

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**HOUSE BILL 1477\***

Short Title: ABC's Plan for DHHS Schools.

(Public)

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Sponsors: Representatives Arnold; Adams and Watson.

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Referred to: Education, if favorable, Appropriations.

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May 25, 1998

**A BILL TO BE ENTITLED**

1  
2 AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE  
3 COMMISSION ON PUBLIC SCHOOLS TO MAKE CHANGES IN LAWS,  
4 POLICIES, AND ADMINISTRATION TO IMPROVE THE QUALITY OF  
5 EDUCATION AND SAFETY IN THE STATE RESIDENTIAL SCHOOLS, TO  
6 IMPLEMENT THE ABC'S PROGRAM IN THE RESIDENTIAL SCHOOLS, TO  
7 AUTHORIZE STUDIES OF ISSUES OF CONCERN TO BLIND AND DEAF  
8 STUDENTS, TO REQUIRE AN AUDIT OF THE DIVISION OF SERVICES FOR  
9 THE DEAF AND HARD OF HEARING, TO REQUIRE THE DEVELOPMENT OF  
10 A THREE-YEAR PLAN TO ADDRESS THE CAPITAL NEEDS OF THE  
11 GOVERNOR MOREHEAD SCHOOL AND THE THREE STATE SCHOOLS FOR  
12 THE DEAF, AND TO MAKE APPROPRIATIONS TO IMPLEMENT THIS ACT.

13 The General Assembly of North Carolina enacts:

14 Section 1. The Secretary of Health and Human Services shall make changes in  
15 the structure and functions of the State residential schools with a view to improving  
16 student performance, increasing flexibility and control, and promoting economy and  
17 efficiency. The Secretary shall begin with the Governor Morehead School and the three  
18 schools for the deaf. The Secretary may, in his discretion, make changes in the structure  
19 and functions of the other residential schools. In carrying out the changes, the Secretary  
20 shall consider ways to reorder priorities and place greater emphasis on the basics -

1 reading, communication skills, and mathematics - in the areas of staff development, the  
2 State testing program, program accreditation, the use of instructional funds, the  
3 instructional program, and other components of the education program offered at the  
4 residential schools. The Secretary also shall consider the impact the changes will have on  
5 the mission of the State's residential schools and the mission of the Department of Health  
6 and Human Services as it pertains to the residential schools.

7 The Secretary shall make a preliminary report to the Legislative Commission  
8 on Public Schools and to the cochairs of the Appropriation Subcommittee on Health and  
9 Human Services of the Senate and the House of Representatives by November 1, 1998,  
10 and a final report by November 1, 1999, on the results of these changes. The reports shall  
11 include any proposed legislation necessary to implement the additional changes.

12 Section 2. The Secretary of Health and Human Services also shall make  
13 changes in the administrative organization of the Department of Health and Human  
14 Services and of the Governor Morehead School and the three schools for the deaf with a  
15 view to (i) improving student academic performance in the residential schools, (ii)  
16 promoting economy and efficiency in government in the interest of producing cost  
17 savings that can be used to redirect funds to the residential schools for teaching,  
18 textbooks, school supplies, technology, equipment, and staff development, and (iii)  
19 increasing school-based decision making and parental involvement. The Secretary may,  
20 in his discretion, extend this section to additional residential programs. The Secretary  
21 shall make necessary changes in the mission of the residential schools and of the  
22 Department of Health and Human Services as it pertains to the residential schools. The  
23 Secretary shall develop a plan for reducing, eliminating, and/or reorganizing the  
24 Department of Health and Human Services and each residential school. A reorganization  
25 may include the assignment or reassignment of the Department's duties and functions  
26 among divisions and other units, division heads, officers, and employees.

27 The proposed reduction, elimination, and/or reorganization of the Department  
28 shall have a goal of resulting in a decrease of at least fifty percent (50%) in the number of  
29 employee positions currently assigned to the Department and its divisions for the purpose  
30 of providing assistance to, management of, or education programs in the residential  
31 schools, and a redirection to the instructional programs in the residential schools by  
32 January 1, 1999, of at least fifty percent (50%) in the Department's budget that currently  
33 is maintained by the Department to administer the residential schools and their programs.  
34 The proposed reduction, elimination, and/or reorganization of the residential schools shall  
35 have a goal of resulting in a decrease of at least fifty percent (50%) in the number of  
36 employee positions currently filled by administrators or supervisors.

37 The Secretary shall report to the Legislative Commission on Public Schools  
38 and to the cochairs of the Appropriation Subcommittee on Health and Human Services of  
39 the Senate and the House of Representatives by December 15, 1998, on the reduction,  
40 elimination, and/or reorganization plan it develops.

41 Section 3. The Secretary of Health and Human Services shall consult with the  
42 State Board of Education in its implementation of this act as it pertains to improving the  
43 educational programs at the residential schools. The Secretary also shall fully inform and

1 consult with the chairs of the Appropriation Subcommittees on Education and Health and  
2 Human Services of the Senate and the House of Representatives on a regular basis as the  
3 Secretary carries out his duties under this act.

