

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1139*

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

(Public)

Sponsors: Senators Winner, Dannelly, Hartsell, Hobbs, Lucas, Perdue, Plexico, Simpson, Conder, Odom, Gulley, Little, Davis, Cooper, and Kerr.

Referred to: Education/Higher Education.

May 14, 1996

A BILL TO BE ENTITLED

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

9 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~(1) Procedures and guidelines through which local school administrative units may participate in the program; and~~
- ~~(2) Guidelines for developing local school improvement plans with three-year school and student performance goals and strategies to achieve the standards adopted by the State Board. The guidelines shall require each participating local school administrative unit to submit plans for each school in the unit for achieving those goals. The guidelines shall also require each local school administrative unit to report on an annual basis on progress made in achieving those goals at each school in the unit.~~

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

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

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

- (1) Assist local boards and schools in the development and implementation of school-based management under Part 2 of this Article.
- (2) Recognize the schools that meet or exceed their goals.
- (3) Create assistance teams that the Board may assign to schools identified as low-performing under G.S. 115C-105.30. The assistance teams should consist of currently practicing teachers and staff, representatives of institutions of higher education, school administrators, and others the State Board considers appropriate.
- (4) Enable assistance teams to make appropriate recommendations under G.S. 115C-105.31.
- (5) Establish a process to resolve disputes between local boards and schools in the development and implementation of school improvement plans under G.S. 115C-105.22(b1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 22 **"PART 2. SCHOOL-BASED MANAGEMENT.**

23 24 **"§ 115C-105.21A. Budget flexibility.**

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

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

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

1 Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may
2 continue to be used for certificated teachers.

3 (2) In accordance with a school improvement plan accepted under G.S.
4 115C-105.22, (i) State funds allocated for classroom
5 materials/instructional supplies/equipment may be transferred only for
6 the purchase of textbooks; (ii) State funds allocated for textbooks may
7 be transferred only for the purchase of instructional supplies,
8 instructional equipment, or other classroom materials; and (iii) State
9 funds allocated for noninstructional support personnel may be
10 transferred only for teacher positions.

11 (3) No funds shall be transferred into the central office allotment category.

12 (4) Funds allocated for exceptional children shall not be transferred.

13 (5) Funds allocated for classroom teachers may be transferred only for
14 teachers of exceptional children, for teachers of at-risk students, and for
15 authorized purposes under the textbooks allotment category and the
16 classroom materials/instructional supplies/equipment allotment
17 category.

18 **"§ 115C-105.21B. Waivers of State laws, rules, or policies.**

19 (a) When included as part of a school improvement plan accepted under G.S.
20 115C-105.22, local boards of education shall submit requests for waivers of State laws,
21 rules, or policies to the State Board of Education. A request for a waiver shall (i) identify
22 the school making the request, (ii) identify the State laws, rules, or policies that inhibit
23 the school's ability to improve student performance, (iii) set out with specificity the
24 circumstances under which the waiver may be used, and (iv) explain how the requested
25 waiver will permit the school to improve student performance. Except as provided in
26 subsection (c) of this section, the State Board shall grant waivers only for the specific
27 schools for which they are requested and shall be used only under the specific
28 circumstances for which they are requested.

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

31 (1) State laws pertaining to class size, teacher certification, and the duty-
32 free period for classroom teachers under G.S. 115C-301.1; and

33 (2) State rules and policies, except those pertaining to public school State
34 salary schedules and employee benefits for school employees, the
35 instructional program that must be offered under the Basic Education
36 Program, the system of employment for public school teachers and
37 administrators set out in G.S. 115C-287.1 and G.S. 115C-325, health
38 and safety codes, compulsory attendance, the minimum lengths of the
39 school day and year, and the Uniform Education Reporting System.

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

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

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

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

9 **"§ 115C-105.22. Development of local plans; elements of local and approval of school**
10 **improvement plans.**

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

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

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

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

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

40 (3) ~~Advisory panel.—The local board of education shall actively involve an~~
41 ~~advisory panel composed of a substantial number of teachers, school~~
42 ~~administrators, other school staff, and parents of children enrolled in the~~
43 ~~local school administrative unit, in developing and achieving the student~~

1 and school performance goals for the local school improvement plan.
2 Parents serving on an advisory panel shall not be employees of the
3 school unit and shall reflect the racial and socioeconomic composition
4 of the students enrolled in the local school administrative unit. The
5 advisory panel shall ensure substantial parent participation. It is the
6 intent of the General Assembly that teachers have a major role in
7 developing the school and student performance goals for the local
8 school improvement plan; therefore, at least half of the members
9 participating in this advisory panel shall be teachers. Every teacher in
10 the local school administrative unit shall have an opportunity to elect by
11 secret ballot the teachers who are involved in the advisory panel.

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

38 ~~Support among affected staff members is essential to successful implementation of a~~
39 ~~building-level plan to address school and student performance goals appropriate to a~~
40 ~~school; therefore, the~~ The principal of the school shall present the proposed building-
41 level school improvement plan to all of the principals, assistant principals, instructional
42 personnel, instructional support personnel, and teacher assistants assigned to the school
43 building for their review and vote. The vote shall be by secret ballot. The principal may

1 ~~shall submit the building-level school improvement plan to the local board of education~~
2 ~~for inclusion in the systemwide plan—only if the proposed building-level school~~
3 ~~improvement plan has the approval of a majority of the staff who voted on the plan.~~

