

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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HOUSE BILL 1477\*  
Committee Substitute Favorable 7/1/98  
Committee Substitute #2 Favorable 7/23/98

Short Title: ABC's Plan for DHHS Schools.

(Public)

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Sponsors:

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Referred to:

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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

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

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

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

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

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

1 Section 3. The Secretary of Health and Human Services shall consult with the  
2 State Board of Education in its implementation of this act as it pertains to improving the  
3 educational programs at the residential schools. The Secretary also shall fully inform and  
4 consult with the chairs of the Appropriation Subcommittees on Education and Health and  
5 Human Services of the Senate and the House of Representatives on a regular basis as the  
6 Secretary carries out his duties under this act.

7 Section 4. If funds are appropriated to the Department of Health and Human  
8 Services in the Current Operations Appropriations and Capital Improvement  
9 Appropriations Act of 1998 to implement this act, then of these funds the sum of three  
10 hundred thousand dollars (\$300,000) for the 1998-99 fiscal year shall be used to contract  
11 for outside consultants and assistance to assist the Secretary in carrying out his duties  
12 under this act. The Office of State Budget and Management, the State Auditor, and other  
13 appropriate State agencies also shall provide consultation as requested by the Secretary as  
14 needed to develop the plans set out in this act.

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

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

18 **“§ 143B-146.1. Mission of schools; definitions.**

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

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

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

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

26 (3) Instructional personnel. – Principals, assistant principals, teachers,  
27 instructional personnel, instructional support personnel, and teacher  
28 assistants employed in a residential school.

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

31 (5) Residential school personnel. – The individuals included in G.S. 143B-  
32 146.16(a)(2).

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

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

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

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

38 **“§ 143B-146.2. ABC's Program in residential schools.**

39 (a) The Governor Morehead School and the three schools for the deaf shall  
40 participate in the ABC's Program. The Secretary, in consultation with the General  
41 Assembly and the State Board, may designate other residential schools that must  
42 participate in the ABC's Program. The primary goal of the ABC's Program is to improve  
43 student performance. The Program is based upon an accountability, recognition,

1 assistance, and intervention process in order to hold each participating school, its  
2 superintendent, and the instructional personnel accountable for improved student  
3 performance in that school.

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

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

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

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

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

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

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

21 **"§ 143B-146.3. Annual performance goals.**

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

30 **"§ 143B-146.4. Performance recognition.**

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

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

39 (1) Awards to the personnel; or

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

41 a. Developed and voted on by the superintendent and instructional  
42 personnel in the same manner that a school improvement plan is  
43 approved under G.S. 143B-146.12;

- 1           b. Approved by a majority of the personnel who vote on the plan;  
2           and  
3           c. Submitted to and approved by the Secretary.

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

6 **"§ 143B-146.5. Identification of low-performing schools.**

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

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

17 **"§ 143B-146.6. Assistance teams; review by State Board.**

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

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

- 26           (1) Review and investigate all facets of school operations, including  
27 instructional and residential, and assist in developing recommendations  
28 for improving student performance at that school.  
29           (2) Evaluate at least semiannually the superintendent and instructional  
30 personnel assigned to the school and make findings and  
31 recommendations concerning their performance.  
32           (3) Collaborate with school staff, the Department, and the Secretary in the  
33 design, implementation, and monitoring of a plan that, if fully  
34 implemented, can reasonably be expected to alleviate problems and  
35 improve student performance at that school.  
36           (4) Make recommendations as the school develops and implements this  
37 plan.  
38           (5) Review the school's progress.  
39           (6) Report, as appropriate, to the Secretary, the State Board, and the parents  
40 on the school's progress. If an assistance team determines that an  
41 accepted school improvement plan developed under G.S. 143B-146.12  
42 is impeding student performance at a school, the team may recommend

1 to the Secretary that he vacate the relevant portions of that plan and  
2 direct the school to revise those portions.