4 Section 4. There is appropriated to the Department of Health and Human  
5 Services from the General Fund the sum of three hundred thousand dollars (\$300,000) for  
6 the 1998-99 fiscal year to contract for outside consultants and assistance to assist the  
7 Secretary in carrying out his duties under this act. The Office of State Budget and  
8 Management, the State Auditor, and other appropriate State agencies also shall provide  
9 consultation as requested by the Secretary as needed to develop the plans set out in this  
10 act.

11 Section 5. Article 3 of Chapter 143B of the General Statutes is amended by  
12 adding the following new Part to read:

13 **“PART 3A. EDUCATION PROGRAMS IN RESIDENTIAL SCHOOLS.**

14 **“§ 143B-146.1. Mission of schools; definitions.**

15 (a) It is the intent of the General Assembly that the mission of the residential  
16 school community is to challenge with high expectations each child to learn, to achieve,  
17 and to fulfill his or her potential.

18 (b) The following definitions apply in this Part:

19 (1) ABC's Program or Program. – The School-Based Management and  
20 Accountability developed by the State Board.

21 (2) Department. – The Department of Health and Human Services.

22 (3) Instructional personnel. – Principals, assistant principals, teachers,  
23 instructional personnel, instructional support personnel, and teacher  
24 assistants employed in a residential school.

25 (4) Participating school. – A residential school that is required to participate  
26 in the ABC's Program.

27 (5) Residential school personnel. – The individuals included in G.S. 143B-  
28 146.13(a)(2).

29 (6) Schools. – The residential schools under the control of the Secretary.

30 (7) Secretary. – The Secretary of Health and Human Services.

31 (8) State Board. – The State Board of Education.

32 (9) Superintendent. – The individual designated by the Secretary to  
33 administer a residential school.

34 **“§ 143B-146.2. ABC's program in residential schools.**

35 (a) The Governor Morehead School and the three schools for the deaf shall  
36 participate in the ABC's Program. The Secretary, in consultation with the General  
37 Assembly and the State Board, may designate other residential schools that must  
38 participate in the ABC's Program. The primary goal of the ABC's Program is to improve  
39 student performance. The Program is based upon an accountability, recognition,  
40 assistance, and intervention process in order to hold each participating school, its  
41 superintendent, and the instructional personnel accountable for improved student  
42 performance in that school.

1       (b) In order to support the participating schools in the implementation of this  
2 Program, the State Board, in consultation with the Secretary, shall adopt guidelines,  
3 including guidelines to:

4           (1) Assist the Secretary and the participating schools in the development  
5 and implementation of the ABC's Program.

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

7           (3) Identify participating schools that are low-performing and assign  
8 assistance teams to those schools. The assistance teams should include  
9 individuals with expertise in residential schools, individuals with  
10 experience in the education of children with disabilities, and others the  
11 State Board, in consultation with the Secretary, considers appropriate.

12           (4) Enable assistance teams to make appropriate recommendations.

13       (c) The ABC's Program shall provide increased decision making and parental  
14 involvement at the school level with the goal of improving student performance.

15       (d) Consistent with improving student performance, the Secretary shall provide  
16 maximum flexibility to participating schools in the use of funds to enable those schools to  
17 accomplish their goals.

18 **"§ 143B-146.3. Annual performance goals.**

19       The ABC's Program shall (i) focus on student performance in the basics of reading,  
20 mathematics, and communications skills in elementary and middle schools, (ii) focus on  
21 student performance in courses required for graduation and on other measures required  
22 by the State Board in the high schools, and (iii) hold participating schools accountable for  
23 the educational growth of their students. To those ends, the State Board shall design and  
24 implement an accountability system that sets annual performance standards for each  
25 participating school in order to measure the growth in performance of the students in each  
26 individual school.

27 **"§ 143B-146.4. Performance recognition.**

28       (a) The superintendent and instructional personnel assigned to participating  
29 schools that achieve or exceed a level of expected growth to be determined by the State  
30 Board are eligible for financial awards in amounts set by the State Board. Participating  
31 schools and personnel shall not be required to apply for these awards.

32       (b) The State Board shall establish a procedure to allocate the funds for these  
33 awards. Funds shall become available for expenditure July 1 of each fiscal year. Funds  
34 shall remain available until November 30 of the subsequent fiscal year for expenditure  
35 for:

36           (1) Awards to the personnel; or

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

38           a. Developed and voted on by the superintendent and instructional  
39 personnel in the same manner that a school improvement plan is  
40 approved under G.S. 143B-146.9.

41           b. Approved by a majority of the personnel who vote on the plan;  
42 and

43           c. Submitted to and approved by the Secretary.

1       The Secretary shall approve this plan unless the plan involves expenditures of funds  
2 that are not for a public purpose or that are otherwise unlawful.

