

John Sledge
Moore

Nehemiah Smith
Rocky Mount

Sarah Stevenson
Charlotte-Mecklenburg

Robert Wright
Hoke

Dr. James Ellerbe, Liaison
N.C. Assoc. for School
Administrators

Theda Moore, Liaison
State Board of Education

Dr. Carl Unsicker, Vice-Ch.
Southern Region School Boards

Janet Wilson, Liaison
Alliance for Public
Education

LEGAL COUNSEL

George Rogister
Raleigh

"PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT"

Dr. Gene Causby
Executive Director

December 12, 1985

TO: Committee on Superintendent of the
 Department of Public Instruction
 and the State Board of Education

FROM: Gene Causby

SUBJECT: PUBLIC SCHOOL GOVERNANCE

As you know, public school governance in our State is a topic that has been discussed over the last several years. During that long period, I have yet to hear anyone say that the currently used structure of governance is good. If any of you have heard anyone say it is a good structure, I would appreciate it if you would share that with me. Governance of our public schools has been studied several times by various groups of responsible people. No study has ever found it to be either efficient or logical. We concur with such findings. Let me share with you the statement approved by our delegate assembly.

"NCSBA believes that there is a need for changes in the governance structure for public education in North Carolina. We believe there are certain imperatives that must be in place in that changed structure which include the following:

- The elective process should be retained as an integral part of the process.
- We could support an appointed State Superintendent but only if appointed by an elected State Board of Education.

- It would be acceptable to the Association to have the State Board of Education elected directly by the people or elected by the General Assembly.
- If the board is elected by the General Assembly, we prefer that they be elected from a list of nominees submitted by local boards of education."

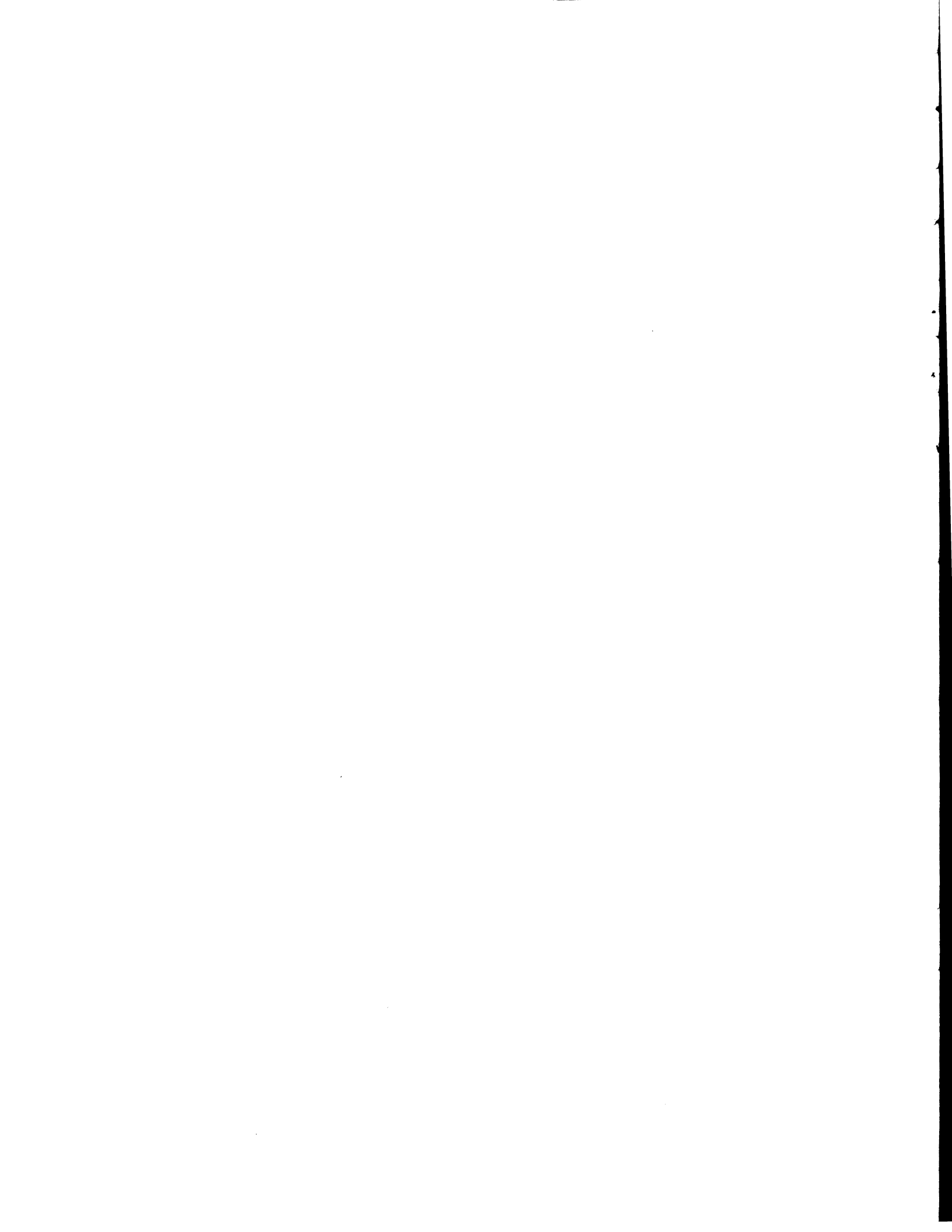
In an attempt to further clarify our position, let me be more specific on our beliefs and concerns.

- We are not opposed to the Governor continuing to appoint an appropriate member of the State Board and will accept any reasonable combination of appointed and elected members.
- We believe the Lieutenant Governor and State Treasurer historically have made excellent contributions as State Board members and support their continued services.
- We favor a reduction in the present 8-year term for State Board members. The original purpose of that length of term was to prevent any one governor from appointing a majority of the membership. That is no longer valid. The last governor not only appointed a majority, but actually appointed every member who is appointed. Therefore, we favor a reduction in the length of term. We prefer a 4-year term with the appointee being eligible for one additional 4-year term, but limited to two 4-year terms.
- We believe the controller should be under the chief administrative officer as is the case in each of the 142 local school systems.

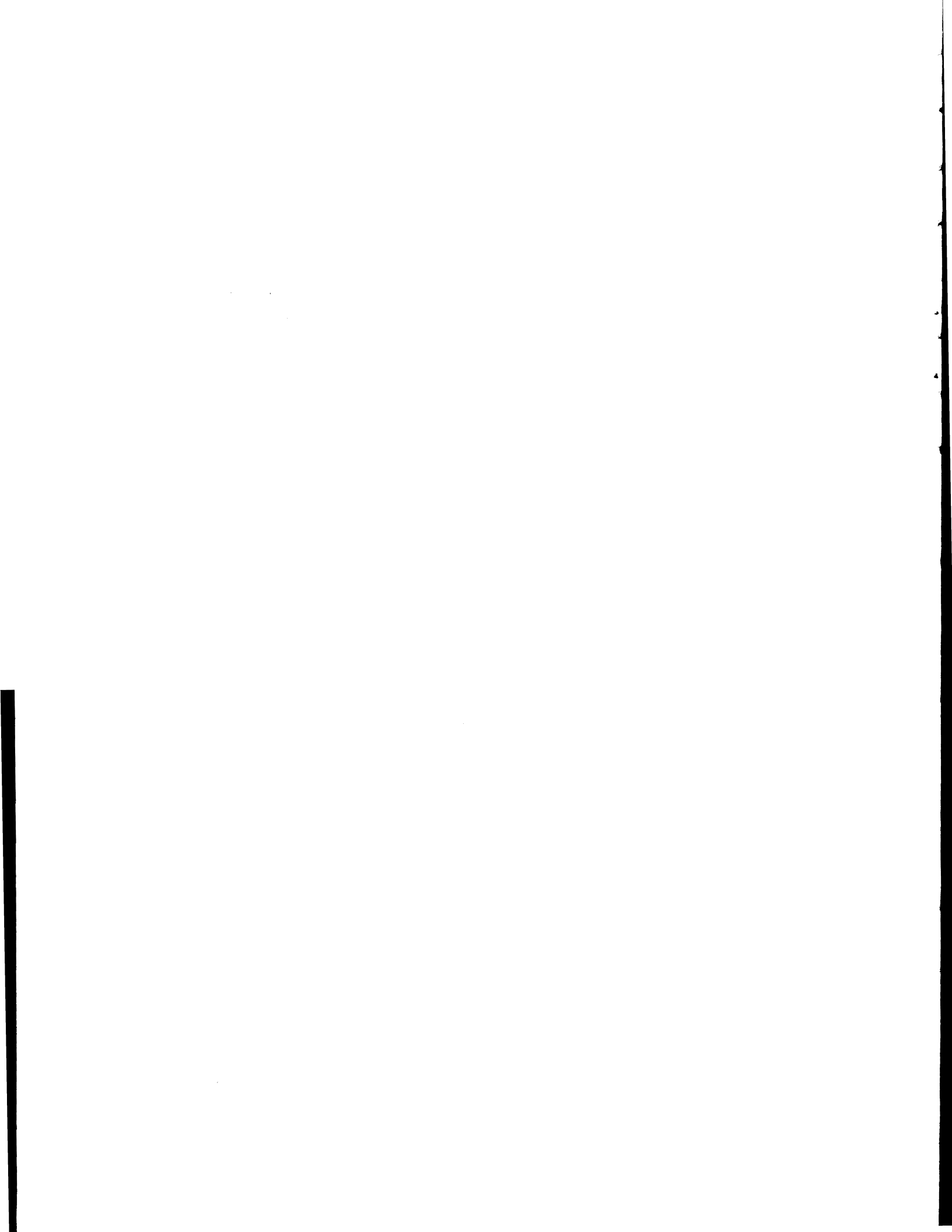
- We feel strongly that even the appearance of conflicts of interest should be eliminated. The last legislative session took a major step by making employees of local boards of education and employees of the Department of Public Instruction ineligible for service. We now urge you to consider elimination of employees of community colleges and institutions of higher education. The State Board has a staff of professional educators and access to many more including those in community colleges and higher education for their involvement.
- We believe that the State Superintendent of Public Instruction should be required to have a North Carolina Superintendent's Certificate. Currently, there are no requirements.

We wish you well in your efforts to improve the governance of our schools and are willing to assist you in any way possible in carrying out your task.

dw



APPENDIX L





P.O. Box 1629, Raleigh, North Carolina 27602

919-828-1426

Harold L. Gillis, President

Raymond L. Sarbaugh, Executive Director

POSITION STATEMENT

It is the position of the North Carolina Association of School Administrators that the state governance structure of public elementary and secondary education is flawed, that it violates sound management principles and that it hinders rather than promotes educational progress. As the educational leaders of public schools at the local level, we are convinced that a major modification in the governance structure is overdue.