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

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

8 **"§ 143B-146.7. Consequences for personnel at low-performing schools.**

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

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

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

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

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

35 **"§ 143B-146.8. Evaluation of certificated personnel and superintendents; action**  
36 **plans; State Board notification.**

37 (a) Annual Evaluations; Low-Performing Schools. – The superintendent shall  
38 evaluate at least once each year all certificated personnel assigned to a participating  
39 school that has been identified as low-performing but has not received an assistance team.  
40 The evaluation shall occur early enough during the school year to provide adequate time  
41 for the development and implementation of an action plan if one is recommended under  
42 subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-  
43 325(a)(6), either the principal or an assessment team assigned under G.S. 143B-146.9

1 shall conduct the evaluation. If the employee is a school administrator as defined under  
2 G.S. 115C-287.1(a)(3), the superintendent shall conduct the evaluation.

3 Notwithstanding this subsection or any other law, the principal shall observe at least  
4 three times annually, a teacher shall observe at least once annually, and the principal shall  
5 evaluate at least once annually, all teachers who have not attained career status. All other  
6 employees defined as teachers under G.S. 115C-325(a)(6) who are assigned to  
7 participating schools that are not designated as low-performing shall be evaluated  
8 annually unless the Secretary adopts rules that allow specified categories of teachers with  
9 career status to be evaluated more or less frequently. The Secretary also may adopt rules  
10 requiring the annual evaluation of noncertificated personnel. This section shall not be  
11 construed to limit the duties and authority of an assistance team assigned to a low-  
12 performing school.

13 The Secretary shall use the State Board's performance standards and criteria unless the  
14 Secretary develops an alternative evaluation that is properly validated and that includes  
15 standards and criteria similar to those adopted by the State Board. All other provisions of  
16 this section shall apply if an evaluation is used other than one adopted by the State Board.

17 (b) Action Plans. – If a certificated employee receives an unsatisfactory or below  
18 standard rating on any function of the evaluation that is related to the employee's  
19 instructional duties, the individual or team that conducted the evaluation shall  
20 recommend to the superintendent that: (i) the employee receive an action plan designed  
21 to improve the employee's performance; or (ii) the superintendent recommend to the  
22 Secretary that the employee be dismissed or demoted. The superintendent shall  
23 determine whether to develop an action plan or to recommend a dismissal proceeding.  
24 The person who evaluated the employee or the employee's supervisor shall develop the  
25 action plan unless an assistance team or assessment team conducted the evaluation. If an  
26 assistance team or assessment team conducted the evaluation, that team shall develop the  
27 action plan in collaboration with the employee's supervisor. Action plans shall be  
28 designed to be completed within 90 instructional days or before the beginning of the next  
29 school year. The State Board, in consultation with the Secretary, shall develop  
30 guidelines that include strategies to assist in evaluating certificated personnel and  
31 developing effective action plans within the time allotted under this section. The  
32 Secretary may adopt policies for the development and implementation of action plans or  
33 professional development plans for personnel who do not require action plans under this  
34 section.

35 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of this  
36 section, the superintendent or the assessment team shall evaluate the employee a second  
37 time. If on the second evaluation the employee receives one unsatisfactory or more than  
38 one below standard rating on any function that is related to the employee's instructional  
39 duties, the superintendent shall recommend that the employee be dismissed or demoted  
40 under G.S. 115C-325. The results of the second evaluation shall constitute substantial  
41 evidence of the employee's inadequate performance.

42 (d) State Board Notification. – If the Secretary dismisses an employee for any  
43 reason except a reduction in force under G.S. 115C-325(e)(1)l., the Secretary shall notify

1 the State Board of the action, and the State Board annually shall provide to all local  
2 boards of education the names of those individuals. If a local board hires one of these  
3 individuals, that local board shall proceed under G.S. 115C-333(d).