3 **"§ 143B-146.5. Identification of low-performing schools.**

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

8       (b) Each identified low-performing school shall provide written notification to the  
9 parents of students attending that school. The written notification shall include a  
10 statement that the State Board of Education has found that the school has 'failed to meet  
11 the minimum growth standards, as defined by the State Board, and a majority of students  
12 in the school are performing below grade level.' This notification also shall include a  
13 description of the steps the school is taking to improve student performance.

14 **"§ 143B-146.6. Assistance teams; review by State Board.**

15       (a) The State Board may assign an assistance team to any school identified as low-  
16 performing under this Part or to any other school that the State Board determines would  
17 benefit from an assistance team. The State Board shall give priority to low-performing  
18 schools in which the educational performance of the students is declining. The  
19 Department shall, with the approval of the Secretary, provide staff as needed and  
20 requested by an assistance team.

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

- 23           (1) Review and investigate all facets of school operations, including  
24 instructional and residential, and assist in developing recommendations  
25 for improving student performance at that school.
- 26           (2) Evaluate at least semiannually the superintendent and instructional  
27 personnel assigned to the school and make findings and  
28 recommendations concerning their performance.
- 29           (3) Collaborate with school staff, the Department, and the Secretary in the  
30 design, implementation, and monitoring of a plan that, if fully  
31 implemented, can reasonably be expected to alleviate problems and  
32 improve student performance at that school.
- 33           (4) Make recommendations as the school develops and implements this  
34 plan.
- 35           (5) Review the school's progress.
- 36           (6) Report, as appropriate, to the Secretary and to the parents on the  
37 school's progress. If an assistance team determines that an accepted  
38 school improvement plan developed under G.S. 143B-146.9 is impeding  
39 student performance at a school, the team may recommend to the  
40 Secretary that he vacate the relevant portions of that plan and direct the  
41 school to revise those portions.

1 (c) If a participating school fails to improve student performance after assistance is  
2 provided under this section, the assistance team may recommend that the assistance  
3 continue or that the Secretary take further action under G.S. 143B-146.7.

4 (d) The Secretary, in consultation with the State Board, shall annually review the  
5 progress made in identified low-performing schools.

6 **"§ 143B-146.7. Consequences for personnel at low-performing schools.**

7 (a) Upon the identification of a participating school as low-performing under this  
8 Part, the Secretary shall proceed under the State Personnel Act for the dismissal of the  
9 superintendent assigned to that school unless the Secretary finds that the superintendent  
10 has established that the factors that led to the identification of the school as low-  
11 performing were not due to the inadequate performance of the superintendent.

12 (b) At any time after a participating school is identified as low-performing under  
13 this Part, the Secretary shall proceed under G.S. 115C-325(p1) for the dismissal of  
14 certificated instructional personnel assigned to that school.

15 (c) At any time after a participating school is identified as low-performing under  
16 this Part, the Secretary shall proceed under the State Personnel Act for the dismissal of  
17 instructional personnel who are not certificated when the Secretary receives two  
18 consecutive evaluations that include written findings and recommendations regarding that  
19 person's inadequate performance from the assistance team. These findings and  
20 recommendations shall be substantial evidence of the inadequate performance of the  
21 instructional personnel. The Secretary may proceed under the State Personnel Act for the  
22 dismissal of instructional personnel who are not certificated when: (i) the Secretary  
23 determines that the school has failed to make satisfactory improvement after the State  
24 Board assigned an assistance team to that school; and (ii) that the assistance team makes  
25 the recommendation to dismiss that person for a reason that constitutes just cause for  
26 dismissal under the State Personnel Act.

27 (d) The certificated instructional personnel working in a participating school at the  
28 time the school is identified as low-performing are subject to G.S. 115C-105.38A.

29 (e) The Secretary may terminate the contract of a school administrator dismissed  
30 under this subsection. Nothing in this section shall prevent the Secretary from refusing to  
31 renew the contract of any person employed in a school identified as low-performing  
32 under this Part.

33 **"§ 143B-146.8. School calendar.**

34 Each school shall adopt a school calendar that includes a minimum of 180 days and  
35 1,000 hours of instruction covering at least nine calendar months. In the development of  
36 its school calendar, each school shall consult with parents, the residential school  
37 personnel, and the local school administrative unit in which that school is located.

38 **"§ 143B-146.9. Development and approval of school improvement plans.**

39 (a) In order to improve student performance, each participating school shall  
40 develop a school improvement plan that takes into consideration the annual performance  
41 goal for that school that is set by the State Board under G.S. 143B-146.3. The  
42 superintendent, instructional personnel, and residential life personnel assigned to that  
43 school, and a minimum of five parents of children enrolled in the school shall constitute a

1 school improvement team to develop a school improvement plan to improve student  
2 performance.