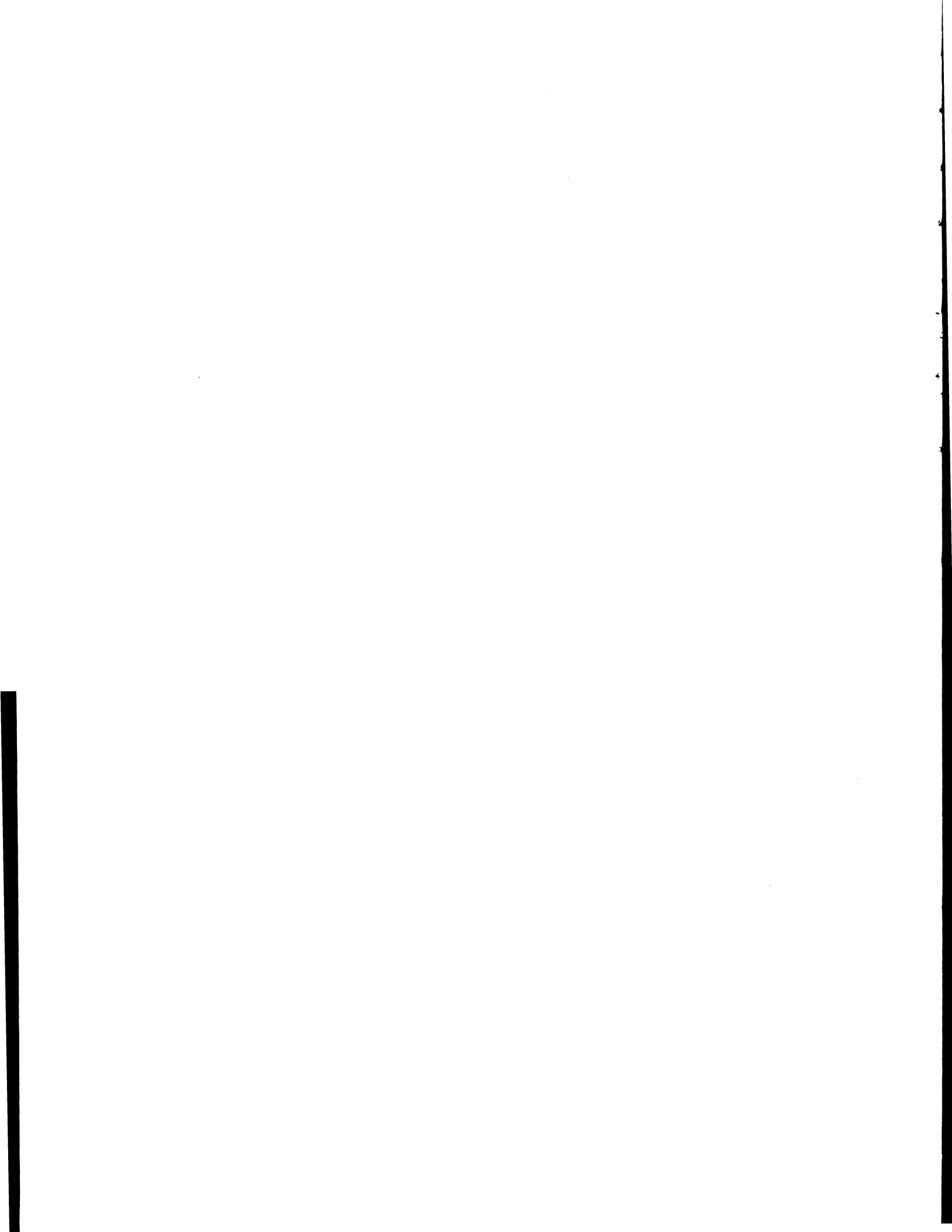
There are too many official voices speaking for public schools in our State and too often they speak from different perspectives and with differing priorities. Equally importantly, the separation of state level responsibility for program and finance into two independent offices results too frequently in incompatible and inconsistent decisions and regulations, even when working relationships and cooperation are at their best.

The North Carolina Association of School Administrators believes that there are two essential goals:

1. The State Board of Education must be the principal voice for the public schools of our State.
2. The program and fiscal affairs of the State Department of Public Education must be directed and administered by a single chief administrative officer.

We believe that Constitutional changes similar to those proposed in Senate Bill 46 are in the best interests of public education and of North Carolina and that should be our goal. Realizing the difficulties in changing the Constitution, we will support any immediate legislative changes which will bring us closer to these goals.

Adopted December 6, 1985
Business Session
NCASA Fall Conference
Winston-Salem, N.C.



APPENDIX M



APPENDIX M

Senator Robert D. Warren
Representative Edward H. Warren
North Carolina General Assembly
Legislative Study Commission on
Governance of Public Elementary/Secondary Education

Distinguished Commission Members:

I deeply appreciate this opportunity to address your members on this most important topic - "The Governance of Public Elementary/Secondary Education in North Carolina."

I address you today as the representative for the local school superintendents across North Carolina. I serve as Co-Chairman for a group of 15 superintendents who were elected by their peers to speak to legislative issues relating to public education.

As chief administrative officers of the 141 local school systems, we believe we can provide insight, understanding and assistance in the matter now before this distinguished body.

First, no group of individuals are more aware of the existing difficulties of functioning under a multiheaded agency than are the local superintendents across North Carolina. We have long experienced the frustrations of working under and responding to three distinct agencies currently governing public education at the state level. Specifically, I refer to the Offices of (1) the State Superintendent, (2) the Chairman and Members of the State Board of Education, and (3) the State Controller. We have great respect for the individuals who have and/or currently do hold those offices. However, the concerns addressed go beyond individual personalities and reach towards a better governing structure under which our public schools can more efficiently and effectively function.

Second, we are keenly aware that the General Assembly has

charged you with the great responsibility of studying alternatives to the existing structure and with presenting recommendations to the membership of our General Assembly. You already have several proposals before you and there will most likely be several others yet to be presented. Each alternative has merit. Your consideration of our proposal is most sincerely appreciated.

Finally, we submit for your consideration, the accompanying proposal calling for a revised structure of governance for our public elementary and secondary schools. We have been advised by the Office of the Attorney General of North Carolina that this proposal does not require changes in the Constitution and the North Carolina General Assembly does have authority to make the recommended changes in state law.

In its most basic form, this proposal calls for the following:

1. The State Superintendent would continue to be elected with all currently mandated constitutional duties. In addition, the State Superintendent would be ex officio Chairman of the State Board of Education.
2. The State Board of Education would continue to be appointed under the current process. All constitutional duties imposed on the State Board of Education would remain the responsibility of that body.
3. The Office of Controller to the State Board of Education would be repealed and fiscal affairs would be established as a division within a unitary Department of Public Education.
4. The State Board of Education and the State Superintendent would employ one Chief Administrative Officer to organize,

administer and oversee the unitary Department of Public Education including all divisions thereof.

The Proposal offered provides more details regarding duties and responsibilities and we urge your careful review.

We believe this alternative will establish one unitary Department of Public Education, one unified voice for public education at the state level and a stronger mechanism for full accountability to the citizens, educators and legislators of our great state.

AD HOC SUPERINTENDENTS' LEGISLATIVE COMMITTEE
MARCH 27, 1985

Robert Edwards, Co-Chairman
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Marshall, NC 28753

Young Allen
Lenoir County Schools
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Kinston, NC 28501

Zane E. Eargle
Winston-Salem/Forsyth County Schools
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Tom Batchelor
Monroe City Schools
Union County Courthouse 6th Floor
Monroe, NC 28110

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Durham City Schools
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Lillington, NC 27546

Jay Robinson
Mecklenberg County Schools
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Charlotte, NC 28230

Roger Jackson
Ashe County Schools
P.O. Box 6
Jefferson, NC 28640

A BILL TO BE ENTITLED
AN ACT TO PROVIDE A REVISED STRUCTURE FOR
THE GOVERNANCE OF PUBLIC ELEMENTARY/SECONDARY
EDUCATION AT THE STATE LEVEL

The North Carolina General Assembly hereby enacts:

Section 1. G.S. 115C-12(3) and G.S. 115C-12(4) are hereby repealed.

Section 2. Article 2 of Chapter 115C is amended by adding a new section 115C-13 to read as follows:

"G.S. 115C-13. Fiscal affairs of the Board defined.

(a) 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."

(b) The fiscal affairs of the Board shall include:

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

Section 3. Article 2 of Chapter 115C is further amended by a new section 115C-14 to read as follows:

"G.S. 115C-14. Delineation of fiscal functions of the Board.

(a) The Board shall administer the funds provided for the operation of the schools of the State within the total funds appropriated therefor.

(b) The Board shall cause to be maintained 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, which shall include all the objects of expenditure enumerated in G.S. 115C-426.
- (2) State appropriation and any other funds provided for the purchase and rental of public school textbooks.
- (3) State literary and building funds and such other building funds as may be hereafter provided by the General Assembly for loans, or grants, to local boards of education for school building purposes.
- (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) State appropriation for the maintenance of the Board and its office personnel and including all employees serving under the Board.
- (6) Any miscellaneous funds within the jurisdiction of the Board not included in the above.

(c) The Board shall cause to be prepared all forms and questionnaires necessary in preparing budget estimates for each local school administrative unit.

(d) The Board shall certify to each local administrative unit the personnel allotment as determined by the Board under G.S. 115C-301. From the approved operating budget, the Board shall determine the total cost of salaries in each local school administrative unit for teachers, principals, and other professional personnel to be included in the State budget for the current fiscal year.

(e) Before payment is made out of the State treasury of any funds placed to the credit of any local administrative unit under the provisions of G.S. 115C-438, the Board shall determine:

- (1) That funds are lawfully available for such payment; and
- (2) Where the order covers salary payments to any employee that the amount thereof is within the salary schedule or salary rating of the particular employee.

(f) The Board shall procure, through the Department of Administration, contracts for the purchase of the estimated needs and requirements of the several local school administrative units, covering the items of janitor supplies, instructional supplies, supplies used by the State Board of Education, and all other supplies, the payment for which is made from funds committed to the administration of the Board.

(g) The Board shall purchase by contract from the various publishers the textbooks needed and required in the public schools."

Section 4. Article 4, Office of the Controller, is repealed in its entirety.

Section 5. Article of Chapter 115C is amended by rewriting G.S. 115C-19 to read as follows:

"G.S. 115C-19 Superintendent of Public Instruction

(2) The elected State Superintendent of Public Instruction shall serve ex officio as full-time Chairman of the State Board of Education, in addition to his constitutionally prescribed role

as chief administrative officer and secretary of the State Board of Education. He shall be provided a staff of not more than two professional positions, plus an administrative assistant, and a secretary. He shall also be provided with appropriate offices in the headquarters building of the Department of Public Education in Raleigh. His salary shall be set by the General Assembly in the Budget Appropriations Act in the same manner as provided for other members of the Council of State. The term "Chief State School Officer", wherever used, shall be deemed to refer to the Superintendent of Public Instruction.

