

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 3

Education Committee Substitute Adopted 5/29/91

Short Title: School Improvement Act.

(Public)

Sponsors:

Referred to:

January 30, 1991

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SCHOOL IMPROVEMENT AND ACCOUNTABILITY ACT OF 1991.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the School Improvement and Accountability Act of 1991.

Sec. 2. G.S. 115C-12(9) reads as rewritten:

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

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

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

1 the local school administrative unit for implementation of the
2 Basic Education Program.

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

5 c1. To issue an annual 'report card' for the State and for each local
6 school administrative unit, assessing each unit's efforts to
7 improve student performance and taking into account progress
8 over the previous years' level of performance and the State's
9 performance in comparison with other states. This assessment
10 shall take into account demographic, economic, and other
11 factors that have been shown to affect student performance.

12 c2. To develop management accountability indicators to measure
13 the efficiency and appropriate use of staff in each school and at
14 the administrative office. Staff development for school
15 administrators shall be a high priority of the Department of
16 Public Instruction.

17 c3. To develop an outcome-based education program that may be
18 implemented as part of a local school improvement plan
19 developed pursuant to G.S. 115C-238.3. An outcome-based
20 education program is a program in which expectations for
21 student achievement are clearly stated in terms of knowledge,
22 skills and attitudes. Students develop skills and attitudes to
23 maximize the acquisition of knowledge. The program
24 recognizes that achievement occurs as a result of individual and
25 developmental progress towards goals, and reflects that students
26 learn at different rates using varying learning styles. Outcome-
27 based education measures achievement periodically throughout
28 the learning process and is the criteria for high school
29 graduation. Measurement of student achievement is
30 implemented by teachers to complement varied learning growth
31 and styles. The results of those measurements are used to
32 determine when a student understands and has mastered the
33 material and is ready to move forward in the learning process.

34 As part of the outcome-based education program, the State
35 Board of Education shall adopt expectations for student
36 achievement necessary for students to function successfully in
37 the next century. These expectations shall be consistent with
38 national education goals recommended by the National
39 Governors' Association in 1990.

40 The State Board of Education, in consultation with the
41 Board of Governors of The University of North Carolina, and
42 the State Board of Community Colleges shall develop a
43 mechanism by which the institutions of higher education accept

1 certification of proficiencies on high school transcripts in lieu of
 2 Carnegie units.

3 The State Board of Education may establish rules, policies
 4 and procedures as it deems necessary to develop an outcome-
 5 based education program.

6 d. To formulate rules and regulations for the enforcement of the
 7 compulsory attendance law.

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

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

14 Sec. 3. Chapter 116 of the General Statutes is amended by adding the
 15 following new section to read:

16 **"§ 116-11.2. Duties regarding programs in education administration.**

17 The Board of Governors shall direct the constituent institutions with programs in
 18 education administration to evaluate these programs and to take the necessary steps to
 19 ensure adequate management training for public school principals and administrators."

20 Sec. 4. The General Assembly urges private colleges and universities with
 21 programs in education administration to evaluate these programs and to take the
 22 necessary steps to ensure adequate management training for public school principals
 23 and administrators.

24 Sec. 5. Part 4 of Article 16 of Chapter 115C of the General Statutes reads as
 25 rewritten:

26 **"PART 4. PERFORMANCE-BASED ACCOUNTABILITY PROGRAM.**

27 **"§ 115C-238.1. Performance-based Accountability Program; development and**
 28 **implementation by State Board.**

29 The State Board of Education shall develop and implement a Performance-based
 30 Accountability Program. The primary goal of the Program shall be to improve student
 31 performance. The State Board of Education shall adopt:

32 (1) Procedures and guidelines through which, beginning with the 1990-91
 33 fiscal year, local school administrative units may participate in the
 34 Program;

35 (2) Guidelines for developing local school improvement plans with three-
 36 to-five year student performance goals and annual milestones to
 37 measure progress in meeting those goals; and

38 (3) A set of student performance indicators for measuring and assessing
 39 student performance in the participating local school administrative
 40 units. These indicators may include attendance rates, dropout rates,
 41 test scores, parent involvement, and post-secondary outcomes.

42 **"§ 115C-238.2. Local participation in the Program voluntary; the benefits of local**
 43 **participation.**

1 (a) Local school administrative units may, but are not required to, participate in
2 the Performance-based Accountability Program.

3 (b) Local school administrative units that participate in the Performance-based
4 Accountability Program:

5 (1) Are exempt from State requirements to submit reports and plans, other
6 than local school improvement plans, to the Department of Public
7 Education; they are not exempt from federal requirements to submit
8 reports and plans to the Department.