3 (b) Parents shall be elected by parents of children enrolled in the school in an  
4 election conducted by the parent and teacher organization of the school or, if none exists,  
5 by the largest organization of parents formed for this purpose. To the extent possible,  
6 parents serving on school improvement teams shall reflect the composition of the  
7 students enrolled in that school. No more than two parents may be employees of the  
8 school. Parental involvement is a critical component of school success and positive  
9 student achievement; therefore, it is the intent of the General Assembly that parents,  
10 along with teachers, have a substantial role in developing school improvement plans. To  
11 this end, school improvement team meetings shall be held at a convenient time to assure  
12 substantial parent participation. Parents who are elected to serve on school improvement  
13 teams and who are not employees of the school shall receive travel and subsistence  
14 expenses in accordance with G.S. 138-5 and, if appropriate, may receive a stipend.

15 (c) The strategies for improving student performance shall include the following:

16 (1) A plan for the use of funds that may be made available to the school by  
17 the Secretary to meet the goals for that school under the ABC's Program  
18 and to implement the school improvement plan.

19 (2) A comprehensive plan to encourage parent involvement.

20 (3) A safe school plan designed to provide that the school is safe, secure,  
21 and orderly, that there is a climate of respect in the school, and that  
22 appropriate personal conduct is a priority for all students and all  
23 residential school personnel. This plan shall include components similar  
24 to those listed in G.S. 115C-105.45(d).

25 (d) Support among affected staff members is essential to successful  
26 implementation of a school improvement plan to address improved student performance  
27 at that school. The superintendent of the school shall present the proposed school  
28 improvement plan to all of the instructional personnel assigned to the school for their  
29 review and vote. The vote shall be by secret ballot. The superintendent shall submit the  
30 school improvement plan to the Secretary only if the proposed school improvement plan  
31 has the approval of a majority of the instructional personnel who voted on the plan.

32 (e) The Secretary shall accept or reject the school improvement plan. The  
33 Secretary shall not make any substantive changes in any school improvement plan that  
34 the Secretary accepts. If the Secretary rejects a school improvement plan, the Secretary  
35 shall state with specificity the reasons for rejecting the plan; the school improvement  
36 team may then prepare another plan, present it to the instructional personnel assigned to  
37 the school for a vote, and submit it to the Secretary to accept or reject. Within 60 days  
38 after the initial submission of the school improvement plan to the Secretary, the Secretary  
39 shall accept the plan or shall designate a person to work with the school improvement  
40 team to resolve the disagreements. If there is no resolution within 30 days, then the  
41 Secretary may develop a school improvement plan for the school; however, the General  
42 Assembly urges the Secretary to utilize the school's proposed school improvement plan to  
43 the maximum extent possible when developing this plan.

1 (f) A school improvement plan shall remain in effect for no more than three years;  
2 however, the school improvement team may amend the plan as often as is necessary or  
3 appropriate. If, at any time, any part of a school improvement plan becomes unlawful or  
4 the Secretary finds that a school improvement plan is impeding student performance at a  
5 school, the Secretary may vacate the relevant portion of the plan and may direct the  
6 school to revise that portion. The procedures set out in this section shall apply to  
7 amendments and revisions to school improvement plans.

8 (g) Any funds the Secretary makes available to a school to meet the goals for that  
9 school under the ABC's Program and to implement the school improvement plan at that  
10 school shall be used in accordance with those goals and the school improvement plan.

11 (h) The Secretary, in consultation with the State Board, shall develop a list of  
12 recommended strategies that it determines to be effective, which building-level  
13 committees may use to establish parent involvement programs designed to meet the  
14 specific needs of their schools.

15 (i) Once developed, the Secretary shall ensure the plan is available and accessible  
16 to parents and the school community.

17 **"§ 143B-146.10. School technology plan.**

18 (a) No later than December 15, 1998, the Secretary shall develop a school  
19 technology plan for the residential schools that meets the requirements of the State school  
20 technology plan. In developing a school technology plan, the Secretary is encouraged to  
21 coordinate its planning with other agencies of State and local government, including local  
22 school administrative units.

23 The Information Resources Management Commission shall assist the Secretary in  
24 developing the parts of the plan related to its technological aspects, to the extent that  
25 resources are available to do so. The Department of Public Instruction shall assist the  
26 Secretary in developing the instructional and technological aspects of the plan.

27 The Secretary shall submit the plan that is developed to the Information Resources  
28 Management Commission for its evaluation of the parts of the plan related to its  
29 technological aspects and to the Department of Public Instruction for its evaluation of the  
30 instructional aspects of the plan. The State Board of Education, after consideration of the  
31 evaluations of the Information Resources Management Commission and the Department  
32 of Public Instruction, shall approve all plans that comply with the requirements of the  
33 State school technology plan.

34 (b) After a plan is approved by the State Board of Education, all funds spent for  
35 technology in the residential schools shall be used to implement the school technology  
36 plan.