(b) Powers and duties generally. It shall be the duty of the Superintendent of Public Instruction:

(1) To serve as the chief administrative officer, secretary, and full-time Chairman of the State Board of Education. In that capacity, he shall be the spokesman for the Board, reflecting at all times his perception on the intents and purposes of the Board regarding actions taken and policy adopted by the Board in formal session.

(2) To maintain continuing liaison with the Governor's Office, the General Assembly, and other agencies of the State Government and to work diligently to maintain open lines of communication with these agencies.

(3) To keep local education agencies informed concerning the work of the Board and to keep the Board informed regarding pertinent issues and concerns at the local level.

(4) To keep the public informed as to the problems and needs of the public schools by constant contact with all school personnel, by his personal appearance at public gatherings, and by information furnished to the press of the State.

(5) To have custody of the official seal of the Board and to execute all deeds, leases, or written contracts 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 Vice-Chairman; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.

(6) 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; and as soon thereafter as possible, to furnish to each member of the Board a copy of said minutes.

(7) 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."

Section 6. Article 3 of Chapter 115C is further amended by re-writing G.S. 115C-20 to read as follows:

"G.S. 115C-20, Administrative Organization of the State Department of Public Education

(a) The State Board of Education upon recommendation of the State Superintendent shall appoint a chief administrative officer to direct and oversee the administration and operation of a unitary Department of Public Education. This officer shall be operationally responsible through the State Superintendent to the State Board of Education for the management of the Department of Public Education and shall execute decisions and policies of the board through the staff of the Department of Public Education.

(b) The chief administrative officer shall be provided appropriate offices in the headquarters building of the Department of Public Education in Raleigh. His salary shall be set by the State Board of Education and shall not be subject to the State Personnel Act and he shall serve at the pleasure of the State Superintendent.

(c) Powers and duties generally: It shall be the duty of the chief administrative officer:

(1) To organize and establish, subject to approval of the State Board of Education and within funds appropriated by the General Assembly a Department of Public Education which shall include such divisions and departments as are necessary for supervision and administration of the public school system of North Carolina. All appointments of administrative and supervisory personnel shall be recommended by the chief administrative officer to the State Superintendent for approval by the State Board of Education.

(2) 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 Education.

(3) To administer through the Department of Public Education the instructional policies established by the Board.

(4) To communicate to the public school administrators all information and instructions regarding policies and procedures adopted by the Board and statutes enacted by the General Assembly.

(5) To keep the Board informed regarding developments in the field of public education.

(6) To make recommendations to the Board with regard to the problems and needs of education in North Carolina.

(7) To make available to the public schools a continuous program of comprehensive supervisory services.

(8) 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.

(9) To perform such other duties as the Board may assign to him from time to time.

Section 7. G.S. 115C-21 is hereby repealed in its entirety.

Section 8. G.S. 115C-438 is amended by deleting the word "Controller" wherever it appears in the section and replacing it with the words "State Board of Education" when necessary for clarity.

Section 9. G.S. 115C-11 is amended by deleting from the first sentence the words "chairman and".

Section 10. This act shall become effective January 1, 1987.

APPENDIX N



APPENDIX N

STATEMENT

Dr. A. Craig Phillips
State Superintendent of Public Instruction

Before the Legislative Study Commission
on Governance of Public Elementary-Secondary Education

December 12, 1985

On April 2, 1985, I had the opportunity to present a full statement on the governance of elementary/secondary education in North Carolina before the Senate Education Committee. That statement was made available to this committee at its initial meeting. I would like to include that full statement in the records of this committee and ask that its contents be utilized as you continue your study of alternative methods of state governance for elementary/secondary education in the State.

In that statement, at that time, I suggested to this Senate Education Committee that it give full consideration of the elements of Senate Bill 48, which the Senate Education Committee did seriously consider and reported favorably to the full Senate. That proposed legislation remains in the committees of the General Assembly and will probably be considered in the upcoming short session of this body.

I also strongly suggested, on the bottom of page 7 of the April 2 statement, that legislation similar to the bill just proposed by the superintendents of North Carolina to this committee be very seriously considered. I said then, that I strongly endorsed this change "as probably the best overall way to solve the major problems of governance, in elementary/secondary education, both practical and political."

With that brief background as I have described today and with the hope that members of this distinguished committee will read carefully the full

statement, I would like to strongly endorse the proposed legislation so ably and clearly outlined by Mr. Ivey and his colleagues. I believe that what has been put before you makes most possible -- yes, even most probable -- a permanent, clearly defined governing structure for elementary/secondary education in North Carolina made up of a "strong governing body with a strong single executive officer" and at the same time maintaining direct accountability to the public through the elected State Superintendent as full-time chairman of the State Board of Education.

It is probable that Senate Bill 46 will not come out of this General Assembly for referendum by the public. There are many factors in the way of that movement.

It is also probable that the full General Assembly is ready and anxious to get this issue of governance stabilized in North Carolina. I believe that it created this study committee to do that task, and I commend you for your efforts to look at all alternatives available to the resolution of the governance issue in elementary/secondary education in North Carolina.

I hope you will look very carefully at the proposal of the superintendents of North Carolina and recommend the passage of the legislation, as written, in the 1986 short session of this General Assembly. It will be a very important step in the implementation of a real Basic Education Program for North Carolina's boys and girls. The time is right to make this significant move.

represented as testimony before the
Legislative Study Commission on Governance
of Public Elementary-Secondary Education
December 12, 1985

A STATEMENT ON GOVERNANCE OF
ELEMENTARY-SECONDARY EDUCATION IN NORTH CAROLINA

DR. A. CRAIG PHILLIPS
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

April 2, 1985

BEFORE THE SENATE EDUCATION COMMITTEE
SENATOR DENNIS WINNER, CHAIRMAN

In order to make reasonable and informed judgments concerning reform of educational governance structures in North Carolina, it seems wholly necessary to achieve some understanding of the historical background and evolutionary development of these structures. It is important to know that existing structures did not develop in a vacuum, and it is equally important to recognize that changes for improvement in the future must be made on a basic existing structure that can be molded and changed in a multitude of differing ways--but which most certainly cannot be ignored.

Until the beginning of the twentieth century, the term, "governance" was hardly appropriate for the minimal state-level activities which occurred in public education. A primitive nucleus of a future state education agency existed primarily to collect and record statistics, and even this elementary function was carried out in a less than adequate manner. Around the turn of the century, Aycock and others began to speak out concerning the importance of public education; but governance and funding remained primarily a local rather than state concern. The few state dollars that flowed to local school districts came from the State Literary Fund and these dollars were used primarily to build schools, consisting primarily of one or two room log buildings. Current operating dollars were derived by local subscription or, on occasion, from local tax levies. The first state appropriation was made by the General Assembly in 1899 in the amount of \$100,000 for each year of the

1899-1901 biennium. The first state appropriation for secondary schools came in 1907, but most of the school operational dollars continued to be local dollars until the late 1920's.

In 1931, the General Assembly, in recognition of the disastrous effects of the Great Depression on efforts to provide adequate educational funds from local sources, provided in Chapter 430 of the 1931 Session Laws the amount of \$16,500,000 for each year of the 1931-33 biennium to provide state funds to maintain the constitutional six-months school term. This history-making legislation provided that the funds provided under the act were to be allocated to the various counties and special charter districts by the State Board of Equalization, a state-level ad valorem tax oriented body. It further provided that local budgets prepared by local boards of education and approved by boards of county commissioners could not be effective until approved by the State Board of Equalization. It is important to note that this board was not a board of education, but was solely concerned with taxes, budgets, and fund allocation. The State Superintendent was directed "to enforce the rules and regulations of the State Board of Equalization with respect to the operation of the approved budget." He was, in effect, the fiscal officer of that board as well as a constitutional officer directly responsible to all the people of the State.

In May, 1933, the General Assembly enacted the "School Machinery Act" which made sweeping changes in the funding patterns and governance of public elementary and secondary education in North Carolina. To begin with, it eliminated the State Board of Equalization and established in lieu thereof a State School Commission, consisting of the Governor as ex officio chairman, the Lieutenant Governor, the State Treasurer, and the State Superintendent of Public Instruction, plus one member to be appointed by the Governor from each

of the State's congressional districts for a term of two years. Terms of appointed members were staggered after the initial appointments so that each member served six years and terms were overlapping.

Secondly, it extended the constitutional six-months school term to provide for a uniform term of eight months in every county and district in the state. It went on to abolish all school districts of less than county size but permitted districts of more than 1,000 students to reconstitute themselves and provided that such reconstituted districts would be treated in all respects as were county districts. As was the case with the predecessor agency (State Board of Equalization), the State Superintendent was the implementor of rules and regulations developed by the State School Commission concerning the fiscal affairs of public elementary and secondary schools.

In 1943, the people of the state passed an amendment to the State Constitution which established a State Board of Education to replace the State School Commission. The State Board was to consist of three ex officio members, the Lieutenant Governor, the State Treasurer, and the State Superintendent, plus members to be appointed by the Governor--one from each of the eight constitutionally mandated educational districts and two members appointed at large. The General Assembly then enacted legislation establishing the Office of the Controller as the "executive administrator of the Board in the supervision and management of the fiscal affairs of the Board," and reporting directly to the State Board of Education.

Following enactment of legislation establishing the separate Office of the Controller, the functioning of the State Board of Education remained relatively stable yet cumbersome and filled with potential conflicts for a number of years. In 1971, in a rewrite of the State Constitution that purportedly was intended only to remove archaic language and to clarify ambiguities, a change

was made that was said to be superficial and, relatively unimportant but turned out to have serious detrimental impact on the working relationship between the Controller's Office and the State Department of Public Instruction. Prior to this rewrite, the State Superintendent was an ex officio voting member of the State Board of Education, privy to all deliberations and discussions, and a full participant in all things pertaining to the Board, including direct supervision of fiscal affairs and the Controller's Office. The rewrite included an additional at-large member and removed the State Superintendent from membership on the Board. He remained the Chief Executive Officer but lacked any authority, direct or indirect, in dealing with and supervising the Controller's Office. As a member of the Board and its Chief Administrative Officer, he could speak and act with authority. As a non-member, considerable authority and responsibility was moved away from the office of the State Superintendent. Given that change, it was inevitable that the schism in executive authority begun in 1943 would become more and more pronounced. In 1968, the Governor's Study Commission on the Public Schools and in 1973 the Governor's Efficiency Study Commission made strong recommendations for very basic changes in the governing structure. More recently, in 1982 and 1983, the Select Committee on Education and the Legislative Education Policy Council have also called for a change in the structure. Senate Bill 46 is under consideration now as one possible way to improve that structure.