9 (2) Are subject to the performance standards but not the opportunity
10 standards or the staffing ratios of the State Accreditation Program. The
11 performance standards in the State Accreditation Program, modified to
12 reflect the results of end-of-course and end-of-grade tests, may serve
13 as the basis for developing the student performance indicators adopted
14 by the State Board of Education pursuant to G.S. 115C-238.1.

15 (3) May receive funds for differentiated pay for teachers and
16 administrators, in accordance with G.S. 115C-238.4, if they elect to
17 participate in a differentiated pay plan.

18 (4) May be allowed increased flexibility in the expenditure of State funds,
19 in accordance with G.S. 115C-238.5.

20 (4a) Shall receive flexibility with regard to certain State laws, regulations,
21 and policies, in accordance with G.S. 115C-238.6(a1), and may
22 exercise such flexibility if, in their estimation, the flexibility will
23 enable them to (i) deliver education in a more effective manner or (ii)
24 organize their schools in a more efficient or economical fashion.

25 (5) May be granted waivers of certain State laws, regulations, and policies
26 that inhibit their ability to reach local accountability goals, in
27 accordance with ~~G.S. 115C-238.6(a)~~-G.S. 115C-238.6(a2).

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

32 **"§ 115C-238.3. Elements of local plans.**

33 (a) The board of education of a local school administrative unit that elects to
34 participate in the Program shall submit a local school improvement plan to the State
35 Superintendent of Public Instruction before April 15 of the fiscal year preceding the
36 fiscal year in which participation is sought. The local board of education shall actively
37 involve a substantial number of teachers, school administrators, and other school staff in
38 developing the local school improvement plan. It is the intent of the General Assembly
39 that teachers have a major role in developing the local school improvement plan;
40 therefore, at least half of the staff members involved in developing the local plan shall
41 be teachers. The teachers at each school shall select the teachers from that school who
42 are involved in developing the local plan.

43 ~~(b) The~~-If the local school administrative unit is not currently meeting the highest
44 level for accreditation for ninety-five percent (95%) or more of the student performance

1 indicators adopted by the State Board of Education, the local school improvement plan
2 shall set forth (i) the student performance goals established by the local board of
3 education for the local school administrative unit and (ii) the unit's strategies and plans
4 for attaining them.

5 The performance goals for the local school administrative unit shall address specific,
6 measurable goals for all student performance indicators adopted by the State Board.
7 Factors that determine gains in achievement vary from school to school; therefore,
8 socioeconomic factors and previous student performance indicators shall be used as the
9 basis of the local school improvement plan.

10 The strategies for attaining the local student performance goals shall be based on
11 plans for each individual school in the local school administrative unit. The principal of
12 each school and his staff shall develop a plan to address student performance goals
13 appropriate to the school from those established by the local board of education.

14 (b1) If the local school administrative unit is currently meeting the highest level of
15 accreditation for ninety-five percent (95%) or more of the student performance
16 indicators adopted by the State Board of Education, the local school improvement plan
17 may continue to set forth (i) the student performance goals established by the local
18 board of education for the local school administrative unit and (ii) the unit's strategies
19 and plans for attaining them, in accordance with subsection (b) of this section. If the
20 unit chooses to concentrate on locally designed accountability goals focused on such
21 things as thinking and reasoning skills, improving the school climate, and improving
22 parental or student satisfaction levels, the local school improvement plan may set forth
23 (i) the locally designed accountability goals and (ii) the unit's strategies and plans for
24 attaining them.

25 The strategies for attaining the local student performance goals or the locally
26 designed accountability goals shall be based on plans for each individual school in the
27 local school administrative unit. The principal of each school and his staff shall develop
28 a plan to address student performance goals or the locally designed accountability goals
29 appropriate to the school from those established by the local board of education.

30 If at the end of any school year, the unit failed to meet the highest level for
31 accreditation for ninety-five percent (95%) or more of the student performance
32 indicators adopted by the State Board of Education, the local unit shall develop a new
33 plan in accordance with subsection (b) of this section.

34 (c) The local school administrative unit shall consider a plan for differentiated
35 pay. The local plan shall include a plan for differentiated pay, in accordance with G.S.
36 115C-238.4, unless the local school administrative unit elects not to participate in any
37 differentiated pay plan.

38 (d) The local plan may include a request for a waiver of State laws, regulations,
39 or policies. The request for a waiver shall identify the State laws, regulations, or
40 policies that inhibit the local unit's ability to reach its local accountability goals and
41 shall explain how a waiver of those laws, regulations, or policies will permit the local
42 unit to reach its local goals.