37 **"§ 143B-146.11. Dispute resolution; appeals to Secretary.**

38 The Secretary shall establish a procedure for the resolution of disputes between the  
39 residential schools and the parents or guardians of students who attend the schools.

40 An appeal shall lie from the decision of all residential school personnel to the  
41 Secretary or the Secretary's designee. In all of these appeals it is the duty of the Secretary  
42 to see that a proper notice is given to all parties concerned and that a record of the hearing  
43 is properly entered in the records.



1 **"§ 143B-146.12. Duty to report certain acts to law enforcement.**

2 When the superintendent has personal knowledge or actual notice from residential  
3 school personnel that an act has occurred on school property involving assault resulting  
4 in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent  
5 liberties with a minor, assault involving the use of a weapon, possession of a firearm in  
6 violation of the law, possession of a weapon in violation of the law, or possession of a  
7 controlled substance in violation of the law, the superintendent shall immediately report  
8 the act to the appropriate local law enforcement agency. Failure to report under this  
9 section is a Class 3 misdemeanor. For purposes of this section, 'school property' shall  
10 include any building, bus, campus, grounds, recreational area, or athletic field, in the  
11 charge of the superintendent. It is the intent of the General Assembly that the  
12 superintendent notify the Secretary or the Secretary's designee of any report made to law  
13 enforcement under this section.

14 **"§ 143B-146.13. Residential school personnel criminal history checks.**

15 (a) As used in this section:

16 (1) 'Criminal history' means a county, state, or federal criminal history of  
17 conviction of a crime, whether a misdemeanor or a felony, that indicates  
18 the employee (i) poses a threat to the physical safety of students or  
19 personnel, or (ii) has demonstrated that he or she does not have the  
20 integrity or honesty to fulfill his or her duties as school personnel. Such  
21 crimes include the following North Carolina crimes contained in any of  
22 the following Articles of Chapter 14 of the General Statutes: Article  
23 5A, Endangering Executive and Legislative Officers; Article 6,  
24 Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults;  
25 Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or  
26 Damage by Use of Explosive or Incendiary Device or Material; Article  
27 14, Burglary and Other Housebreakings; Article 15, Arson and Other  
28 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,  
29 Embezzlement; Article 19, False Pretense and Cheats; Article 19A,  
30 Obtaining Property or Services by False or Fraudulent Use of Credit  
31 Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article  
32 26, Offenses Against Public Morality and Decency; Article 26A, Adult  
33 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,  
34 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses  
35 Against the Public Peace; Article 36A, Riots and Civil Disorders;  
36 Article 39, Protection of Minors; and Article 60, Computer-Related  
37 Crime. Such crimes also include possession or sale of drugs in violation  
38 of the North Carolina Controlled Substances Act, Article 5 of Chapter  
39 90 of the General Statutes, and alcohol-related offenses such as sale to  
40 underage persons in violation of G.S. 18B-302 or driving while  
41 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In  
42 addition to the North Carolina crimes listed in this subdivision, such

1 crimes also include similar crimes under federal law or under the laws  
2 of other states.

3 (2) 'Residential school personnel' means any:

4 a. Employee of a residential school whether full time or part time,  
5 or

6 b. Independent contractor or employee of an independent contractor  
7 of a residential school, if the independent contractor carries out  
8 duties customarily performed by residential school personnel,  
9 whether paid with federal, State, local, or other funds, who has  
10 significant access to students in a residential school. Residential school  
11 personnel includes substitute teachers, driver training teachers, bus  
12 drivers, clerical staff, houseparents, and custodians.

13 (b) The Secretary shall require an applicant for a residential school personnel  
14 position to be checked for a criminal history before the applicant is offered an  
15 unconditional job. A residential school may employ an applicant conditionally while the  
16 Secretary is checking the person's criminal history and making a decision based on the  
17 results of the check.

18 The Secretary shall not require an applicant to pay for the criminal history check  
19 authorized under this subsection.

20 (c) The Department of Justice shall provide to the Secretary the criminal history  
21 from the State and National Repositories of Criminal Histories of any applicant for a  
22 residential school personnel position in a residential school. The Secretary shall require  
23 the person to be checked by the Department of Justice to (i) be fingerprinted and to  
24 provide any additional information required by the Department of Justice to a person  
25 designated by the Secretary, or to the local sheriff or the municipal police, whichever is  
26 more convenient for the person, and (ii) sign a form consenting to the check of the  
27 criminal record and to the use of fingerprints and other identifying information required  
28 by the repositories. The Secretary shall consider refusal to consent when making  
29 employment decisions and decisions with regard to independent contractors.

30 The Secretary shall not require an applicant to pay for being fingerprinted.

31 (d) The Secretary shall review the criminal history it receives on a person. The  
32 Secretary shall determine whether the results of the review indicate that the employee (i)  
33 poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that  
34 he or she does not have the integrity or honesty to fulfill his or her duties as residential  
35 school personnel and shall use the information when making employment decisions and  
36 decisions with regard to independent contractors. The Secretary shall make written  
37 findings with regard to how it used the information when making employment decisions  
38 and decisions with regard to independent contractors.

