

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1320

Short Title: ABC's Plan for DHHS Schools.

(Public)

Sponsors: Senator Lee; and Wellons.

Referred to: Education/Higher Education.

May 27, 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 House of Representatives by November 1, 1998, and a
10 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 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
26 participate 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 assistance team makes the
25 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 section. 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 building for a vote, and submit it to the Secretary to accept or reject. Within 60
38 days after the initial submission of the school improvement plan to the Secretary, the
39 Secretary shall accept the plan or shall designate a person to work with the school
40 improvement team to resolve the disagreements. If there is no resolution within 30 days,
41 then the Secretary may develop a school improvement plan for the school; however, the
42 General Assembly urges the Secretary to utilize the school's proposed school
43 improvement plan to 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 certificated 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~~-cochair; and
- 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~~ Commissioners; and
- 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 State Auditor shall report to the General Assembly by
16 March 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.