4 (e) Civil Immunity. – There shall be no liability for negligence on the part of the  
5 Secretary or the State Board, or their employees, arising from any action taken or  
6 omission by any of them in carrying out this section. The immunity established by this  
7 subsection shall not extend to gross negligence, wanton conduct, or intentional  
8 wrongdoing that would otherwise be actionable. The immunity established by this  
9 subsection is waived to the extent of indemnification by insurance, indemnification under  
10 Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign  
11 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143  
12 of the General Statutes.

13 (f) Evaluation of Superintendents. – Each year the Secretary shall evaluate the  
14 superintendents.

15 **"§ 143B-146.9. Assessment teams.**

16 The State Board shall develop guidelines for the Secretary to use to create assessment  
17 teams. The Secretary shall assign an assessment team to every low-performing school  
18 that has not received an assistance team. The Secretary shall ensure that assessment team  
19 members are trained in the proper administration of the employee evaluation used in the  
20 participating schools. If service on an assessment team is an additional duty for an  
21 employee of a local school administrative unit or an employee of a residential school, the  
22 Secretary may pay the employee for that additional work.

23 Assessment teams shall:

- 24 (1) Conduct evaluations of certificated personnel in low-performing  
25 schools;
- 26 (2) Provide technical assistance and training to principals and  
27 superintendents who conduct evaluations of certificated personnel;
- 28 (3) Develop action plans for certificated personnel; and
- 29 (4) Assist principals and superintendents in the development and  
30 implementation of action plans.

31 **"§ 143B-146.10. Development of performance standards and criteria for certificated**  
32 **personnel.**

33 The State Board, in consultation with the Secretary, shall revise and develop uniform  
34 performance standards and criteria to be used in evaluating certificated personnel,  
35 including school administrators. These standards and criteria shall include improving  
36 student achievement, employee skills, and employee knowledge. The standards and  
37 criteria for school administrators also shall include building-level gains in student  
38 learning and effectiveness in providing for school safety and enforcing student discipline.  
39 The Secretary shall develop guidelines for evaluating superintendents. The guidelines  
40 shall include criteria for evaluating a superintendent's effectiveness in providing safe  
41 schools and enforcing student discipline.

42 **"§ 143B-146.11. School calendar.**



1 Each school shall adopt a school calendar that includes a minimum of 180 days and  
2 1,000 hours of instruction covering at least nine calendar months. In the development of  
3 its school calendar, each school shall consult with parents, the residential school  
4 personnel, and the local school administrative unit in which that school is located.

5 **"§ 143B-146.12. Development and approval of school improvement plans.**

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

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

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

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

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

30 (3) A safe school plan designed to provide that the school is safe, secure,  
31 and orderly, that there is a climate of respect in the school, and that  
32 appropriate personal conduct is a priority for all students and all  
33 residential school personnel. This plan shall include components similar  
34 to those listed in G.S. 115C-105.47(b).

35 (d) Support among affected staff members is essential to successful  
36 implementation of a school improvement plan to address improved student performance  
37 at that school. The superintendent of the school shall present the proposed school  
38 improvement plan to all of the instructional personnel assigned to the school for their  
39 review and vote. The vote shall be by secret ballot. The superintendent shall submit the  
40 school improvement plan to the Secretary only if the proposed school improvement plan  
41 has the approval of a majority of the instructional personnel who voted on the plan.

42 (e) The Secretary shall accept or reject the school improvement plan. The  
43 Secretary shall not make any substantive changes in any school improvement plan that

1 the Secretary accepts. If the Secretary rejects a school improvement plan, the Secretary  
2 shall state with specificity the reasons for rejecting the plan; the school improvement  
3 team may then prepare another plan, present it to the instructional personnel assigned to  
4 the school for a vote, and submit it to the Secretary to accept or reject. Within 60 days  
5 after the initial submission of the school improvement plan to the Secretary, the Secretary  
6 shall accept the plan or shall designate a person to work with the school improvement  
7 team to resolve the disagreements. If there is no resolution within 30 days, then the  
8 Secretary may develop a school improvement plan for the school; however, the General  
9 Assembly urges the Secretary to utilize the school's proposed school improvement plan to  
10 the maximum extent possible when developing this plan.