A quick overview of educational governance in other states may be of some help. Structures vary widely. One state, Wisconsin, does not have a State Board of Education as such--an elected State Superintendent heads a Department of Public Instruction and is also ex officio a member of the Board of Vocational, Technical, and Adult Education which operates independently and separately from the Department of Public Instruction. Of those remaining, 19

of the boards, including the District of Columbia, are elected; 30 of the boards are appointed; and one state, Louisiana, has three members appointed by the Governor and eight members elected by specified district.

1. Florida - The membership is all ex officio elected officials and consists of the Governor, Secretary of State, Attorney General, Controller, Treasurer, Commissioner of Agriculture, and Commissioner of Education.
2. New York - Board of Regents is elected by the State Legislature in a manner very similar to the Board of Governors in North Carolina and governs education from kindergarten through post-doctoral programs. The chief and sole executive officer is elected by the Board.
3. South Carolina - Board membership is elected by the legislative delegation representing the counties in each judicial district. The chief and sole executive officer is the elected State Superintendent.
4. Washington - Two members elected from each congressional district by the boards of directors of the school systems located within the congressional district. The chief and sole executive officer is the elected State Superintendent.
5. Arizona, California, Georgia, Idaho, Indiana, Kentucky, Montana, North Dakota, Oklahoma, Oregon, Wyoming--all have state boards appointed by the Governor and the chief and sole executive officer is the elected State Superintendent.

The Chief State School Officer is appointed in 34 states and the District of Columbia and is elected by a vote of the people in the remaining 16 states. There appears to be no strong cause-effect relationship between

these two elements (elected State Superintendents and State Boards) of educational governance among the states as is implied in the language of Senate Bill 700, Amended, Sec. 3, which says:

"The study shall include policies, procedures, philosophy and educational programs of the Department and shall examine the constitutional tension created by the separate but interrelated powers of the Superintendent of Public Instruction and the State Board of Education." (emphasis added)

Of the appointed Chief State School Officers, 28 are appointed by the State Board of Education and 5 are appointed by the Governor.

In my opinion, if the 1943 legislation creating a separate administrative officer for fiscal affairs for the State Board of Education had never been passed, or if the 1971 removal of the State Superintendent from ex officio membership on the State Board had not taken place, or if the 1943 legislation creating the Controller's Office had been repealed as proposed in 1977, this committee would not be considering changes in the structure today. The appointed State Board and the elected State Superintendent and Chief Executive Officer of the Board as provided for in the Constitution would be functioning effectively and appropriately as a strong governing body with a strong single executive officer. Those ifs did not take place. You are faced with the necessity for change.

There are two changes I would propose to you today that you consider carefully. One is the one called for in Senate Bill 46. Some significant changes in the overall process of nominating and appointing or selecting the members of the State Board should be made in this bill before passage.

It would establish a State Board of Education for Elementary and Secondary Education by replicating in some ways the method of selection, terms, number of

members, and general provisions, powers, and duties of the Board of Governors of the University of North Carolina and the State Board of Community Colleges. This approach, of course, necessitates both constitutional and statutory changes before it could be implemented. To accomplish implementation, the following tasks would have to be carried out:

1. Develop authorizing legislation to submit to a vote of the people appropriate amendments to articles three and nine of the State Constitution to replace existing constitutional provisions for appointment of the State Board of Education and election of the Superintendent of Public Instruction;
2. Generate support in the General Assembly sufficient to assure passage of the enabling legislation;
3. If and when task two is accomplished, a major campaign would be needed to assure approval of the amendments by the voters of the State. Evidence of genuine accountability to the public is essential;
4. Assuming that tasks one, two, and three are successfully completed, it would then be necessary for the General Assembly to amend existing statutes to reflect the new role and functions of the State Board of Education and the Superintendent of Public Instruction.

The other proposed change, which I strongly endorse to you as probably the best overall way to solve the major problems of governance in elementary-secondary education, practical and political, is one that was put before the Select Committee on Education in 1982 by the State Advisory Council on Education, received considerable favorable response from legislative and organizational leadership but did not result in proposed legislation from the Select Committee or the Legislative Education Policy Council.

That proposal would call for a constitutional amendment restoring the Superintendent of Public Instruction to membership on the State Board of Education and to make the State Superintendent ex officio chairman of that Board.

It would further propose that the elected State Superintendent cease to be the operational head of the Department of Public Instruction and the total staff of the State Board of Education would be combined into a single operational unit responsible directly to a chief executive officer employed by the State Board of Education to serve at the pleasure of that Board.

This proposal would, in effect, maintain the current constitutional appointed State Board of Education with the elected constitutional officer, the State Superintendent, as its ex officio chairman, continuing to serve as a full member of the Council of State responsible to the electorate but shifting the executive function of the task to a Board-chosen single Chief Executive Officer.

This would provide clearly for a strong governing body with a strong single executive officer and maintain the direct accountability to the public of the elected State Superintendent as full-time chairman of the State Board of Education. Appropriate legislation to accomplish this is in draft form and should be seriously considered by this committee as you deliberate this issue.

Let me summarize. The structure for governing elementary-secondary education in North Carolina was weakened first in 1943 when the erosion of the potential of a strong policy making governing body served administratively by a strong single executive officer began with the placing of the program and fiscal executive functions of the State Board of Education as completely separate responsibilities of two executive officers--the State Superintendent and the Controller--a breach of everything known concerning good and

responsible management of any basic enterprise whether educational or business or for that matter any agency in local, state, or federal government--and then eroded more deeply in 1971 when the constitutional amendment weakened further the role of the elected State Superintendent of Public Instruction. It is time in North Carolina that the governing structure for elementary-secondary education be strengthened. Now is a most appropriate time as controversy, misunderstanding, and an obvious concern over the crucial need for a strong, credible, and effective voice for elementary-secondary education in the state is uppermost in the minds of those who seriously care about the education of North Carolina's youngest boys and girls. Organizations in North Carolina representing school boards, school administrators, school teachers, parents of school children, parents of exceptional children, and a host of other organizations representing educational interests, along with the public at large, are asking for clarification and strengthening the structure for educational leadership in this State in order that massive elementary-secondary school needs can be more adequately served and supported in the manner in which this State is now so admirably supporting post-secondary public education through its Community College System and its University System and in a unique way is consistently increasing this State's support for private higher education in North Carolina.

Public elementary-secondary education has made remarkable progress over the past decades in spite of weaknesses in its governing structure. It must make even greater progress over the next decades if the quality of life in North Carolina is to reach the expectations of every citizen in North Carolina and the leaders of this State.

An important and necessary ingredient in this anticipated growth is a change in and strengthening of the structure of governance in elementary-secondary education.

I have attempted to state the case for change. I have attempted to provide two (2) brief descriptions of possible solutions to the problems that face us. There may be others. Leaving the structure as it is, of course, is one option. I hope this Senate Education Committee, the House Education Committee, the full General Assembly, the State Board of Education, the Governor's Office, and other leaders across North Carolina will find a better answer than exists today.

As the current State Superintendent of Public Instruction serving now in my fifth term in the office, I recommend to this committee, to the full General Assembly, and to the public, that both of these proposals be considered very seriously. I lean strongly toward the second proposal I have presented today in that it minimizes amendments to the Constitution--always a difficult task to accomplish--and maintains accountability to the public with a clear workable Board/Executive Officer relationship.

If this General Assembly genuinely gives serious thought to each of these proposals before it makes its decision about the future governance structure for North Carolina's elementary-secondary schools, then I, and I believe the public at large, will support that decision. I welcome the opportunity to help in that decision making process.

APPENDIX O



APPENDIX O



State of North Carolina

Department of Justice

P.O. BOX 629

RALEIGH

27602-0629

LACY H. THORNBURG
ATTORNEY GENERAL

10 December 1985

Senator Robert D. Warren
Representative Edward N. Warren
Legislative Building
Raleigh, North Carolina

RE: Constitutionality of Proposed Legislation Concerning the
Duties and Position of the State Superintendent of
Public Instruction

Gentlemen:

As Co-Chairmen of the Legislative Research Committee on the Superintendent of Public Instruction and the State Board of Education you have asked, through your Committee Counsel, Libby Lefler, for our opinion about the constitutionality of proposed legislation. We understand that this proposed legislation would (1) make the Superintendent of Public Instruction the Chairman of the State Board of Education, and (2) would establish the position of Commissioner of Public Schools and confer upon the Commissioner responsibility for administration of the public school system under the direction of the State Board of Education. We will review the parts of this proposed legislation separately.

1. Does The General Assembly Have The Power, Without A Constitutional Amendment, To Make The Superintendent Of Public Instruction The Chairman Of The State Board Of Education.

The Constitution of 1868 provided that the Superintendent of Public Instruction was a member of the State Board of Education and that the Chairman of the State Board was elected by the Board. Constitution of 1868, Article IX, §9. Effective July 1, 1971 the Constitution was rewritten. Under our present Constitution the Superintendent of Public Instruction is not a member of the State Board, but serves as the "secretary and chief administrative officer of the State Board." Constitution of 1970, Article IX, §§4(1) and (2). Further, our present

Constitution does not provide that the State Board shall elect its Chairman.

It was the express intention of the framers of our present Constitution to eliminate the Superintendent of Public Instruction as a voting member of the State Board. See Report of the N.C. State Constitution Study Commission, p. 87 (1968) where the drafters stated: "Proposed Sec. 4(1) modifies the State Board of Education slightly by eliminating the Superintendent of Public Instruction as a voting member of the Board while retaining him as the Board's secretary and chief administrative officer." The Report of the framers of the Constitution, however, is silent as to their intention in eliminating the provision of the Constitution of 1868 that the Board elect its Chairman. It may reasonably be assumed, however, that the framers believed that the election of the Chairman of the State Board was a relatively insignificant matter not appropriately addressed in the Constitution, and should be left to the General Assembly or the State Board itself. In this regard, G.S. §115C-11(a) provides: "The State Board of Education shall elect from its membership a chairman and vice-chairman."

The question arises as to whether the amendment to the Constitution eliminating the Superintendent of Public Instruction as a voting member of the State Board of Education deprived the General Assembly of the power to amend G.S. §115C-11(a) to make the Superintendent of Public Instruction Chairman of the State Board without the benefit of an amendment to the Constitution. In answering this question two principles appear especially pertinent. First, our State Constitution is "in no matter a grant of power" and the General Assembly has all political power not prohibited by the Constitution. *LASSITER v. BOARD OF ELECTIONS*, 248 N.C. 102, 112, 102 S.E.2d 853, aff'd 360 U.S. 45 (1958). Second, in determining the effect of an amendment to the Constitution, the intention of the framers is controlling and their intention must be ascertained from the conditions existing at the time of the adoption of the amendment and the purpose sought to be accomplished by the amendment. *PERRY v. STANCIL*, 237 N.C. 442, 444, 75 S.E.2d 512 (1953); *SNEED v. BOARD OF EDUCATION*, 299 N.C. 609, 613-617, 264 S.E.2d 106 (1980). The express purpose of the framers of the Constitution of 1970 was to eliminate the Superintendent of Public Instruction as a voting member of the State Board. We find no indication that their purpose extended to prohibiting the Superintendent of Public Instruction from serving as the nonvoting, presiding officer of the State Board. The framers of the present Constitution expressly made the Superintendent of Public Instruction the chief administrative officer of the State Board. The chief administrative officers of governmental agencies sometimes serve as the nonvoting, presiding officers of those agencies. See

MARKHAM v. SIMPSON, 175 N.C. 135, 138-139, 95 S.E. 106 (1918) and 56 Am.Jur. 2d, Municipal Corporations, §165.