39 (e) The Secretary shall provide to the State Board of Education the criminal  
40 history received on a person who is certificated, certified, or licensed by the State Board.  
41 The State Board shall review the criminal history and determine whether the person's  
42 certificate or license should be revoked in accordance with State laws and rules regarding  
43 revocation.

1       (f) All the information received by the Secretary through the checking of the  
2 criminal history or by the State Board in accordance with subsection (d) of this section is  
3 privileged information and is not a public record but is for the exclusive use of the  
4 Secretary or the State Board of Education. The Secretary or the State Board of Education  
5 may destroy the information after it is used for the purposes authorized by this section  
6 after one calendar year.

7       (g) There shall be no liability for negligence on the part of the Secretary, the  
8 Department of Health and Human Services or its employees, a residential school or its  
9 employees, or the State Board of Education or its employees, arising from any act taken  
10 or omission by any of them in carrying out the provisions of this section. The immunity  
11 established by this subsection shall not extend to gross negligence, wanton conduct, or  
12 intentional wrongdoing that would otherwise be actionable. The immunity established by  
13 this subsection shall be deemed to have been waived to the extent of indemnification by  
14 insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General  
15 Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as  
16 set forth in Article 31 of Chapter 143 of the General Statutes."

17       Section 6. G.S. 115C-325 is amended by adding the following new subsection  
18 to read:

19       "(p1) Procedure for Dismissal of School Administrators and Teachers Employed in  
20 Low-Performing Residential Schools. –

21       (1) Notwithstanding any other provision of this section or any other law,  
22 this subdivision shall govern the dismissal by the Secretary of Health  
23 and Human Services of teachers, principals, assistant principals,  
24 directors, supervisors, and other certificated personnel assigned to a  
25 residential school that the State Board has identified as low-performing  
26 and to which the State Board has assigned an assistance team under Part  
27 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary  
28 shall dismiss a teacher, principal, assistant principal, director,  
29 supervisor, or other certificated personnel when the Secretary receives  
30 two consecutive evaluations that include written findings and  
31 recommendations regarding that person's inadequate performance from  
32 the assistance team. These findings and recommendations shall be  
33 substantial evidence of the inadequate performance of the teacher or  
34 school administrator.

35       The Secretary may dismiss a teacher, principal, assistant principal,  
36 director, supervisor, or other certificated personnel when:

37       a. The Secretary determines that the school has failed to make  
38 satisfactory improvement after the State Board assigned an  
39 assistance team to that school under Part 3A of Article 3 of  
40 Chapter 143B of the General Statutes; and

41       b. That assistance team makes the recommendation to dismiss the  
42 teacher, principal, assistant principal, director, supervisor, or  
43 other certificated personnel for one or more grounds established

1                   in G.S. 115C-325(e)(1) for dismissal or demotion of a career  
2                   employee.

3                   Within 30 days of any dismissal under this subdivision, a teacher,  
4                   principal, assistant principal, director, supervisor, or other certificated  
5                   personnel may request a hearing before a panel of three members  
6                   designated by the Secretary. The Secretary shall adopt procedures to  
7                   ensure that due process rights are afforded to persons recommended for  
8                   dismissal under this subdivision. Decisions of the panel may be  
9                   appealed on the record to the Secretary, with further right of judicial  
10                   review under Chapter 150B of the General Statutes.

11                   (2) Notwithstanding any other provision of this section or any other law,  
12                   this subdivision shall govern the dismissal by the Secretary of Health  
13                   and Human Services of certificated staff members who have engaged in  
14                   a remediation plan under G.S. 115C-105.38A(a) but who, after two  
15                   retests, fail to meet the general knowledge standard set by the State  
16                   Board. The failure to meet the general knowledge standard after two  
17                   retests shall be substantial evidence of the inadequate performance of  
18                   the certified staff member.

19                   Within 30 days of any dismissal under this subdivision, a certificated  
20                   staff member may request a hearing before a panel of three members  
21                   designated by the Secretary of Health and Human Services. The  
22                   Secretary shall adopt procedures to ensure that due process rights are  
23                   afforded to certificated staff members recommended for dismissal under  
24                   this subdivision. Decisions of the panel may be appealed on the record  
25                   to the Secretary, with further right of judicial review under Chapter  
26                   150B of the General Statutes.

27                   (3) The Secretary of Health and Human Services or the superintendent of a  
28                   residential school may terminate the contract of a school administrator  
29                   dismissed under this subsection. Nothing in this subsection shall prevent  
30                   the Secretary from refusing to renew the contract of any person  
31                   employed in a school identified as low-performing under Part 3A of  
32                   Article 3 of Chapter 143B of the General Statutes.

33                   (4) Neither party to a school administrator contract is entitled to damages  
34                   under this subsection.