43 (e) Support among affected staff members is essential to successful implementation
44 of a local school improvement plan; therefore, a local board of education that decides to

1 participate in the Program shall present a proposed local school improvement plan,
2 including waiver requests, to its teachers and administrators for their review. Any
3 modifications to an existing plan, including waiver requests, shall also be presented by
4 the local board to its teachers and administrators for their review.

5 (f) At the end of the first year of implementation of a local school improvement
6 plan or in December 1991, whichever is later, and every three years after the end of the
7 first year of implementation, the teachers in the local school administrative unit shall be
8 surveyed regarding their attitudes about the plan and educational reform in the local
9 school administrative unit. The survey instrument shall be developed by the State
10 Board of Education, after consultation with the Joint Legislative Education Oversight
11 Committee. The State Board of Education shall report the results of the surveys to the
12 Joint Legislative Education Oversight Committee and to the Joint Legislative
13 Commission on Governmental Operations.

14 This subsection shall be implemented within funds available to the State Board of
15 Education for aid to local school administrative units.

16 **"§ 115C-238.4. Differentiated pay.**

17 (a) Local school administrative units may include, but are not required to
18 include, a differentiated pay plan for certified instructional staff, certified instructional
19 support staff, and certified administrative staff as a part of their local school
20 improvement plans. Units electing to include differentiated pay plans in their school
21 improvement plans shall base their differentiated pay plans on:

- 22 (1) The Career Development Pilot Program, G.S. 115C-363 **et seq.**;
- 23 (2) The Lead Teacher Pilot Program, G.S. 115C-363.28 **et seq.**;
- 24 (3) A locally designed school-based performance program, subject to
25 limitations and guidelines adopted by the State Board of Education;
- 26 (4) A differentiated pay plan that the State Board of Education finds has
27 been successfully implemented in another state; ~~or~~
- 28 (5) A locally designed plan including any combination or modification of
29 the foregoing ~~plans. plans; or~~
- 30 (6) A unique plan designed by their administrators and teachers.

31 (a1) A differentiated pay plan may authorize the use of up to one-third of all State
32 differentiated pay funds for staff development and planning activities and for paying
33 substitute teachers as is necessary to provide time for staff development and planning
34 activities. A differentiated pay plan may also authorize extending the use of
35 differentiated pay funds to include noncertified employees in the plan.

36 (b) Support among affected staff members is essential to successful
37 implementation of a differentiated pay plan; therefore, a local board of education that
38 decides that a differentiated pay plan should be included in its local school improvement
39 plan shall present a proposed differentiated pay plan to affected staff members for their
40 review and vote. The vote shall be by secret ballot. The local board of education shall
41 include the proposed differentiated pay plan in its local school improvement plan only if
42 the proposed plan has the approval of a majority of the affected paid certificated
43 instructional and instructional support staff and a majority of the affected certificated
44 administrators.

1 Every three years after a differentiated pay plan receives such approval, the local
2 board of education shall present a proposed plan to continue, discontinue, or modify that
3 differentiated pay plan to affected staff members for their review and vote. The vote
4 shall be by secret ballot. The local board of education shall include the proposed plan in
5 its local school improvement plan only if the proposed plan has the approval of a
6 majority of the affected paid certificated instructional and instructional support staff and
7 a majority of the affected certificated administrators.

8 (c) Local school administrative units electing to participate in a differentiated pay
9 plan shall receive State funds according to the terms of the plan but not to exceed:

- 10 (1) 1990-91: two percent (2%) of teacher and administrator salaries, and
11 the employer's contributions for social security and retirement;
- 12 (2) 1991-92: three percent (3%) of teacher and administrator salaries, and
13 the employer's contributions for social security and retirement;
- 14 (3) 1992-93: four percent (4%) of teacher and administrator salaries, and
15 the employer's contributions for social security and retirement;
- 16 (4) 1993-94: five and one-half percent (5 1/2%) of teacher and
17 administrator salaries, and the employer's contributions for social
18 security and retirement; and
- 19 (5) 1994-95 and thereafter: seven percent (7%) of teacher and
20 administrator salaries, and the employer's contributions for social
21 security and retirement.

22 Any differentiated pay plan developed in accordance with this section shall be
23 implemented within State and local funds available for differentiated pay.

24 (d) Attainment of the equivalent of Career Status I shall be rewarded through a
25 new salary schedule that provides a salary differential when a certified educator
26 successfully completes his probationary period.