4 The local board of education shall accept or reject the ~~building-level school~~
5 ~~improvement plan.~~ The local board shall not make any substantive changes in any
6 ~~building-level school improvement plan that it accepts; the local board shall set out any~~
7 ~~building-level plan that it accepts in the systemwide plan. accepts.~~ If the local board rejects a
8 ~~building-level school improvement plan,~~ the local board shall state with specificity its
9 reasons for rejecting the plan; the school improvement team may then prepare another
10 plan, present it to the principals, assistant principals, instructional personnel, instructional
11 support personnel, and teacher assistants assigned to the school building for a vote, and
12 submit it to the local board ~~for inclusion in the systemwide plan. to accept or reject.~~ If no
13 ~~building-level school improvement plan is accepted for a school before March 15 of the~~
14 ~~fiscal year preceding the fiscal year in which participation is sought, the plan is to be~~
15 ~~implemented, the school or the local board may use the process to resolve disagreements~~
16 ~~recommended in the guidelines developed by the State Board under G.S. 115C-~~
17 ~~105.20(b)(5). If neither the local board nor the school makes a request to use that~~
18 ~~process, then the local board may develop a school improvement plan for the school for~~
19 ~~inclusion in the systemwide plan; the school. The General Assembly urges the local board~~
20 ~~to utilize the school's proposed building-level school improvement plan to the maximum~~
21 ~~extent possible when developing such a plan.~~

22 A school improvement plan shall remain in effect for no more than three years;
23 however, the school improvement team may amend the plan as often as is necessary or
24 appropriate. The procedures set out in this subsection also apply to amendments to
25 school improvement plans.

26 ~~(b2) Waivers concerning central office staff. A local board of education may~~
27 ~~request waivers of State laws, regulations, or policies which are included in the building~~
28 ~~plans described in subsection (b1) of this section, and it may also request waivers which~~
29 ~~affect the organization, duties, and assignment of central office staff only. Provided, none~~
30 ~~of the duties to be performed pursuant to G.S. 115C-436 may be waived. A request for a~~
31 ~~waiver shall (i) identify the State laws, regulations, or policies that inhibit the local unit's~~
32 ~~ability to reach its local accountability goals, (ii) set out with specificity the~~
33 ~~circumstances under which the waiver may be used, and (iii) explain how a waiver of~~
34 ~~those laws, regulations, or policies will permit the local unit to reach its local goals.~~

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

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

37 **§ 115C-105.23. Differentiated pay.**

38 ~~(a) Local school administrative units may include, but are not required to include~~
39 ~~as a part of their local school improvement plans, a systemwide differentiated pay plan~~
40 ~~for all of the staff assigned to school buildings and all classes of staff assigned to the~~
41 ~~central office that the local boards determine are participants in the development or~~
42 ~~implementation of the local school improvement plans. Units electing to include~~

1 differentiated pay plans in their school improvement plans shall base their differentiated
2 pay plans on:

- 3 (1) A career development pilot program;
- 4 (2) A lead teacher pilot program;
- 5 (3) A locally designed school-based performance program, subject to
6 limitations and guidelines adopted by the State Board of Education;
- 7 (4) A differentiated pay plan that the State Board of Education finds has
8 been successfully implemented in another state; or
- 9 (5) A locally designed plan including any combination or modification of
10 the foregoing plans.

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

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

- 16 (1) Bonuses and supplements to implement local differentiated pay plans
17 until November 30 of the subsequent fiscal year; and
- 18 (2) Staff development to implement local differentiated pay plans until
19 August 31 of the subsequent fiscal year: Provided, however, if funds
20 allocated for bonuses and supplements under a local differentiated pay
21 plan are not spent for that purpose because of a failure to meet local
22 goals, these funds shall remain available until November 30 of the
23 subsequent fiscal year to provide for staff development in accordance
24 with that local plan.

25 (b) Differentiated pay plans shall be developed and voted on in accordance with
26 G.S. 115C-238.3(e).

27 Any differentiated pay plan developed in accordance with this section shall be
28 implemented within State, local and any other funds available for differentiated pay. State
29 funds shall be used to implement a differentiated pay plan for employees who derive
30 salary from State funds. State funds may be combined with any other differentiated pay
31 funds at the building level to implement a differentiated pay plan which includes
32 employees who derive salary from any other salary source so long as differentiated pay
33 funds per employee are appropriated from the other salary source in an amount equal to
34 the dollar amount appropriated by the State per State employee for differentiated pay. An
35 employee who derives salary from only one salary source shall be paid differentiated pay
36 monies from that source only; if an employee derives salary from more than one salary
37 source, differentiated pay monies paid to that employee shall be paid proportionally
38 based on the pro rata share of each salary source. Provided, however, a local board of
39 education may provide additional local funds for differentiated pay for any of its
40 employees without regard to the employee's salary source.

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

42 (e) Any additional compensation received by an employee as a result of the unit's
43 participation in the Program shall be paid as a bonus or supplement to the employee's

1 regular salary. If an employee in a participating unit does not receive additional
2 compensation, such failure to receive additional compensation shall not be construed as a
3 demotion, as that term is used in G.S. 115C-325.

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

7 (f) If a local school administrative unit bases its differentiated pay plan on a
8 locally designed school-based performance program, pursuant to subdivision (a)(3) of
9 this section, the plan shall provide that following the attainment of the local school goals,
10 the local board of education shall make a determination of which staff members
11 contributed to the attainment of those goals. Differentiated pay bonuses shall then be
12 distributed to those designated employees. The local board of education shall make the
13 determination upon recommendation of (i) the superintendent and (ii) any other person or
14 committee designated in the local differentiated pay plan. The other person or committee
15 designated in the local differentiated pay plan may be the principal, a school-based
16 committee, or any other person or local committee.