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

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

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

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

27 **"§ 143B-146.13. School technology plan.**

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

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

37 The Secretary shall submit the plan that is developed to the Information Resources  
38 Management Commission for its evaluation of the parts of the plan related to its  
39 technological aspects and to the Department of Public Instruction for its evaluation of the  
40 instructional aspects of the plan. The State Board of Education, after consideration of the  
41 evaluations of the Information Resources Management Commission and the Department  
42 of Public Instruction, shall approve all plans that comply with the requirements of the  
43 State school technology plan.

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

4 **"§ 143B-146.14. Dispute resolution; appeals to Secretary.**

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

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

11 **"§ 143B-146.15. Duty to report certain acts to law enforcement.**

12 When the superintendent has personal knowledge or actual notice from residential  
13 school personnel or other reliable source that an act has occurred on school property  
14 involving assault resulting in serious personal injury, sexual assault, sexual offense, rape,  
15 kidnapping, indecent liberties with a minor, assault involving the use of a weapon,  
16 possession of a firearm in violation of the law, possession of a weapon in violation of the  
17 law, or possession of a controlled substance in violation of the law, the superintendent  
18 shall immediately report the act to the appropriate local law enforcement agency. Failure  
19 to report under this section is a Class 3 misdemeanor. For purposes of this section,  
20 'school property' shall include any building, bus, campus, grounds, recreational area, or  
21 athletic field, in the charge of the superintendent or while the student is under the  
22 supervision of school personnel. It is the intent of the General Assembly that the  
23 superintendent notify the Secretary or the Secretary's designee of any report made to law  
24 enforcement under this section.

25 **"§ 143B-146.16. Residential school personnel criminal history checks.**

26 (a) As used in this section:

27 (1) 'Criminal history' means a county, state, or federal criminal history of  
28 conviction of a crime, whether a misdemeanor or a felony, that indicates  
29 the employee (i) poses a threat to the physical safety of students or  
30 personnel, or (ii) has demonstrated that he or she does not have the  
31 integrity or honesty to fulfill his or her duties as school personnel. Such  
32 crimes include the following North Carolina crimes contained in any of  
33 the following Articles of Chapter 14 of the General Statutes: Article  
34 5A, Endangering Executive and Legislative Officers; Article 6,  
35 Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults;  
36 Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or  
37 Damage by Use of Explosive or Incendiary Device or Material; Article  
38 14, Burglary and Other Housebreakings; Article 15, Arson and Other  
39 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,  
40 Embezzlement; Article 19, False Pretense and Cheats; Article 19A,  
41 Obtaining Property or Services by False or Fraudulent Use of Credit  
42 Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article  
43 26, Offenses Against Public Morality and Decency; Article 26A, Adult

1 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,  
2 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses  
3 Against the Public Peace; Article 36A, Riots and Civil Disorders;  
4 Article 39, Protection of Minors; and Article 60, Computer-Related  
5 Crime. Such crimes also include possession or sale of drugs in violation  
6 of the North Carolina Controlled Substances Act, Article 5 of Chapter  
7 90 of the General Statutes, and alcohol-related offenses such as sale to  
8 underage persons in violation of G.S. 18B-302 or driving while  
9 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In  
10 addition to the North Carolina crimes listed in this subdivision, such  
11 crimes also include similar crimes under federal law or under the laws  
12 of other states.

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

- 14 a. Employee of a residential school whether full time or part time,  
15 or  
16 b. Independent contractor or employee of an independent contractor  
17 of a residential school, if the independent contractor carries out  
18 duties customarily performed by residential school personnel,  
19 whether paid with federal, State, local, or other funds, who has  
20 significant access to students in a residential school. Residential school  
21 personnel includes substitute teachers, driver training teachers, bus  
22 drivers, clerical staff, houseparents, and custodians.