35                   (5) The Secretary of Health and Human Services shall have the right to  
36                   subpoena witnesses and documents on behalf of any party to the  
37                   proceedings under this subsection."

38                   Section 7. G.S. 115C-102.7(b) reads as rewritten:

39                   "(b) The Commission shall consist of the following ~~18~~19 members:

40                   (1) The State Superintendent of Public Instruction or a designee;

41                   (2) One representative of The University of North Carolina, appointed by  
42                   the President of The University of North Carolina;

- 1 (3) One representative of the North Carolina Community College System,  
2 appointed by the President of the North Carolina Community College  
3 System;
- 4 (4) A person with management responsibility concerning information  
5 technology related State Government functions, designated by the  
6 Secretary of Commerce;
- 7 (5) Four members appointed by the Governor;
- 8 (6) Six members appointed by the President Pro Tempore of the Senate two  
9 of whom shall be members of the Senate. One of these six members  
10 shall be appointed by the President of the Senate to serve as cochair; and
- 11 (7) Six members appointed by the Speaker of the House of Representatives  
12 two of whom shall be members of the House of Representatives. One of  
13 these six members shall be appointed by the Speaker of the House of  
14 Representatives to serve as cochair.
- 15 (8) The Secretary of Health and Human Services or a designee.

16 In appointing members pursuant to subdivisions (5), (6), and (7) of this subsection, the  
17 appointing persons shall select individuals with technical or applied knowledge or  
18 experience in learning and instructional management technologies or individuals with  
19 expertise in curriculum or instruction who have successfully used learning and  
20 instructional management technologies.

21 No producers, vendors, or consultants to producers or vendors of learning or  
22 instructional management technologies shall serve on the Commission.

23 Members shall serve for two-year terms. Vacancies in terms of members shall be  
24 filled by the appointing officer. Persons appointed to fill vacancies shall qualify in the  
25 same manner as persons appointed for full terms."

26 Section 8. G.S. 115C-105.31 reads as rewritten:

27 **"§ 115C-105.31. Creation of the Task Force on School-Based Management.**

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

30 The Task Force shall be composed of ~~20~~21 members appointed as follows:

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

- 1 (6) One member of a local board of education appointed by the Speaker of  
2 the House of Representatives after receiving recommendations from  
3 The North Carolina State School Boards Association, Inc.;
- 4 (7) One local school superintendent appointed by the President Pro  
5 Tempore of the Senate after receiving recommendations from the North  
6 Carolina Association of School Administrators;
- 7 (8) One local school superintendent appointed by the Speaker of the House  
8 of Representatives after receiving recommendations from the North  
9 Carolina Association of School Administrators;
- 10 (9) One school principal appointed by the President Pro Tempore of the  
11 Senate after receiving recommendations from the Tar Heel Association  
12 of Principals/Assistant Principals and the Division of Administrators of  
13 the North Carolina Association of Educators;
- 14 (10) One school principal appointed by the Speaker of the House of  
15 Representatives after receiving recommendations from the Tar Heel  
16 Association of Principals/Assistant Principals and the Division of  
17 Administrators of the North Carolina Association of Educators;
- 18 (11) One school teacher appointed by the President Pro Tempore of the  
19 Senate after receiving recommendations from the North Carolina  
20 Association of Educators, Inc., the North Carolina Federation of  
21 Teachers, and the Professional Educators of North Carolina, Inc.;
- 22 (12) One school teacher appointed by the Speaker of the House of  
23 Representatives after receiving recommendations from the North  
24 Carolina Association of Educators, Inc., the North Carolina Federation  
25 of Teachers, and the Professional Educators of North Carolina, Inc.;
- 26 (13) One representative of business and industry appointed by the Governor;
- 27 (14) One representative of institutions of higher education appointed by the  
28 Board of Governors of The University of North Carolina; and
- 29 (15) One county commissioner appointed by the State Board of Education  
30 after receiving recommendations from the North Carolina Association  
31 of County Commissioners.
- 32 (16) The Secretary of Health and Human Services or the Secretary's  
33 designee.

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

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

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

41 (b) The Task Force shall:

- 42 (1) Advise the State Board of Education and Secretary of Health and  
43 Human Services on the development of guidelines for local boards of

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

3 (2) Advise the State Board of Education and the Secretary of Health and  
4 Human Services on how to assist the public schools and residential  
5 schools so as to facilitate the implementation of school-based  
6 management;

7 (3) Advise the State Board of Education and Secretary of Health and  
8 Human Services about publications to be produced by the Department  
9 of Public Instruction on the development and implementation of school  
10 improvement plans;

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

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

18 (d) The State Board of Education shall appoint a Director of the Task Force on  
19 School-Based Management."

20 Section 9. (a) The Secretary of Health and Human Services shall adopt  
21 policies and offer training opportunities to ensure that all personnel in the three State  
22 schools for the deaf become proficient in sign language within two years of their initial  
23 date of employment or within two years of the effective date of this act, whichever occurs  
24 later.