17 ~~"§ 115C-105.24. Approval of local school administrative unit plans by the State
18 Superintendent; conditions for continued participation.~~

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

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

- 31 (1) State laws pertaining to class size, teacher certification, the use of State-
32 adopted textbooks, and the purposes for which State funds for the public
33 schools may be used;
- 34 (2) All State regulations and policies, except those pertaining to public
35 school State salary schedules and employee benefits for school
36 employees, the instructional program that must be offered under the
37 Basic Education Program, the system of employment for public school
38 teachers and administrators set out in G.S. 115C-325, health and safety
39 codes, compulsory school attendance, the minimum lengths of the
40 school day and year, and the Uniform Education Reporting System.

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

42 (a1) Notwithstanding subsection (a) of this section, the following limitations apply
43 to the granting of waivers:

- 1 (1) ~~The provisions of G.S. 115C-12(16)b. regarding the placement of State-~~
2 ~~allotted office support personnel, teacher assistants, and custodial~~
3 ~~personnel on the salary schedule adopted by the State Board shall not be~~
4 ~~waived.~~
- 5 (2) ~~Except for waivers requested by the local board in accordance with G.S.~~
6 ~~115C-238.3(b2) for central office staff, waivers shall be granted only for~~
7 ~~the specific schools for which they are requested in building level plans~~
8 ~~and shall be used only under the specific circumstances for which they~~
9 ~~are requested.~~
- 10 (3) ~~The State Board shall not permit funds under any funding allotment~~
11 ~~category other than Central Office Administration to be used for central~~
12 ~~office administrators.~~
- 13 (4) ~~The State Board shall not permit funds under the Classroom Teachers~~
14 ~~allotment category to be used for any additional purpose other than for~~
15 ~~teachers of exceptional children, for teachers of at-risk students, and for~~
16 ~~authorized purposes under the Textbooks allotment category and the~~
17 ~~Classroom—Materials/Instructional—Supplies/Equipment—~~
18 ~~allotment~~
19 ~~category.~~
- 20 (5) ~~The State Board shall not grant waivers to permit funds under the~~
21 ~~Teacher Assistant allotment category to be used for any purpose other~~
22 ~~than for personnel (i) to serve students only in kindergarten through~~
23 ~~third grade, or (ii) to serve students primarily in kindergarten through~~
24 ~~third grade when the personnel are assigned to an elementary school to~~
25 ~~serve the whole school.~~

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

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

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

37 "**§ 115C-105.25. Distribution of Use of funds available to schools; staff development**
38 **funds.**

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

42 (b) ~~Each local board shall distribute seventy-five percent (75%) of the funds in the~~
43 ~~staff development funding allotment to the schools to be used in accordance with that~~
44 ~~school's school improvement plan. By October 1 of each year, the principal shall~~

1 disclose to all affected personnel the total allocation of all funds available to the school
2 for staff development and the superintendent shall disclose to all affected personnel the
3 total allocation of all funds available at the system level for staff development. At the
4 end of the fiscal year, the principal shall make available to all affected personnel a report
5 of all disbursements from the building-level staff development funds, and the
6 superintendent shall make available to all affected personnel a report of all disbursements
7 at the system level of staff development funds.

8 **"§ 115C-105.26. Creation of the Task Force on ~~Site-Based~~ School-Based**
9 **Management.**

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

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

- 13 (1) The Superintendent of Public Instruction;
- 14 (2) One member of the State Board of ~~Education~~ Education, one parent of a
15 public school child, and two at-large members appointed by the State
16 Board of Education;
- 17 (3) Two members of the Senate appointed by the President Pro Tempore of
18 the Senate;
- 19 (4) Two members of the House of Representatives appointed by the
20 Speaker of the House of Representatives;
- 21 (5) One member of a local board of education appointed by the President
22 Pro Tempore of the Senate after receiving recommendations from The
23 North Carolina State School Boards Association, Inc.;
- 24 (6) One member of a local board of education appointed by the Speaker of
25 the House of Representatives after receiving recommendations from
26 The North Carolina State School Boards Association, Inc.;
- 27 (7) One local school superintendent appointed by the President Pro
28 Tempore of the Senate after receiving recommendations from the North
29 Carolina Association of School Administrators;
- 30 (8) One local school superintendent appointed by the Speaker of the House
31 of Representatives after receiving recommendations from the North
32 Carolina Association of School Administrators;
- 33 (9) One school principal appointed by the President Pro Tempore of the
34 Senate after receiving recommendations from the Tar Heel Association
35 of Principals/Assistant Principals and the Division of Administrators of
36 the North Carolina Association of Educators;
- 37 (10) One school principal appointed by the Speaker of the House of
38 Representatives after receiving recommendations from the Tar Heel
39 Association of Principals/Assistant Principals and the Division of
40 Administrators of the North Carolina Association of Educators;
- 41 (11) One school teacher appointed by the President Pro Tempore of the
42 Senate after receiving recommendations from the North Carolina

- 1 Association of Educators, Inc., the North Carolina Federation of
2 Teachers, and the Professional Educators of North Carolina, Inc.;
- 3 (12) One school teacher appointed by the Speaker of the House of
4 Representatives after receiving recommendations from the North
5 Carolina Association of Educators, Inc., the North Carolina Federation
6 of Teachers, and the Professional Educators of North Carolina, Inc.;
- 7 (13) Repealed by Session Laws 1995, c. 324, s. 17.
- 8 ~~(14) One parent of a public school child appointed by the Superintendent of~~
9 ~~Public Instruction;~~
- 10 ~~(15) Two at-large members appointed by the Superintendent of Public~~
11 ~~Instruction;~~
- 12 (16) One representative of business and industry appointed by the Governor;
- 13 (17) One representative of institutions of higher education appointed by the
14 Board of Governors of The University of North Carolina; and
- 15 (18) One county commissioner appointed by the ~~Superintendent of Public~~
16 ~~Instruction~~ State Board of Education after receiving recommendations
17 from the North Carolina Association of County Commissioners.