In sum, the General Assembly has all political powers not denied it by the Constitution. It appears that these powers include the power to make the chief administrative officer of a public agency the nonvoting, presiding officer of the governing body of the agency. In amending the Constitution it appears that the framers only intended to eliminate the Superintendent of Public Instruction as a voting member of the State Board of Education. It does not appear that the framers' purpose extended to prohibiting the General Assembly from making the Superintendent of Public Instruction the nonvoting, presiding officer of the State Board of Education. Thus, we are of the opinion that it is likely within the power of the General Assembly under the present Constitution to amend G.S. §115C-11(a) to make the Superintendent of Public Instruction the nonvoting Chairman of the State Board.

2. Does The General Assembly Have The Power, Without A Constitutional Amendment, To Establish The Position Of Commissioner Of Public Schools And Confer Upon That Office Responsibility For Administration Of The Public School System Under The Direction Of The State Board Of Education.

Article IX, §4(2) of our present Constitution makes the Superintendent of Public Instruction "the chief administrative officer of the State Board of Education" and Article IX, §5 provides that "the State Board of Education shall supervise and administer the free public school system". The purpose of the framers of these two provisions of the Constitution was to eliminate any potential conflict of authority between the Superintendent and the State Board by making it clear that the power to administer the public school system rests with the State Board and that the Superintendent is the person responsible for carrying out the policies of the State Board. Report of the N.C. State Constitution Study Commission, p.87 (1968).

If the General Assembly makes the Superintendent of Public Instruction the nonvoting Chairman of the State Board of Education, it has been suggested that the General Assembly should at the same time create the position of Commissioner of Public Schools to serve as chief administrative officer of the State Board. The principles described above suggest that the General Assembly may not enact legislation depriving the Superintendent of Public Instruction of his powers as chief administrative officer of the State Board. The General Assembly has all political power not denied it by the Constitution, but it appears that the framers of the Constitution intended to make the Superintendent of Public Instruction, as the elected

Senator Warren
Representative Warren
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representative of the people, responsible for administration of the powers conferred upon the State Board of Education.

If our interpretation of the intention of the framers is correct, it is doubtful that the General Assembly, without a constitutional amendment, may take from the Superintendent of Public Instruction his responsibility as "chief administrative officer" and confer that responsibility upon some other officer. While we doubt that the General Assembly now has the power to confer the constitutional duties of the Superintendent of Public Instruction on some other officer, we do believe that the framers of the Constitution did not intend to require that the Superintendent of Public Instruction perform those duties on a day-to-day basis without assistance. Thus, we believe that the Constitution would not prohibit the General Assembly from establishing the position of Commissioner of Public Schools and conferring upon that office the day-to-day administration of the powers of the State Board so long as such legislation requires that such responsibilities be exercised through the Superintendent of Public Instruction or under his direction.

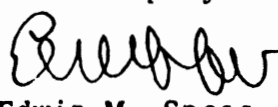
We trust that our opinion will be of assistance to you and the members of your committee.

Very truly yours,

LACY H. THORNBURG
ATTORNEY GENERAL



Andrew A. Vanore, Jr.
Chief Deputy Attorney General



Edwin M. Speas, Jr.
Special Deputy Attorney General

FMS jr/ch

APPENDIX P



APPENDIX P

TABLE 2. Method of Selecting State Boards of Education and Chief State School Officers (Superintendents), April 1985

State	State Board of Education			Chief State School Officer		
	Elected by People	Appointed by Governor	Other	Elected by People	Appointed by State Board	Appointed by Governor
Alabama	X				X	
Alaska		X			X	
Arizona		X		X		
Arkansas		X			X	
California		X		X		
Colorado	X				X	
Connecticut		X			X	
Delaware		X			X	
Florida			X ^b	X		
Georgia		X		X		
Hawaii	X				X	
Idaho		X		X		
Illinois		X			X	
Indiana		X		X		
Iowa		X			X	
Kansas	X				X	
Kentucky		X		X		
* Louisiana	X	c		X		
Maine		X				X
Maryland		X			X	
Massachusetts		X			X	
Michigan	X				X	
Minnesota		X			X	
Mississippi		X			X	
Missouri		X			X	
Montana		X		X		
Nebraska	X				X	
Nevada	X				X	
New Hampshire		X			X	
New Jersey		X				X
New Mexico	X				X	
New York			X ^d		X	
North Carolina		X		X		
North Dakota		X		X		
Ohio	X				X	
Oklahoma		X				X
Oregon		X		X		
Pennsylvania		X				X
Rhode Island		X			X	
South Carolina			X ^e	X		
South Dakota		X			X	
Tennessee		X				X
Texas		X			X	
Utah	X				X	
Vermont		X			X	
Virginia		X				X
Washington			X ^f	X		
West Virginia		X			X	
Wisconsin		No Board		X		
Wyoming		X		X		
Total Number States	11	34	4	16	28	6

a Some states may have one or more ex officio members who serve with a majority of elected or appointed members.

b Elected officials who serve ex officio.

c Three members appointed by governor.

d Elected by joint session of the legislature.

e Elected by legislative delegations.

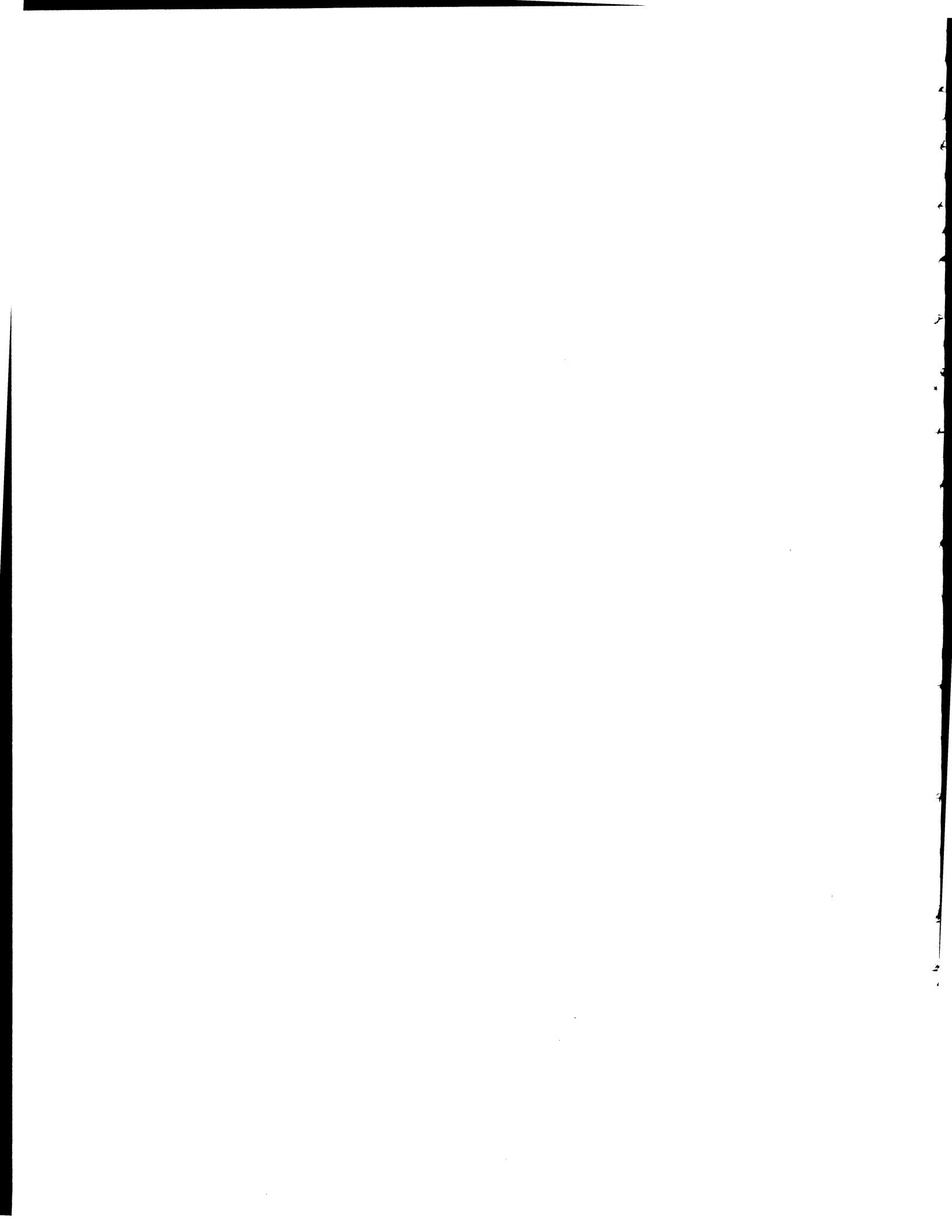
f Elected by local school districts.

SOURCE: National Association of State Boards of Education for data on boards and Council of Chief State School Officers for data on superintendents.

*Louisiana amended its statute in 1985 so that the Superintendent is appointed by the State Board of Education.



APPENDIX Q



APPENDIX Q

North Carolina Constitution

"Article IX, Section 4 (2) - Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education."

"Article IX, Section 5 - Powers and duties of Board. The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly."

Under the existing governance construct for public elementary and secondary education in North Carolina, everyone is in charge but no one is accountable. The State Superintendent is popularly elected, statewide, as is the Governor and both, arguably, have a legitimate claim to be the chief voice for public schools. Complicating the structure further is the fact that both the State Superintendent and the appointed State Board of Education have prescribed duties in the Constitution and in the Statutes. And finally, the chief financial officer, the State Controller, reports neither to the State Superintendent nor the Governor but to the appointed Board. It is no small wonder then, that the General Assembly has been grappling with the Governance issue in an attempt to devise a structure that is rational and one which provides direct accountability for 42 to 43 percent of the state's operating budget. Obviously, this convoluted governance structure does not serve the policy-making needs

of the General Assembly, which is the ultimate policy-making body for public education.

Senate Bill 46 is the latest legislative attempt to rationalize the governance question. It was considered in the 1985 session and carried over in a Study Commission, which has decided not to report to this Session.