25 (b) The Department of Public Instruction, the Board of Governors of The  
26 University of North Carolina, and the State Board of Community Colleges shall offer and  
27 communicate the availability of professional development opportunities, including those  
28 to improve sign language skills, to the personnel assigned to the State's residential  
29 schools, particularly the Governor Morehead School and the three schools for the deaf.

30 (c) The Board of Governors of The University of North Carolina and the State  
31 Board of Community Colleges shall study methods to assure that faculty members  
32 teaching American Sign Language are highly qualified and competent. The Board of  
33 Governors and the State Board of Community Colleges shall report their findings and  
34 recommendations prior to March 1, 1999, to the Appropriations Subcommittees on  
35 Education and on Health and Human Services of the House of Representatives and  
36 Senate.

37 Section 10. The Board of Governors of The University of North Carolina shall  
38 assess the accessibility of the programs of the constituent institutions for deaf and blind  
39 students. The Board of Governors shall report to the General Assembly by December 1,  
40 1998, on this assessment.

41 Section 11. The Secretary of Health and Human Services shall contract for the  
42 design of a longitudinal study of deaf and hard-of-hearing children to assess  
43 communication methods used and student performance.

1 Section 12. The State Board of Education, in consultation with the Secretary  
2 of Health and Human Services, shall evaluate the certification requirements for teachers  
3 at the State schools for the deaf and the Governor Morehead School in light of the  
4 specific educational needs of those schools. In particular, the State Board shall determine  
5 whether these teachers should hold (i) certificates to authorize them to teach students  
6 with specific disabilities, (ii) certificates authorizing them to teach a specific grade level  
7 or subject matter, or (iii) dual certificates, particularly at the high school level. The State  
8 Board shall revise any policies, rules, or regulations if considered appropriate, and shall  
9 report to the Legislative Commission on Public Schools by December 15, 1998, on the  
10 results of its evaluation under this section and any changes it proposes.

11 Section 13. The State Auditor shall conduct a fiscal audit of the Division of  
12 Services for the Deaf and Hard of Hearing, Department of Health and Human Services,  
13 and the use of current operations funds appropriated to that Division beginning with the  
14 1996-97 fiscal year and the use of capital funds appropriated to that Division beginning  
15 with the 1995-96 fiscal year. The Auditor shall report to the General Assembly by March  
16 1, 1999, on the results of this audit.

17 Section 14. The Governor Morehead School and the three schools for the deaf  
18 shall each prioritize its capital needs in a three-year plan. These schools shall give first  
19 priority to bringing their facilities up to code and to supporting instructional programs so  
20 as to improve student academic performance. The schools shall submit their three-year  
21 plans to the Secretary. The Secretary shall prioritize the needs of these four schools and  
22 shall submit to the General Assembly a three-year plan to address those needs.

23 Section 15. The Secretary of Health and Human Services shall adopt policies  
24 to ensure that students of the residential schools are given priority to residing in the  
25 independent living facilities on each school's campus.

26 Section 16. There is appropriated from the General Fund to the Department of  
27 Health and Human Services the sum of one million two hundred thousand dollars  
28 (\$1,200,000) for the 1998-99 fiscal year to provide funds for statewide teacher  
29 supplements for the teachers in the residential schools based on five percent (5%) of their  
30 State salaries in order to recognize the teachers' levels of education and years of  
31 experience.

32 Section 17. There is appropriated from the General Fund to the State Board of  
33 Education the sum of nine hundred thousand dollars (\$900,000) for the 1998-99 fiscal  
34 year to provide funds for two assistance teams to be assigned to the Governor Morehead  
35 School and to the three schools for the deaf.

36 Section 18. There is appropriated from the General Fund to the Department of  
37 Health and Human Services the sum of one million two hundred fifty thousand dollars  
38 (\$1,250,000) for the 1998-99 fiscal year to provide funds to provide computers and  
39 related technology in each of the three State schools for the deaf and in the Governor  
40 Morehead School. The intent of the General Assembly is that these funds be used first to  
41 provide an up-to-date computer laboratory at each of these schools or to begin the  
42 implementation of the school technology plan developed under G.S. 143B-146.10 created  
43 in Section 5 of this act.



1           Section 19. This act becomes effective July 1, 1998. Part 3A of Article 3 of  
2 Chapter 143B of the General Statutes, as established in Section 5 of this act, applies to  
3 kindergarten through eighth grade in the three schools for the deaf and in the Governor  
4 Morehead School beginning with the 1999-2000 school year. The Secretary of Health  
5 and Human Services, in consultation with the General Assembly and the State Board of  
6 Education, shall recommend beginning dates of applicability for the remaining grades in  
7 those four schools and for the other residential schools, particularly those operated by the  
8 Division of Youth Services. School improvement plans required under Section 5 of this  
9 act shall be developed during the 1998-99 school year and shall be implemented by the  
10 beginning of the 1999-2000 school year.