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

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

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

25 (b) The Task Force shall:

- 26 (1) Advise the State Board of Education on the ~~implementation of the~~
27 ~~School Improvement and Accountability Act of 1989, as amended,~~
28 ~~especially the development and implementation of building level plans;~~
29 ~~development of guidelines for local boards of education and schools to~~
30 ~~implement school-based management as part of the School-Based~~
31 ~~Management and Accountability Program;~~
- 32 (2) Advise the State Board of Education on how to ~~provide training and~~
33 ~~assistance to assist the~~ public schools so as to facilitate the
34 implementation of ~~site-based school-based~~ management;
- 35 (3) ~~Review~~ Advise the State Board of Education about publications to be
36 produced by the Department of Public Instruction on the development
37 and implementation of ~~building level school improvement~~ plans;
- 38 (4) Report annually to the State Board of Education on the implementation
39 of ~~site-based school-based~~ management in the public schools on the first
40 Friday in December. This report may contain a summary of
41 recommendations for changes to any law, rule, and policy that would
42 improve ~~site-based school-based~~ management.

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

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

5 **"§ 115C-105.27. Parent involvement programs and conflict resolution programs as**
6 **part of ~~building-level~~ school improvement plans.**

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

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

21
22 **"PART 3. SCHOOL-BASED ACCOUNTABILITY.**

23
24 **"§ 115C-105.28. Annual performance goals.**

25 The School-Based Management and Accountability Program shall (i) focus _____ on
26 student performance in the basics of reading, mathematics, and communications skills in
27 elementary and middle schools, (ii) focus on student performance in courses required for
28 graduation and on other measures required by the State Board in the high schools, and
29 (iii) hold schools accountable for the educational growth of their students. To those ends,
30 the State Board shall design and implement an accountability system that sets annual
31 performance standards for each school in the State in order to measure the growth in
32 performance of the students in each individual school.

33 **"§ 115C-105.29. Performance recognition.**

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

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

- 1 (1) Awards to the personnel; or
2 (2) The purposes authorized in a plan that has been:
3 a. Developed and voted on by the personnel in the same manner
4 that a school improvement plan is approved under G.S. 115C-
5 105.22(b1);
6 b. Approved by a majority of the personnel who vote on the plan;
7 and
8 c. Submitted to and approved by the local board of education.

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

11 **"§ 115C-105.30. Identification of low-performing schools.**

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

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

22 **"§ 115C-105.31. Assistance teams.**

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

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

- 32 (1) Review and investigate all facets of school operations and assist in
33 developing recommendations for improving student performance at that
34 school.
35 (2) Collaborate with school staff, central offices, and local boards of
36 education in the design, implementation, and monitoring of a plan that,
37 if fully implemented, can reasonably be expected to alleviate problems
38 and improve student performance at that school.
39 (3) Make recommendations as the school develops and implements this
40 plan.
41 (4) Review the school's progress.
42 (5) Report, as appropriate, to the local board of education, the community,
43 and the State Board on the school's progress.

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

4 **"§ 115C-105.32. Review by the State Board; dismissal or removal of personnel;**
5 **appointment of interim superintendent.**

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

- 11 (1) The Board identifies that school as low-performing under G.S. 115C-
12 105.30;
13 (2) The Board determines that school has failed to make satisfactory
14 improvement after the Board assigned an assistance team to it under
15 G.S. 115C-105.31; and
16 (3) That assistance team makes the recommendation to dismiss or to
17 terminate the contract for one or more grounds established in G.S.
18 115C-325(e)(1) for dismissal or demotion of a career teacher.

19 The State Board shall adopt procedures to ensure that due process rights, including a
20 hearing, are afforded to persons recommended for dismissal under this subsection. The
21 hearing shall be before a panel of three members of the State Board. Decisions of the
22 panel may be appealed on the record to the State Board, with further right of judicial
23 review under Chapter 150B of the General Statutes. Neither party to a school
24 administrator contract is entitled to damages under this subsection.

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

- 27 (1) Upon the identification of more than half the schools in that unit as low-
28 performing under G.S. 115C-105.30; or
29 (2) Upon the recommendation from an assistance team assigned to a school
30 located in that unit that has been identified as low-performing under
31 G.S. 115C-105.30. This recommendation shall be based upon a finding
32 that the superintendent has failed to cooperate with the assistance team
33 or has otherwise hindered that school's ability to improve.

34 The State Board may assign any of the powers and duties of the local superintendent
35 and the local finance officer to the interim superintendent that the Board considers are
36 necessary or appropriate to improve student performance in the local school
37 administrative unit. The interim superintendent shall perform all of these assigned
38 powers and duties. The State Board of Education may terminate the contract of any local
39 superintendent entered into on or after July 1, 1996, when it appoints an interim
40 superintendent. The Administrative Procedure Act shall apply to that decision. Neither
41 party to that contract is entitled to damages.

42 (c) In the event the State Board has appointed an interim superintendent and the
43 State Board determines that the local board of education has failed to cooperate with the

1 interim superintendent or has otherwise hindered the ability to improve student
2 performance in that local school administrative unit or in a school in that unit, the State
3 Board may suspend any of the powers and duties of the local board of education that the
4 State Board considers are necessary or appropriate to improve student performance in the
5 local school administrative unit. The State Board shall perform all of these assigned
6 powers and duties for a period of time to be specified by the State Board.