Arguably, the governance dilemma is a question of definition of roles. One remedy is to statutorily define a policy role for the State Board and an administrative role for the State Superintendent. Under this structure, the State Board would generate specific policy recommendations for consideration by the General Assembly. The State Superintendent, through the Department of Public Instruction, would then be responsible for successfully implementing the policies and programs resulting from the State Boards recommendations and enacted by the General Assembly.

To effect this delineation of responsibilities will require the shifting of policy development responsibilities by statute from the Department of Public Instruction to the State Board. In order for the State Board to fulfill these new responsibilities, the Board will need its own professional staff.

Ten, perhaps fifteen years ago, the General Assembly was in a position analogous to the State Board: the Legislature had virtually no professional staff and was effectively subjugated to the Administrative branch of the government. The General Assembly had no independent capacity; it relied

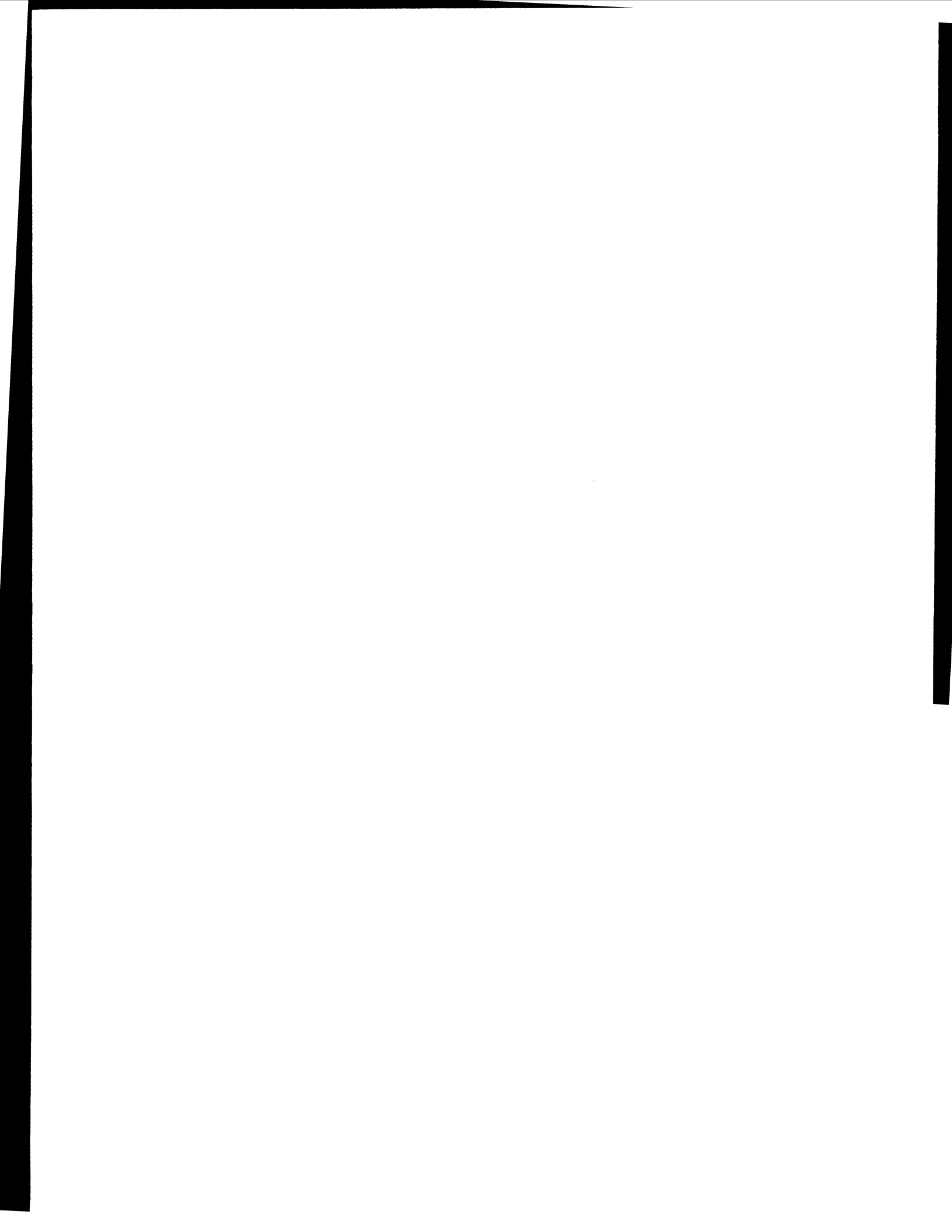
on the Administration for policy development, budget projections and legislative proposals. The General Assembly, in short, was at the mercy of the Administrative branch of government - the state agencies.

Similarly, the State Board is currently functioning as little more than an adjunct to DPI. The Department staffs the State Board, prepares analyses, position papers, collects the numbers and, in effect, controls policy recommendations. With its own independent capacity, the State Board could clarify its responsibilities for policy and perform an oversight function for the General Assembly as policy is implemented by DPI. These functions can be performed by a small cadre of professionals, headed by a staff director employed by and accountable to the State Board. Conceivably, this State Board staff could be funded from the current appropriations to DPI as the Department's policy responsibilities are shifted to the State Board.

The merits of this possible solution to the governance issue are that it can be accomplished without a constitutional amendment, it will clearly define roles in the statutes, it can be accomplished without increased appropriations, and it provides necessary and needed accountability.



APPENDIX R



APPENDIX R

A DIFFERENT ORGANIZATIONAL STRUCTURE FOR THE DEPARTMENT OF PUBLIC EDUCATION

by

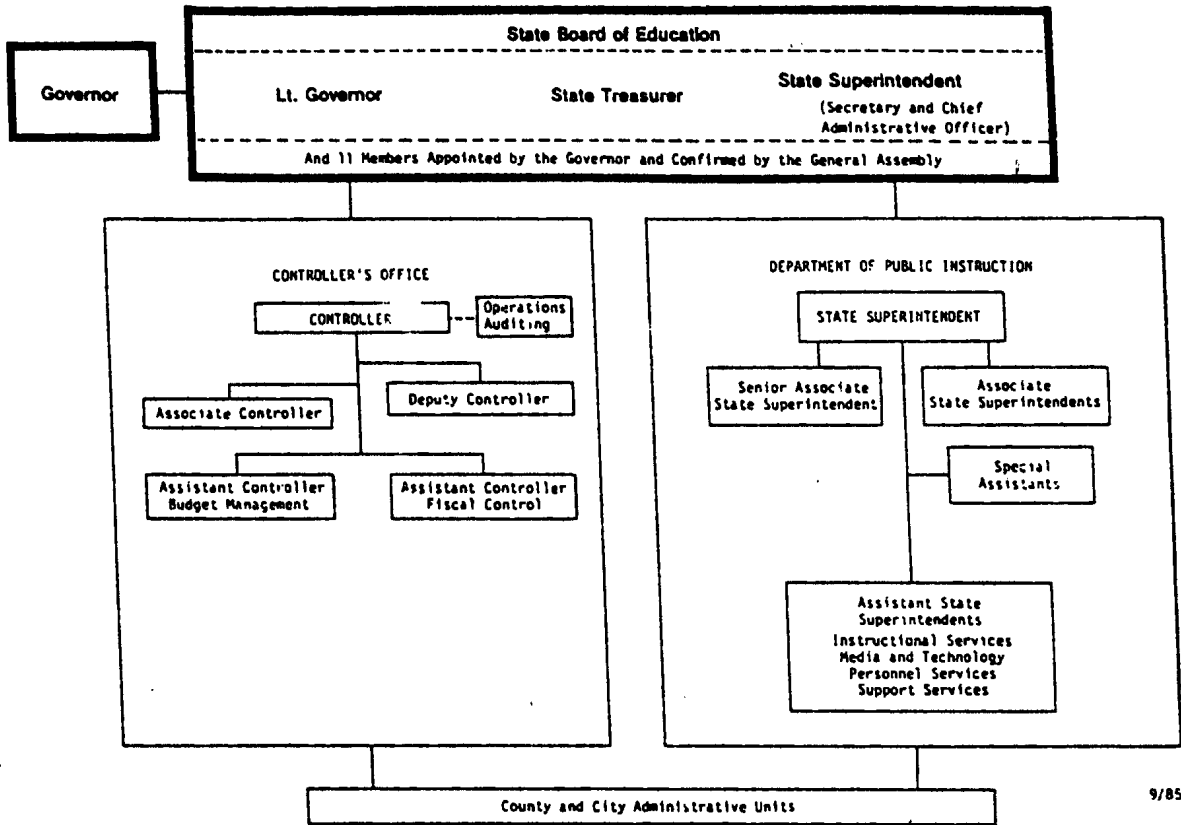
E. Michael Latta
Executive Director
State Advisory Council on Vocational Education*

"The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right," declares the North Carolina Constitution. To assist in accomplishing this state principle, the State Constitution requires that "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools" In order to provide overall direction to the public schools, the State Constitution further requires that "The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support ... and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly."

From this constitutional base, the State Board of Education has substantial power. For example, the General Assembly appropriated to this Board for the 1986-87 school year over \$2 billion, representing about forty-five percent (45%) of the state's General Fund. These funds have been allocated by the State Board to the one hundred forty (140) local boards of education that employ personnel and implement programs based on the standards set by the State Board of Education. To facilitate the management of these funds and to supervise the school programs throughout the state, a North Carolina Department of Public Education has been established, although there are eight (8) regional centers located throughout the state. A recent organizational chart for the North Carolina

Department of Public Education looks like this:

North Carolina Department of Public Education



9/85

As is shown, the State Department of Public Education is headed by the State Board of Education. Thirteen (13) individuals make up the State Board. The State Constitution requires that the Lieutenant Governor; the State Treasurer; and eleven members appointed by the Governor, subject to confirmation by the General Assembly, constitute the Board. At least one member must come from each of the eight public school districts which have been established by the General Assembly. Appointment to the Board is for overlapping terms of eight (8) years.

The State Constitution also requires that a State Superintendent serve as

the "secretary and chief administrative officer" of the Board (see chart). But, because the State Superintendent of Public Instruction is an elected official, he cannot be hired, fired, or directed by the Board, even though his major duties are to supervise the educational programs in the state which have been approved by the State Board. Conversely, the State Board employs a Controller (see chart) who is the fiscal officer of the Board. The Controller is not a constitutional officer. Moreover, the Controller is appointed (hired) by the Board, subject to the Governor, and serves at the will of the Board.

In review, the State Board is charged by the Constitution to administer and supervise the public school enterprise in the state; yet, it has two officers through whom these responsibilities are to be accomplished — one elected by the people and one appointed by the Board. This organizational arrangement is unique; no other state in the union has such a structure for a State Department of Public Education.

It is not surprising therefore that the 1985 General Assembly authorized the Legislative Research Commission to study the role and functions of the State Board of Education and the State Superintendent of Public Instruction. You are now engaged in this study.