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

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

30 (c) The Department of Justice shall provide to the Secretary the criminal history  
31 from the State and National Repositories of Criminal Histories of any applicant for a  
32 residential school personnel position in a residential school. The Secretary shall require  
33 the person to be checked by the Department of Justice to (i) be fingerprinted and to  
34 provide any additional information required by the Department of Justice to a person  
35 designated by the Secretary, or to the local sheriff or the municipal police, whichever is  
36 more convenient for the person, and (ii) sign a form consenting to the check of the  
37 criminal record and to the use of fingerprints and other identifying information required  
38 by the repositories. The Secretary shall consider refusal to consent when making  
39 employment decisions and decisions with regard to independent contractors.

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

41 (d) The Secretary shall review the criminal history it receives on a person. The  
42 Secretary shall determine whether the results of the review indicate that the employee (i)  
43 poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that

1 he or she does not have the integrity or honesty to fulfill his or her duties as residential  
2 school personnel and shall use the information when making employment decisions and  
3 decisions with regard to independent contractors. The Secretary shall make written  
4 findings with regard to how it used the information when making employment decisions  
5 and decisions with regard to independent contractors.

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

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

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

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

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

31 (1) Notwithstanding any other provision of this section or any other law,  
32 this subdivision shall govern the dismissal by the Secretary of Health  
33 and Human Services of teachers, principals, assistant principals,  
34 directors, supervisors, and other certificated personnel assigned to a  
35 residential school that the State Board has identified as low-performing  
36 and to which the State Board has assigned an assistance team under Part  
37 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary  
38 shall dismiss a teacher, principal, assistant principal, director,  
39 supervisor, or other certificated personnel when the Secretary receives  
40 two consecutive evaluations that include written findings and  
41 recommendations regarding that person's inadequate performance from  
42 the assistance team. These findings and recommendations shall be

1 substantial evidence of the inadequate performance of the teacher or  
2 school administrator.

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

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

9 b. That assistance team makes the recommendation to dismiss the  
10 teacher, principal, assistant principal, director, supervisor, or  
11 other certificated personnel for one or more grounds established  
12 in G.S. 115C-325(e)(1) for dismissal or demotion of a career  
13 employee.

14 Within 30 days of any dismissal under this subdivision, a teacher,  
15 principal, assistant principal, director, supervisor, or other certificated  
16 personnel may request a hearing before a panel of three members  
17 designated by the Secretary. The Secretary shall adopt procedures to  
18 ensure that due process rights are afforded to persons recommended for  
19 dismissal under this subdivision. Decisions of the panel may be  
20 appealed on the record to the Secretary, with further right of judicial  
21 review under Chapter 150B of the General Statutes.

22 (2) Notwithstanding any other provision of this section or any other law,  
23 this subdivision shall govern the dismissal by the Secretary of Health  
24 and Human Services of certificated staff members who have engaged in  
25 a remediation plan under G.S. 115C-105.38A(c) but who, after one  
26 retest, fail to meet the general knowledge standard set by the State  
27 Board. The failure to meet the general knowledge standard after one  
28 retest shall be substantial evidence of the inadequate performance of the  
29 certified staff member.

30 Within 30 days of any dismissal under this subdivision, a certificated  
31 staff member may request a hearing before a panel of three members  
32 designated by the Secretary of Health and Human Services. The  
33 Secretary shall adopt procedures to ensure that due process rights are  
34 afforded to certificated staff members recommended for dismissal under  
35 this subdivision. Decisions of the panel may be appealed on the record  
36 to the Secretary, with further right of judicial review under Chapter  
37 150B of the General Statutes.