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

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

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

15 "**§ 115C-39. Removal of board ~~members.~~ members; suspension of duties by State**
16 **Board.**

17 (a) In case the Superintendent of Public Instruction shall have State Board of
18 Education has sufficient evidence that any member of a local board of education is not
19 capable of discharging, or is not discharging, the duties of his office as required by law,
20 or is guilty of immoral or disreputable conduct, he shall notify the chairman of such
21 board of education, unless such chairman is the offending member, in which case all
22 other members of such board shall be notified. Upon receipt of such notice there shall be
23 a meeting of said board of education for the purpose of investigating the charges, and if
24 the charges are found to be true, such board shall declare the office vacant: Provided, that
25 the offending member shall be given proper notice of the hearing and that record of the
26 findings of the other members shall be recorded in the minutes of such board of
27 education.

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

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

34 "**§ 115C-274. ~~Removal for cause.~~ Removal.**

35 (a) Local boards of education are authorized to remove a superintendent who is
36 guilty of immoral or disreputable conduct or who shall fail or refuse to perform the duties
37 required of him by law. In case the Superintendent of Public Instruction shall have State
38 Board of Education has sufficient evidence at any time that any superintendent of schools
39 is not capable of discharging, or is not discharging, the duties of his office as required by
40 law or is guilty of immoral or disreputable conduct, he shall report this matter to the
41 board of education employing said superintendent of schools. It shall then be the duty of
42 ~~said that~~ board of education to hear the evidence in ~~such the~~ case and, if after careful
43 investigation it shall find the charges true, it shall declare the office vacant at once and

1 proceed to elect a successor: Provided, that such superintendent shall have the right to try
2 his title to office in the courts of the State.

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

11 (c) The identification by the State Board of Education of more than half the
12 schools in a local school administrative unit as low-performing under G.S. 115C-105.30
13 is evidence that the superintendent is unable to fulfill the duties of the office, and the
14 State Board may appoint an interim superintendent to carry out the duties of the
15 superintendent under G.S. 115C-105.32, may revoke the superintendent's certificate
16 under this section, may dismiss the superintendent under G.S. 115C-105.32, or may take
17 any combination of these actions."

18 Sec. 7. G.S. 115C-296 is amended by adding a new subsection to read:

19 "(d) The State Board of Education may revoke or refuse to renew a teacher's
20 certificate when:

21 (1) The Board identifies the school in which the teacher is employed as
22 low-performing under G.S. 115C-105.30; and

23 (2) The assistance team assigned to that school under G.S. 115C-105.31
24 makes the recommendation to revoke or refuse to renew the teacher's
25 certificate for one or more reasons established by the State Board in its
26 rules for certificate suspension or revocation.

27 The Board's decision under this subsection is subject to procedures established under
28 G.S. 115C-105.32(a)."

29 Sec. 8. G.S. 115C-325(e)(3) reads as rewritten:

30 "(3) In determining whether the professional performance of a career teacher
31 is adequate, consideration shall be given to regular and special
32 evaluation reports prepared in accordance with the published policy of
33 the employing local school administrative unit and to any published
34 standards of performance which shall have been adopted by the board.
35 The findings and recommendations of the assistance team assigned to a
36 school identified as low-performing under G.S. 115C-105.30 and in
37 which the teacher is employed are substantial evidence of the teacher's
38 inadequate performance. Failure to notify a career teacher of an
39 inadequacy in his performance shall be conclusive evidence of
40 satisfactory performance."

41 **— LOCAL FLEXIBILITY**

42 Sec. 9. G.S. 115C-84(d) is repealed.

43 Sec. 10. G.S. 115C-302(a)(1) reads as rewritten:

1 "(1) Academic Teachers. – Regular state-allotted teachers shall be employed
2 for a period of 10 calendar months. Each local board of education shall
3 establish a set date on which monthly salary payments to regular State-
4 allotted teachers shall be made. This set pay date may differ from the
5 end of the calendar month of service. Teachers shall only be paid for the
6 days employed as of the set pay date. Payment for a full month when
7 days employed are less than a full month is prohibited as this constitutes
8 prepayment. Teachers employed for a period of 10 calendar months in
9 year-round schools shall be paid in 12 equal installments. Any
10 individual teacher who is not employed in a year-round school may be
11 paid in 12 monthly installments if the teacher so requests on or before
12 the first day of the school year. Such request shall be filed in the local
13 school administrative unit which employs the teacher. The payment of
14 the annual salary in 12 installments instead of 10 shall not increase or
15 decrease said annual salary nor in any other way alter the contract made
16 between the teacher and the said local school administrative unit; nor
17 shall such payment apply to any teacher who is employed for a period of
18 less than 10 months. Included within the 10 calendar months
19 employment shall be annual vacation leave at the same rate provided for
20 State employees, computed at one twelfth (1/12) of the annual rate for
21 State employees for each calendar month of employment; which shall
22 be provided by each local board of education at a time when students
23 are not scheduled to be in regular attendance. However, vacation leave
24 for instructional personnel who do not require a substitute shall not be
25 restricted to days that students are not in attendance. Included within the
26 10 calendar months employment each local board of education shall
27 designate the same or an equivalent number of legal holidays occurring
28 within the period of employment for academic teachers as those
29 designated by the State Personnel Commission for State employees; on
30 a day that employees are required to report for a workday but pupils are
31 not required to attend school due to inclement weather, a teacher may
32 elect not to report due to hazardous travel conditions and to take an
33 annual vacation day or to make up the day at a time agreed upon by the
34 employee and the employee's immediate supervisor or principal. Within
35 policy adopted by the State Board of Education, each local board of
36 education shall develop rules designating what additional portion of the
37 10 calendar months not devoted to classroom teaching, holidays, or
38 annual leave shall apply to service rendered before the opening of the
39 school term, during the school term, and after the school term and to fix
40 and regulate the duties of state-allotted teachers during said period, but
41 in no event shall the total number of workdays exceed 200 days. If one
42 or more scheduled teacher workdays are displaced due to hazardous
43 weather conditions, a local board may select dates, including dates