The debate about the organizational arrangement of the Department of Public Education is not new. For example, the 1968 Governor's Study Commission on the Public School System of North Carolina recommended that "... the Superintendent of Public Instruction be appointed by, and made answerable to, the State Board of Education." In 1975, the Fiscal Research Division of the General Assembly recommended that "The Constitution of North Carolina should be amended to change the present methods of selecting the SBE [State Board of Education] and the

State Superintendent."

At the May 1982 meeting of the State Board of Education, the then Chairman called for a different organizational structure. In part, he said:

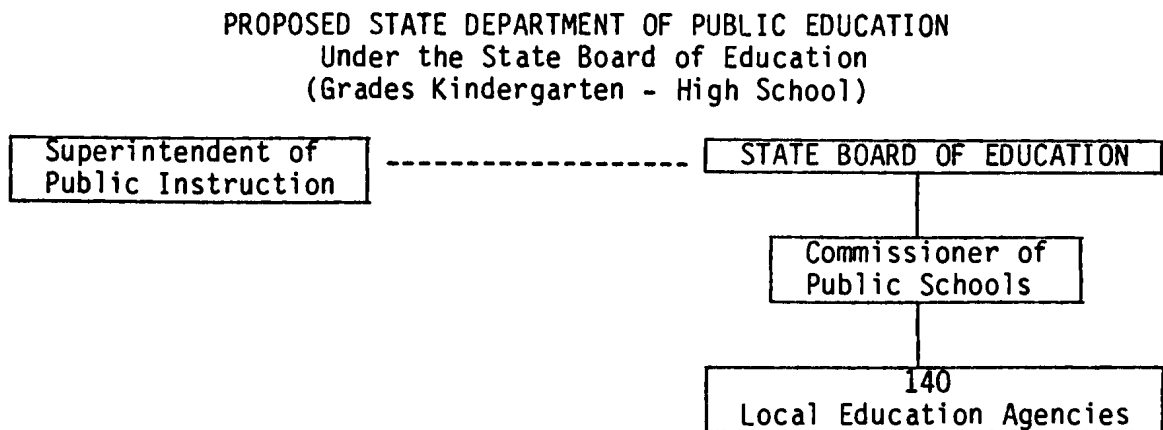
It is time that thoughtful people interested in the governance of public education in North Carolina at the state level offer some guidance in this complex problem.

We must combine, under one executive, program and fiscal functions at the state level, under the control of the State Board. The management advantages of this organizational structure are obvious.

This will require some important constitutional and statutory changes.

Because changing the State's Constitution requires both legislative action and an affirmative vote by the people of this state, the previous recommendations concerning the organizational structure of the Department of Public Education have not been undertaken. With a realization that some changes are needed, an Option has been proposed which can be implemented without the necessity of constitutional changes and which has the possibility of dealing with the organizational problems that have faced the State Board of Education over the last forty years.

The proposed organizational structure for the State Department would look like this:



To facilitate this proposal, it is only necessary for the General Assembly to rewrite relevant sections of the public school laws, as appropriate and needed, to redefine the duties of the elected State Superintendent. The superintendent's duties should be specifically set out in the public school code as those required by the Constitution; namely, to be the "chief administrative officer and secretary" to the Board. The state statutes should say that the term "chief administrative officer" means that the State Superintendent of Public Instruction is the "Chairman of the State Board of Education" and that the term "secretary" means to take the minutes of the Board, without voting authority. Also, the General Assembly would need to strike the terms "State Superintendent of Public Instruction" and "Controller" wherever they now appear in the public school laws, with the term "Commissioner of Public Schools" being substituted, and with the provision that the "Commissioner" would be employed by the Board and serve at its pleasure. Under this arrangement, a "Commissioner of Public Schools" would be responsible for both programs and fiscal matters. This proposal includes the most important elements of accountability and flexibility. It creates a structure which should be responsive to the State Board of Education, with incentives for efficient and effective management. It centralizes in one person's hands — a Commissioner of Public Schools, directed by the State Board — the management of public schools. The Commissioner of Public Schools should be expected to communicate with and work with the local boards of education and local superintendents of schools to improve the quality of education and local superintendents of schools to improve the quality of education for the young people of the state. Moreover, the proposal can be accomplished by legislative action now. If constitutional changes are needed, they can be

dealt with at a later time.

Everything the State Board of Education does, in one way or another, affects the public schools and the people who work therein. Because this study group is to make a final report to the 1987 General Assembly, now is a good time to formulate "a better idea" for our state school structure and to share it with members of the General Assembly. It is believed that the aforementioned Option is the better idea.

*The State Advisory Council is charged by Executive Order Number 3 and P.L. 94-524, as amended, to advise on policy and planning matters which will improve vocational education programs, services, and activities. The proposed Option in this article has been adopted by The Council and has been considered by the State Board of Education.

DEPARTMENT OF PUBLIC EDUCATION

Purposes

- (1) to reorganize public education (grades kindergarten through high school) *without a CONSTITUTIONAL amendment*
- (2) to achieve
 - policy-making role for the State Board of Education;
 - direct lines of accountability, decision-making and follow-through;
 - unity rather than fragmentation of services and functions; and
 - flexibility of structure as needed to accomplish the most efficient delivery of education services;
 - as little disruption to existing personnel as possible.

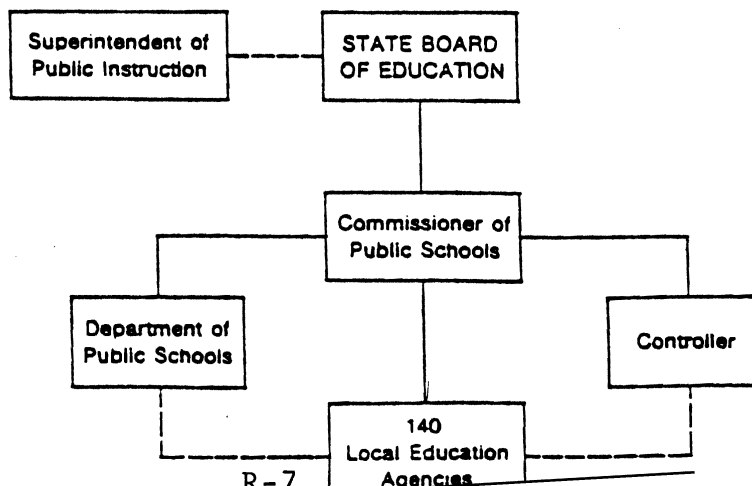
Strategies

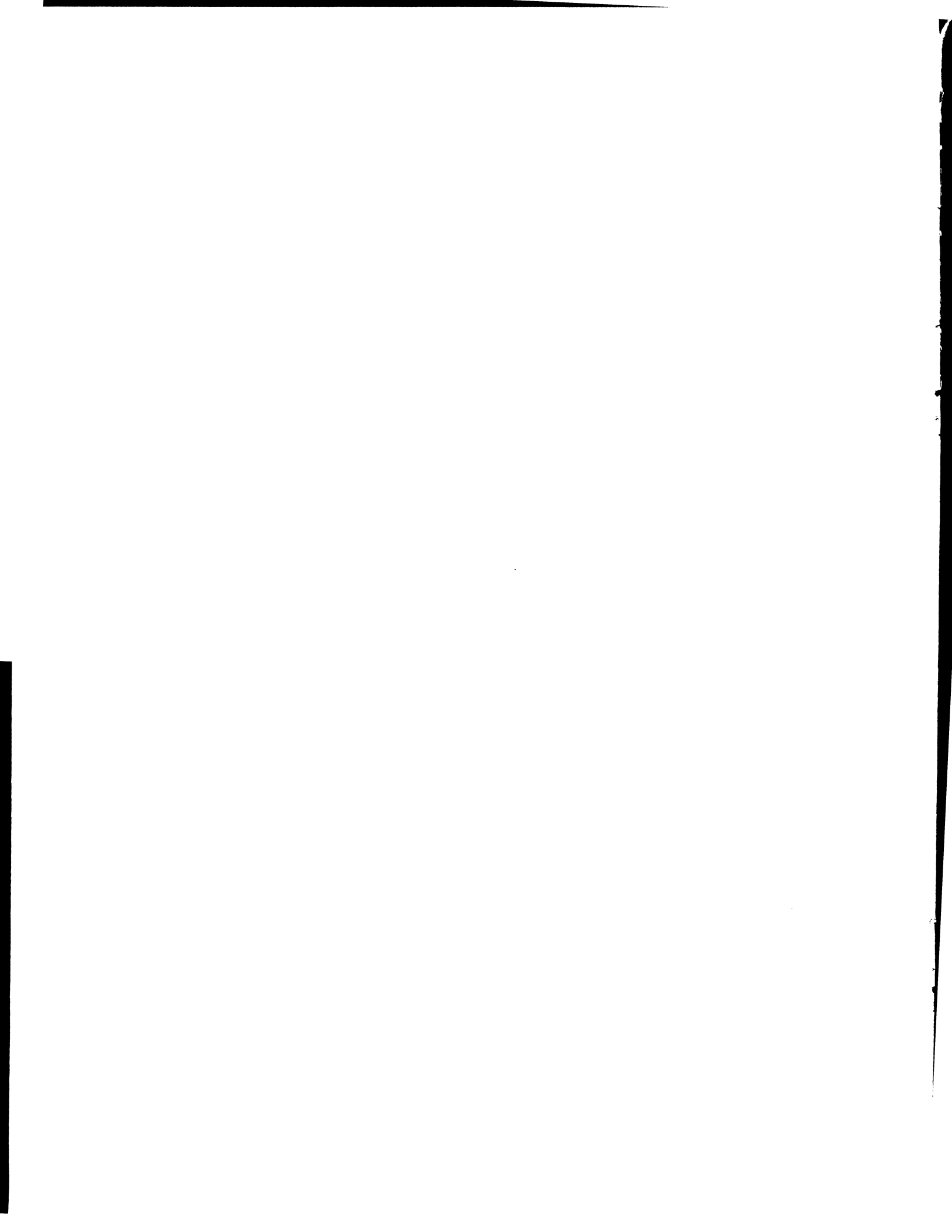
- (1) Rewrite relevant sections of GS 115C, as appropriate, and needed, to redefine the duties of the elected State Superintendent of Public Instruction. Define this officer's role as: Specifically to be the "chief administrative officer" and "secretary" to the Board as required by the North Carolina Constitution (Article IX, Sec. 4 (2)), and Write in the Public School Law that the Superintendent is the Chairman of the State Board of Education ("Chief Administrative Officer") and Secretary (take minutes of the Board) but without voting authority.
- (2) Rewrite relevant sections of GS 115C, as appropriate, and replace with the words "Commissioner of Public Schools" whenever the terms "State Superintendent" and "Controller" appear.
- (3) Direct that a single "administrator" titled Commissioner of Public Schools be employed by the State Board of Education and that he serve at its pleasure.