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

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

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

6           Section 7. G.S. 115C-102.5(b) reads as rewritten:

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

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

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

11           (3) One representative of the North Carolina Community College System,  
12           appointed by the President of the North Carolina Community College  
13           System;

14           (4) A person with management responsibility concerning information  
15           technology related State Government functions, designated by the  
16           Secretary of Commerce;

17           (5) Four members appointed by the Governor;

18           (6) Six members appointed by the President Pro Tempore of the Senate two  
19           of whom shall be members of the Senate. One of these six members  
20           shall be appointed by the President of the Senate to serve as cochair; ~~and~~

21           (7) Six members appointed by the Speaker of the House of Representatives  
22           two of whom shall be members of the House of Representatives. One of  
23           these six members shall be appointed by the Speaker of the House of  
24           Representatives to serve as ~~cochair~~cochair; ~~and~~

25           (8) The Secretary of Health and Human Services or a designee.

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

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

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

36           Section 8. G.S. 115C-296(d) reads as rewritten:

37           "(d) The State Board shall adopt rules to establish the reasons and procedures for  
38           the suspension and revocation of certificates. The State Board shall revoke the certificate  
39           of a teacher or school administrator if the State Board receives notification from a local  
40           board or the Secretary of Health and Human Services that a teacher or school  
41           administrator has received an unsatisfactory or below standard rating under G.S. 115C-  
42           333(d). In addition, the State Board may revoke or refuse to renew a teacher's certificate  
43           when:

- 1 (1) The Board identifies the school in which the teacher is employed as  
2 low-performing under ~~G.S. 115C-105.37~~; G.S. 115C-105.37 or G.S.  
3 143B-146.5; and  
4 (2) The assistance team assigned to that school ~~under G.S. 115C-105.38~~  
5 makes the recommendation to revoke or refuse to renew the teacher's  
6 certificate for one or more reasons established by the State Board in its  
7 rules for certificate suspension or revocation.

8 The State Board may issue subpoenas for the purpose of obtaining documents or the  
9 testimony of witnesses in connection with proceedings to suspend or revoke certificates."

10 Section 9. G.S. 115C-105.31 reads as rewritten:

11 **"§ 115C-105.31. Creation of the Task Force on School-Based Management.**

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

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

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



- 1 (11) One school teacher appointed by the President Pro Tempore of the  
2 Senate after receiving recommendations from the North Carolina  
3 Association of Educators, Inc., the North Carolina Federation of  
4 Teachers, and the Professional Educators of North Carolina, Inc.;
- 5 (12) One school teacher appointed by the Speaker of the House of  
6 Representatives after receiving recommendations from the North  
7 Carolina Association of Educators, Inc., the North Carolina Federation  
8 of Teachers, and the Professional Educators of North Carolina, Inc.;
- 9 (13) One representative of business and industry appointed by the Governor;
- 10 (14) One representative of institutions of higher education appointed by the  
11 Board of Governors of The University of North Carolina; ~~and~~
- 12 (15) One county commissioner appointed by the State Board of Education  
13 after receiving recommendations from the North Carolina Association  
14 of County ~~Commissioners.~~ Commissioners; and
- 15 (16) The Secretary of Health and Human Services or the Secretary's  
16 designee.

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

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

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

24 (b) The Task Force shall:

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

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

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

3 Section 10. (a) The Secretary of Health and Human Services shall adopt  
4 policies and offer training opportunities to ensure that personnel who provide direct  
5 services to children in the three State schools for the deaf become proficient in sign  
6 language within two years of their initial date of employment or within two years of the  
7 effective date of this act, whichever occurs later. This subsection shall not apply to  
8 preschool personnel in any oral, auditory, or cued speech preschool.

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

14 (c) The Board of Governors of The University of North Carolina and the State  
15 Board of Community Colleges shall study methods to assure that faculty members  
16 teaching American Sign Language are highly qualified and competent. The Board of  
17 Governors and the State Board of Community Colleges shall report their findings and  
18 recommendations prior to March 1, 1999, to the Appropriations Subcommittees on  
19 Education and on Health and Human Services of the House of Representatives and  
20 Senate.