1 beyond the 10 calendar months during which teachers and their
2 supervisors may agree to make up the displaced days provided the
3 workdays fall within the fiscal year. Local boards may approve school
4 improvement plans that include teacher workdays outside the 10
5 calendar months provided the workdays fall within the fiscal year. A
6 teacher and the teacher's supervisor may agree to schedule workdays
7 outside the 10 calendar months provided the workdays fall within the
8 fiscal year. Teachers may be paid on the tenth calendar month pay date
9 for workdays scheduled to occur after the tenth calendar month but
10 before the end of the fiscal year. A teacher who resigns, is dismissed, or
11 whose contract is not renewed and who fails to make up previously
12 agreed upon workdays scheduled after the 10 calendar months shall
13 repay to the local board any salary payments owed due to the failure to
14 make up the workdays. A teacher who continues to be employed by a
15 local board but fails to make up previously agreed upon workdays
16 scheduled after the 10 calendar months may be subject to dismissal
17 under G.S. 115C-325. Local boards of education shall consult with the
18 employed public school personnel in the development of the 10-
19 calendar-months schedule."

20 Sec. 11. G.S. 115C-47(23) reads as rewritten:

21 "(23) To Purchase Equipment and Supplies. —~~They~~Local boards shall
22 contract for equipment and supplies pursuant to the provisions of
23 ~~G.S. 115C-522(a).~~G.S. 115C-522(a), 115C-528, and 115C-529."

24 Sec. 12. G.S. 115C-47(28) reads as rewritten:

25 "(28) To Enter Lease Purchase ~~Contracts for Automobiles and Installment~~
26 Purchase Contracts. — Local boards may ~~purchase automobiles by~~
27 ~~installment contracts that create in the property purchased a security~~
28 ~~interest to secure payment of the purchase money. A contract entered~~
29 ~~into under this subdivision is subject to the provisions of Article 8 of~~
30 ~~Chapter 159 of the General Statutes, except for G.S. 159-148(a)(4)~~
31 ~~and (b)(2). The lease purchase contract shall provide that there be no~~
32 ~~recourse for default in payments under the contract other than return~~
33 ~~of the automobile. The taxing power of any tax levying authority is~~
34 ~~not and may not be pledged directly or indirectly to secure any~~
35 ~~moneys due the seller.~~enter into lease purchase and installment
36 purchase contracts as provided in G.S. 115C-529."

37 Sec. 13. G.S. 115C-522(a) reads as rewritten:

38 "(a) It shall be the duty of local boards of education to purchase or exchange all
39 supplies, equipment and materials in accordance with contracts made by or with the
40 approval of the Department of ~~Administration.~~Administration except as provided in G.S.
41 115C-528. Title to instructional supplies, office supplies, fuel and janitorial supplies,
42 enumerated in the current expense fund budget and purchased out of State funds, shall be
43 taken in the name of the local board of education which shall be responsible for the

1 custody and replacement: Provided, that no contracts shall be made by any local school
2 administrative unit for purchases unless provision has been made in the budget of the unit
3 to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or
4 unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-529 and
5 adequate funds are available to pay in the current fiscal year the sums obligated for the
6 current fiscal year, and in order to protect the State purchase contractor, it is made the
7 duty of the governing authorities of the local units to pay for these purchases promptly
8 and in accordance with the terms of the contract of purchase."

9 Sec. 14. Article 37 of Chapter 115C is amended by adding new sections to
10 read:

11 **"§ 115C-528. Purchases from noncertified sources.**

12 (a) Notwithstanding G.S. 115C-522(a) a local school administrative unit may
13 purchase the same good or service that is listed on a State term contract from a vendor
14 that is not certified on the State term contract for that good or service, subject to the
15 following conditions:

16 (1) The total cost of the good or service, including the delivery costs, is less
17 than the cost under the State term contract;

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

20 (3) The local school administrative unit shall document in writing the cost
21 savings; and

22 (4) The local school administrative unit shall provide annually by July 1 an
23 itemized report of the cost savings to the Department of Administration.

24 (b) This section shall not impair the contractual terms and conditions of State term
25 contracts that allow purchases to be made from noncertified sources. The requirements
26 of subsection (a) of this section shall not apply to those purchases.

27 (c) The Department of Administration shall report to the General Assembly and
28 the Joint Legislative Education Oversight Committee annually by August 1 the cost
29 savings realized under this section.

30 **"§ 115C-529. Lease purchase and installment purchase contracts for certain**
31 **equipment.**

32 (a) Local boards of education may purchase or finance the purchase of
33 automobiles, school buses, mobile classroom units, photocopiers, and computers by lease
34 purchase contracts and installment purchase contracts as provided in this section.
35 Computers purchased under this section shall meet the technical standards specified in
36 the North Carolina Instructional Technology Plan as developed and approved under G.S.
37 115C-102.6A and G.S. 115C-102.6B.

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

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

5 (d) The term of a contract entered into under this section shall not exceed the
6 useful life of the property purchased. An option to upgrade shall be considered in
7 determining the useful life of the property.