Comments: The proposal includes the most important elements of accountability and flexibility. It creates a structure which

- is responsive to policy direction from the State Board of Education;
- makes it possible to emphasize priorities, such as functions and services; and
- includes incentives for efficient and effective management.

PROPOSED NEW ORGANIZATIONAL STRUCTURE





APPENDIX S



INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CONSTITUTION AND THE GENERAL STATUTES
3 TO CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE
4 STATE BOARD OF EDUCATION AND TO MAKE THE OFFICE OF THE
5 SUPERINTENDENT OF PUBLIC INSTRUCTION APPOINTIVE.

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 7(1) of Article III of the
8 Constitution of North Carolina is amended by deleting the
9 words "a Superintendent of Public Instruction,".

10 Sec. 1.1. Section 8 of Article III of the
11 Constitution of North Carolina is amended by adding the
12 following immediately before the period at the end, " and
13 the Superintendent of Public Instruction".

14 Sec. 2. Section 4(1) of Article IX of the
15 Constitution of North Carolina is rewritten to read:

16 "Sec. 4. State Board of Education.

17 (1) Board. The State Board of Education shall consist
18 of the Lieutenant Governor, the State Treasurer, eight
19 members appointed by the Governor, and four members ap-
20 pointed by the General Assembly. Appointments shall be for
21 four-year terms, except that two of the original appoint-
22 ments made by the General Assembly and four of the original
23

1 appointments made by the Governor shall be for two year
2 terms. The Governor shall select a chairman from the
3 Board's membership."

4 Sec. 2.1. Section 4(2) of Article IX of the
5 Constitution of North Carolina is rewritten to read:

6 "(2) State Superintendent of Public Education. The
7 State Superintendent of Public Education shall be the
8 secretary and chief administrative officer of the State
9 Board of Education. He shall be appointed by the State
10 Board of Education."

11 Sec. 3. The amendments set forth in Sections 1
12 through 2.1 of this act shall be submitted to the qualified
13 voters of the State at the next statewide election, which
14 shall be conducted under the laws then governing elections
15 in the State. At that election, each qualified voter who
16 desires to vote shall be provided a ballot on which shall
17 be printed the following:

18 "[] FOR constitutional amendments to change the
19 Superintendent of Public Instruction from an
20 elective official to an appointive official and
21 to change the method of selecting members of the
22 State Board of Education.

23 [] AGAINST constitutional amendments to change the
24 Superintendent of Public Instruction from an
25 elective official to an appointive official and
26 to change the method of selecting members of the
27 State Board of Education."

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1 Those qualified voters favoring the amendments shall vote
2 by marking an "X" or a check mark in the square beside the
3 statement beginning "FOR", and those qualified voters
4 opposed to the amendments shall vote by marking an "X" or a
5 check mark in the square beside the statement beginning
6 "AGAINST".

7 Notwithstanding the foregoing provisions of this
8 section, voting machines may be used in accordance with
9 rules and regulations prescribed by the State Board of
10 Elections.

11 Sec. 4. If a majority of votes cast thereon are
12 in favor of the constitutional amendments, the State Board
13 of Elections shall certify the amendments to the Secretary
14 of State who shall enroll the amendments so certified among
15 the permanent records of his office.

16 Sec. 5. G.S. 163-1 is amended by deleting all
17 reference to the Superintendent of Public Instruction as an
18 elective officer.

19 Sec. 5.1. G.S. 163-8 is amended by deleting
20 "Superintendent of Public Instruction,".

21 Sec. 6. G.S. 143A-42 is rewritten to read as
22 follows:

23 "§ 143A-42. State Superintendent of Public Education;
24 transfer of office and Department of Public Instruction;
25 powers and duties.--The Office of the State Superintendent
26 of Public Education, as provided for by Article IX, Sec.
27 4(2), of the Constitution of North Carolina, and the
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1 Department of Public Instruction are transferred to the
2 Department of Public Education. The State Superintendent
3 of Public Education shall be the secretary and chief
4 administrative officer of the State Board of Education, and
5 shall have all powers and duties conferred by the Constitu-
6 tion, by the State Board of Education, by Chapter 115C of
7 the General Statutes, and by the laws of this State."

8 Sec. 7. G.S. 115C-10 is rewritten to read:

9 "§ 115C-10. State Board of Education.--(a) Composition
10 of State Board. The State Board of Education shall consist
11 of the Lieutenant Governor, the State Treasurer, eight
12 members appointed by the Governor, two members appointed by
13 the General Assembly on the recommendation of the President
14 of the Senate, and two members appointed by the General
15 Assembly on the recommendation of the Speaker of the House
16 of Representatives.

17 (b) Appointments made by the Governor. Each of the
18 eight members appointed by the Governor shall reside in a
19 different educational district of the State.

20 (c) Appointments made by the General Assembly. The four
21 members appointed by the General Assembly shall be selected
22 at-large.

23 (d) Terms of office. The terms of office of the
24 appointive members shall be for four years beginning July 1
25 of the year of appointment, except that two of the original
26 appointments made by the General Assembly and four of the
27 original appointments made by the Governor shall be for two
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1 year terms. The terms shall be staggered so that two
 2 appointments by the General Assembly and four of the
 3 appointments by the Governor expire every two years. One
 4 of the members every two years shall be appointed by the
 5 General Assembly on the recommendation of the President of
 6 the Senate and one of the members every two years shall be
 7 appointed by the General Assembly on the recommendation of
 8 the Speaker of the House of Representatives.

9 (e) Limitations on membership.

10 (1) No member shall serve more than two full
 11 consecutive terms.

12 (2) No member of the General Assembly, no member of
 13 the judiciary, no public school employee, whether
 14 State or local, no private elementary and second-
 15 ary school employee, and no spouse of any of
 16 these persons, may serve as any appointive
 17 member, including the chairman, on the Board.
 18 Any such person elected or appointed to the
 19 Board may serve if he resigns his position before
 20 taking office.

21 (f) Vacancies. In the event of a vacancy on the Board,
 22 the vacancy shall be filled for the remainder of the
 23 unexpired term by the official or body that made the
 24 original appointment. The State Superintendent of Public
 25 Education shall notify the appropriate official or body of
 26 the vacancy."

1 Sec. 7.1. Two of the terms of the original
2 members appointed by the General Assembly and four of the
3 terms of the original members appointed by the Governor
4 shall expire two years from the date the term begins. The
5 General Assembly shall designate when the appointments are
6 made which two terms shall expire in two years. One of the
7 appointments shall have been recommended by the President
8 of the Senate and one by the Speaker of the House of
9 Representatives. The Governor also shall designate when
10 the appointments are made which four terms shall expire in
11 two years.

12 Sec. 8. The first sentence of G.S. 115C-11(a) is
13 rewritten to read:

14 "The chairman of the State Board of Education shall be
15 selected by the Governor from the Board's membership. The
16 Board shall elect from its membership a vice-chairman and
17 any other officers it deems appropriate."

18 Sec. 9. G.S. 115C-12(3) and G.S. 115C-12(4) are
19 repealed.

20 Sec. 10. G.S. 115C-18 is rewritten to read:

21 "§ 115C-18. Appointment of State Superintendent of
22 Public Education.--The State Superintendent of Public
23 Education shall be appointed by the State Board of Educa-
24 tion and shall serve at the pleasure of the Board."

25 Sec. 11. G.S. 115C-21(a) (5) is rewritten to
26 read:

27 "(5) To have under his direction, in his capacity as
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1 the constitutional administrative head of the
2 public school system, all those matters relating
3 to the supervision and administration of the
4 public school system."

5 Sec. 12. G.S. 115C-21(a) is amended by adding
6 the following subdivisions:

7 "(6) He shall maintain a record or system of bookkeep-
8 ing which shall reflect at all times the status
9 of all educational funds committed to the admin-
10 istration of the Board and particularly the
11 following:

- 12 a. State appropriation for maintenance of the
13 public school term, which shall include all
14 the objects of expenditure enumerated in
15 G.S. 115C-426.
- 16 b. State appropriation and any other funds
17 provided for the purchase and rental of
18 public school textbooks.
- 19 c. State literary and building funds and such
20 other building funds as may be hereafter
21 provided by the General Assembly for loans,
22 or grants, to local boards of education for
23 school building purposes.
- 24 d. State and federal funds for vocational
25 education and other funds as may be provided
26 by act of Congress for assistance to the
27 educational program.
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1 e. State appropriation for the maintenance of
2 the Board and its office personnel and
3 including all employees serving under the
4 Board.

5 f. Any miscellaneous funds within the jurisdic-
6 tion of the Board not included in the above.

7 (7) He shall prepare all forms and questionnaires
8 necessary to furnish information and data for the
9 consideration of the Board in preparing the State
10 budget estimates required to be determined by the
11 Board as to each local school administrative
12 unit.

13 (8) He shall certify to each local school administra-
14 tive unit the teacher allotment as determined by
15 the Board under G.S. 115C-301. The superinten-
16 dent of the administrative units shall then
17 certify to the Superintendent the names of the
18 persons employed as teachers and principals by
19 districts. The Superintendent shall then deter-
20 mine the certificate ratings of the teachers and
21 principals and determine in accordance with the
22 State standard salary schedule for teachers and
23 principals, the salary rating of each person so
24 certified. He shall then determine, in accor-
25 dance with the schedule of salaries established,
26 the total cost of salaries in each local school
27 administrative unit for teachers and principals
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1 to be included in the State budget for the
2 current fiscal year.

3 (9) He shall satisfy himself before issuing any
4 requisition upon the Department of Administration
5 for payment out of the State treasury of any
6 funds placed to the credit of any local school
7 administrative unit, under the provisions of G.S.
8 115C-438:

9 a. That funds are lawfully available for the
10 payment of such requisition; and

11 b. Where the order covers salary payment to any
12 employee that the amount thereof is within
13 the salary schedule or salary rating of the
14 particular employee.

15 (10) He shall procure, through the Department of
16 Administration, contracts for the purchase of the
17 estimated needs and requirements of the several
18 local school administrative units, covering the
19 items of janitor supplies, instructional sup-
20 plies, supplies used by the State Board of
21 Education, and all other supplies, the payment
22 for which is made from funds committed to the
23 administration of the Board.

24 (11) He shall purchase from the various publishers the
25 textbooks needed and required in the public
26 schools in accordance with contracts made by the
27 State Board of Education."
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1 Sec. 13. Article 4 of Chapter 115C of the
2 General Statutes is repealed.

3 Sec. 14. Chapter 115C of the General Statutes is
4 amended by deleting the words "Superintendent of Public
5 Instruction" wherever they appear and substituting the
6 words "State Superintendent of Public Education".

7 Sec. 15. This act is effective upon ratifica-
8 tion.

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