21 Section 11. The Board of Governors of The University of North Carolina shall  
22 assess the accessibility of the programs of the constituent institutions for deaf and blind  
23 students. The Board of Governors shall report to the General Assembly by December 1,  
24 1998, on this assessment.

25 Section 12. The Secretary of Health and Human Services shall contract for the  
26 design of a longitudinal study of deaf and hard-of-hearing children to assess  
27 communication methods used and student performance.

28 Section 13. The Commission for Health Services shall adopt temporary and  
29 permanent rules to include newborn hearing screening in the Newborn Screening  
30 Program established under G.S. 130A-125.

31 Section 14. The State Board of Education, in consultation with the Secretary  
32 of Health and Human Services, shall evaluate the certification requirements for teachers  
33 at the State schools for the deaf and the Governor Morehead School in light of the  
34 specific educational needs of those schools. In particular, the State Board shall determine  
35 whether these teachers should hold (i) certificates to authorize them to teach students  
36 with specific disabilities, (ii) certificates authorizing them to teach a specific grade level  
37 or subject matter, or (iii) dual certificates, particularly at the high school level. The State  
38 Board shall revise any policies, rules, or regulations if considered appropriate, and shall  
39 report to the Legislative Commission on Public Schools by December 15, 1998, on the  
40 results of its evaluation under this section and any changes it proposes.

41 Section 15. The State Auditor shall conduct a fiscal audit of the Division of  
42 Services for the Deaf and Hard of Hearing, Department of Health and Human Services,  
43 and the use of current operations funds appropriated to that Division beginning with the

1 1996-97 fiscal year and the use of capital funds appropriated to that Division beginning  
2 with the 1995-96 fiscal year. The Auditor shall report to the General Assembly by March  
3 1, 1999, on the results of this audit.

4 Section 16. The Governor Morehead School and the three schools for the deaf  
5 shall each prioritize its capital needs in a three-year plan. These schools shall give first  
6 priority to bringing their facilities up to code and to supporting instructional programs so  
7 as to improve student academic performance. The schools shall submit their three-year  
8 plans to the Secretary. The Secretary shall prioritize the needs of these four schools and  
9 shall submit to the General Assembly a three-year plan to address those needs.

10 Section 17. The Secretary of Health and Human Services shall adopt policies  
11 to ensure that students of the residential schools are given priority to residing in the  
12 independent living facilities on each school's campus.

13 Section 18. The Secretary of Health and Human Services shall provide  
14 statewide teacher supplements for the teachers in the residential schools based on five  
15 percent (5%) of their State salaries in order to recognize the teachers' levels of education  
16 and years of experience. The Director of the Budget shall transfer from the Reserve for  
17 Compensation Increase for fiscal year 1998-99 all funds necessary for these supplements,  
18 including funds for the employer's retirement and social security contributions.

19 Section 19. If funds are appropriated to the Department of Health and Human  
20 Services in the Current Operations Appropriations and Capital Improvement  
21 Appropriations Act of 1998 to implement this act, then of these funds the Secretary may  
22 spend up to nine hundred thousand dollars (\$900,000) for the 1998-99 fiscal year to  
23 provide funds for assistance teams to be assigned to the Governor Morehead School and  
24 to the three schools for the deaf.

25 Section 20. This act becomes effective July 1, 1998, only if funds are  
26 appropriated for the 1998-99 fiscal year to implement this act. Part 3A of Article 3 of  
27 Chapter 143B of the General Statutes, as established in Section 5 of this act, applies to  
28 kindergarten through eighth grade in the three schools for the deaf and in the Governor  
29 Morehead School beginning with the 1999-2000 school year. The Secretary of Health  
30 and Human Services, in consultation with the General Assembly and the State Board of  
31 Education, shall recommend beginning dates of applicability for the remaining grades in  
32 those four schools and for the other residential schools, particularly those operated by the  
33 Division of Youth Services. School improvement plans required under Section 5 of this  
34 act shall be developed during the 1998-99 school year and shall be implemented by the  
35 beginning of the 1999-2000 school year.