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

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

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

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

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

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

22 Sec. 15. The Information Resource Management Commission shall develop
23 and annually revise guidelines for determining the useful life of computers purchased
24 under G.S. 115C-529. The Division of Purchase and Contract shall develop and
25 periodically revise guidelines for determining the useful life of automobiles, school
26 buses, and photocopiers purchased under G.S. 115C-529. The Local Government
27 Commission shall develop and periodically revise guidelines for determining the useful
28 life of mobile classroom units purchased under G.S. 115C-529. Guidelines for computers
29 and photocopiers shall include provisions for upgrades during the term of the contract.
30 The Information Resource Management Commission, the Division of Purchase and
31 Contract, and the Local Government Commission shall provide their respective
32 guidelines to the State Board of Education by November 1, 1996. The State Board of
33 Education shall provide the guidelines to local boards of education by January 1, 1997.

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

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

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

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

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

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

12 Sec. 17. G.S. 153A-158.1(d) reads as rewritten:

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

17 Sec. 18. G.S. 115C-326 reads as rewritten:

18 "**§ 115C-326. Performance standards and criteria for professional employees; law**
19 **suits arising out of this section.**

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

26 Local boards of education shall adopt rules ~~and regulations~~ ~~by July 1, 1982~~ to provide
27 for ~~the annual~~ evaluation of all professional employees defined as teachers by G.S. 115C-
28 ~~325(a)(6).~~ in G.S. 115C-325(a)(6). All teachers shall be evaluated annually unless a local
29 board adopts rules that allow specified categories of teachers with career status to be
30 evaluated less frequently. Local boards may also adopt rules ~~and regulations~~ requiring the
31 annual evaluation of other school employees not specifically covered in this section.
32 Local boards may develop and use alternative evaluation approaches for teachers
33 provided the evaluations are properly validated. Local boards that do not develop
34 alternative evaluations ~~Rules and regulations adopted by local boards shall utilize the~~
35 performance standards and criteria adopted by the State Board of Education, but are not
36 limited to those standards and criteria. ~~Education pursuant to the first paragraph of this~~
37 ~~section; however, the standards and criteria used by local boards are not to be limited by those~~
38 ~~adopted by the State Board of Education.~~

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

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

5 Sec. 19. G.S. 115C-47 is amended by adding a new subsection to read:

6 "(33a) To Approve and Use Textbooks Not Adopted by State Board of
7 Education. – Local boards of education shall have the authority to
8 select, procure, and use textbooks not adopted by the State Board
9 of Education as provided in G.S. 115C-98(b1)."

10 Sec. 20. G.S. 115C-85 reads as rewritten:

11 "**§ 115C-85. Textbook needs are determined by course of study.**

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

16 As used in this part, 'textbook' means systematically organized material
17 comprehensive enough to cover the primary objectives outlined in the standard course of
18 study for a grade or course. Formats for textbooks may be print or nonprint, including
19 hardbound books, softbound books, activity-oriented programs, classroom kits, and
20 technology-based programs that require the use of electronic equipment in order to be
21 used in the learning process.

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

24 Sec. 21. G.S. 115C-98 reads as rewritten:

25 "**§ 115C-98. Local boards of education to provide for local operation of the textbook**
26 **~~program and~~ program, the selection and procurement of other**
27 **~~instructional materials.~~ materials, and the use of nonadopted textbooks.**

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

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

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

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

1 (b1) Local boards of education may:

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

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

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

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

14 Sec. 22. G.S. 115C-112 is repealed.

15 Sec. 23. G.S. 115C-391 is amended by adding a new subsection to read:

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

19 **— CONFORMING CHANGES**

20 Sec. 24. G.S. 115C-105.3 reads as rewritten:

21 **"§ 115C-105.3. Purpose.**

22 The purpose of the Commission is to develop high and clearly defined education
23 standards for the public schools of North Carolina. These standards shall specify the
24 skills and the knowledge that high school graduates should possess in order to be
25 competitive in the modern economy. The purpose of the Commission is also to develop
26 fair and valid assessments to assure that high school graduates in North Carolina meet
27 these standards. No later than the Spring semester of the year 2000 or as soon as the State
28 Board of Education adopts the standards and system of assessments, every graduating
29 high school senior shall be required to achieve these standards as a condition for
30 receiving a diploma.

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

37 Sec. 25. G.S. 115C-238.23 reads as rewritten:

38 **"§ 115C-238.23. Implementation by local school boards.**

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

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

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

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

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

- 14 (1) A statement of principles that the local board wants the bidding teams to
15 address;
- 16 (2) A specified amount of money available for the operation of the building,
17 which amount shall be within the limits of funds available for the size of
18 school being opened for bid;
- 19 (3) A framework for accountability plans by which the success of the
20 project site can be measured, which accountability plans shall include
21 the student performance indicators adopted by the State Board of
22 Education pursuant to ~~G.S. 115C-238.1(3),~~ the School Improvement and
23 Accountability Act of 1989, and shall include factors such as student,
24 parent, and employee satisfaction, parental involvement, community
25 service, and evidence of a focus on developing thinking and reasoning
26 skills;
- 27 (4) The student population of a Genesis school shall be representative of its
28 local school administrative unit, shall be racially balanced, and students
29 shall be assigned on a geographic basis;
- 30 (5) The mission of the school shall not establish religion nor prohibit the
31 free exercise thereof insofar as that is permitted in a public school by the
32 North Carolina and United States Constitutions; and
- 33 (6) Bidding teams shall address how the criteria listed in G.S. 115C-81(b)
34 will be met or varied by the Genesis program.

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

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

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

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

8 (f) The team that receives the contract shall interview and select all personnel for
9 the building. The team may select personnel from the current employees of the local
10 board. All teachers employed in a Genesis school shall hold or be qualified to hold a
11 certificate in accordance with the regulations of the State Board of Education or ~~G.S.~~
12 ~~115C-238.6. the School Improvement and Accountability Act of 1989.~~ The local board
13 shall hire those persons selected by the team so long as those positions are within State,
14 local, and other funds approved for this project by the local board. In no event shall a
15 local board dismiss or demote any employee pursuant to G.S. 115C-325(e)(1)l. as a result
16 of a Genesis project.

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

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

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

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

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

39 Sec. 26. G.S. 115C-238.31(a) reads as rewritten:

40 "(a) Local school administrative units are encouraged to implement extended
41 services programs that will expand students' opportunities for educational success
42 through high-quality, integrated access to instructional programming during nonschool
43 hours. Extended services programs may be incorporated into ~~building-level~~ school

1 improvement plans developed in accordance with G.S. 115C-238.3-115C-105.22. ~~To~~
2 ~~implement extended services programs, local school administrative units may request waivers of~~
3 ~~State laws, regulations, and policies in accordance with Part 4 of this Article.~~ Calendar
4 alternatives include, but are not limited to, after-school hours, before-school hours,
5 evening school, Saturday school, summer school, and year-round school. Instructional
6 programming may include, but is not limited to, tutoring, direct instruction, enrichment
7 activities, study skills, and reinforcement projects."

8 Sec. 27. G.S. 115C-276(q) reads as rewritten:

9 "(q) To Assign School Principals. – Subject to local board policy, the
10 superintendent shall have the authority to assign principals to school buildings. When
11 making an assignment, the superintendent shall consider (i) whether a principal has
12 demonstrated the leadership ability to increase student achievement at a school where
13 conditions indicated a significant risk of low student performance; and (ii) how to
14 maintain stability at a school where, during the time the principal has been at a school,
15 there has been significant improvement on end-of-course or end-of-grade tests and other
16 accountability ~~indicators~~ measures developed by the State Board ~~in accordance with G.S.~~
17 ~~115C-238.1.~~ of Education."

18 Sec. 28. G.S. 115C-302(e) reads as rewritten:

19 "(e) It is the policy of the State of North Carolina to enhance the teaching
20 profession by providing teachers with career opportunities that do not remove them from
21 the classroom; to encourage the development and implementation of a professional salary
22 schedule that complements the system of differentiation; to have salaries of professional
23 educators in elementary and secondary schools based upon performance, degree attained,
24 differentiation and the needs of the local school administrative unit; and to begin, in the
25 school year beginning in 1986, a differential salary system based upon performance,
26 differentiation, local availability of classroom teachers, geographical location of the
27 employing local school administrative unit and such other factors as the local board of
28 education shall deem necessary.

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

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

40 Sec. 29. Notwithstanding G.S. 115C-105.21A(1), the State Board of Education
41 shall authorize pilot projects in the Mecklenburg County School Administrative Unit and
42 in the Burke County School Administrative Unit so that the boards of education in those
43 units may use State funds from the allotment for teacher assistants for certificated

1 teachers in order to reduce class size or the student-teacher ratio in kindergarten through
2 third grade, in accordance with school improvement plans developed under G.S. 115C-
3 105.22. No waivers from the State Board of Education are required for this use of funds.

4 **—STREAMLINE APA FOR ABC PLAN**

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

8 (b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the
9 State Board of Education, is approved by the Rules Review Commission, and is directly
10 related to the implementation of this act, shall become effective five business days after
11 the Commission delivers the rule to the Codifier of Rules, unless the rule specifies a later
12 effective date. If the State Board of Education specifies a later effective date, the rule
13 becomes effective upon that date. A permanent rule that is adopted by the State Board of
14 Education that is directly related to the implementation of this act, but is not approved by
15 the Rules Review Commission, shall not become effective.

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

19 (d) The State Board of Education shall determine whether a proposed rule is
20 directly related to this act based upon a finding that there is a rational relationship
21 between the proposed rule and specific provisions of this act. A proposed rule may
22 create, amend, or repeal a rule. The State Board shall indicate in the notice of proposed
23 text that the rule is directly related to the implementation of this act and that the Board is
24 proceeding under the authority granted by this act.

25 (e) The State Board of Education shall provide written notice to all boards of
26 county commissioners and all local boards of education of proposed rules that are directly
27 related to the implementation of this act. The notice shall state whether a fiscal note has
28 been prepared and that a copy of the fiscal note may be obtained from the State Board.

29 (f) This section shall not apply to Sections 11-17 of this act.

30 **—APPROPRIATION**

31 Sec. 31. There is appropriated from the General Fund to State Aid to Local
32 School Administrative Units the sum of twenty-four million five hundred thirty-two
33 thousand five hundred fifty dollars (\$24,532,550) for the 1996-97 fiscal year. The State
34 Board of Education shall allocate these funds to local school administrative units for
35 personnel who are identified as eligible for performance recognition awards under G.S.
36 115C-105.29 as follows:

37 (1) Twenty-one million dollars (\$21,000,000) to be distributed on a per
38 capita basis of no less than five hundred dollars (\$500.00) and no more
39 than one thousand dollars (\$1,000) for personnel other than teacher
40 assistants.

41 (2) Three million five hundred thirty-two thousand, five hundred fifty
42 dollars (\$3,532,550) to be distributed on a per capita basis to teacher

1 assistants in the amount of one-half the amount under subdivision (1) of
2 this section.

3 **—EFFECTIVE DATES**

4 Sec. 32. (a) G.S. 115C-528 created in Section 14 of this act becomes effective
5 July 1, 1996, and applies to State term contracts for which bids or offers are solicited on
6 or after that date.

7 (b) Section 31 of this act becomes effective July 1, 1996, and the remainder of the
8 act is effective upon ratification.

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