27 (e) Any additional compensation received by an employee as a result of the unit's
28 participation in the Program shall be paid as a bonus or supplement to the employee's
29 regular salary. If an employee in a participating unit does not receive additional
30 compensation, such failure to receive additional compensation shall not be construed as
31 a demotion, as that term is used in G.S. 115C-325.

32 Payments of bonuses or supplements shall be made no more frequently than once
33 every calendar quarter: Provided, however, prior to the 1994-95 school year, payments
34 in the career development pilot units may be made on a monthly basis.

35 (f) If a local school administrative unit bases its differentiated pay plan on a
36 locally designed school-based performance program, pursuant to subdivision (a)(3) of
37 this section, the plan shall provide that following the attainment of the local school
38 goals, the local board of education shall make a determination of which certified staff
39 members contributed to the attainment of those goals. Differentiated pay bonuses shall
40 then be distributed to those designated employees. The local board of education shall
41 make the determination upon recommendation of (i) the superintendent and (ii) any
42 other person or committee designated in the local differentiated pay plan. The other
43 person or committee designated in the local differentiated pay plan may be the principal,
44 a school-based committee, or any other person or local committee.

1 **"§ 115C-238.5. Flexible funding.**

2 For fiscal years beginning with the ~~1990-91~~1991-92 fiscal year, the State Board of
3 Education, only upon the recommendation of the State Superintendent, shall increase
4 flexibility in the use of State funds for schools ~~by-by~~:

5 (1) ~~eombining~~Combining into a single funding category the existing
6 categories for instructional materials, supplies and equipment,
7 textbooks, testing support, and drivers education except for funds for
8 classroom teachers of drivers ~~education~~education;

9 (2) Except as provided by subdivision (1) of this section, combining
10 allotment categories for State aid to public schools into (i) principals
11 and assistant principals, (ii) instructional personnel, (iii) instructional
12 support personnel, (iv) instructional support items, (v) general
13 administration, (vi) auxiliary services, and (vii) transportation
14 categories: Provided, however, all personnel paid with State funds
15 shall be paid on a State-adopted salary schedule;

16 (3) Continuing non-State aid in a separate allotment for categorical
17 programs and consolidating the administration of these programs to the
18 extent permitted by federal laws and regulations;

19 (4) Authorizing local school administrative units to transfer positions and
20 funds from one combined category to another: Provided, however, no
21 more than five percent (5%) of the total positions or funds initially
22 allotted to the category shall be transferred without the prior
23 permission of the State Board of Education; and

24 (5) Authorizing local school administrative units to transfer positions and
25 funds from the general administration category to other combined
26 allotment categories: Provided, however, units shall not transfer
27 positions or funds from other categories to general administration.

28 For the 1991-93 fiscal biennium, local school administrative units and local boards
29 of education are required to report the use of funds to the State of North Carolina using
30 the 1990-91 fiscal year's reporting systems. The uniform procedures established by
31 G.S. 115C-426 and G.S. 115C-12(18) for the 1990-91 fiscal year shall be continued.

32 Only local school administrative units electing to participate in the Performance-
33 based Accountability Program shall be eligible to receive this flexible funding.

34 Local boards of education shall provide maximum flexibility in the use of funds to
35 individual schools to enable them to accomplish their individual schools' goals.

36 **"§ 115C-238.6. Approval of local school administrative unit plans by the State**
37 **Superintendent; conditions for continued participation.**

38 (a) Prior to June 30 each year, the State Superintendent shall review local school
39 improvement plans submitted by the local school administrative units in accordance
40 with policies and performance indicators adopted by the State Board of Education. If
41 the State Superintendent approves the plan for a local school administrative unit, that
42 unit shall participate in the Program for the next fiscal year.

1 (a1) If the State Superintendent approves the plan for a local school administrative
2 unit, that unit shall receive flexibility with regard to State laws, regulations, and policies
3 pertaining to:

- 4 (1) Assignment, allocation, reduction, and use of positions for teacher
5 assistants;
- 6 (2) Class size: Provided, however, local school administrative units shall
7 report on class size as required by the State Board;
- 8 (3) Employee certification, so as to permit the use of noncertified
9 personnel for teaching and administrative roles if their academic and
10 professional backgrounds demonstrate potential: Provided, however,
11 that the Department of Public Instruction shall assess the relevant work
12 experience of any such noncertified employee and shall place any such
13 noncertified employee on the teacher salary schedule: Provided,
14 further, that units exercising flexibility in this area shall perform
15 annual evaluations certifying that students are being well served, as
16 evidenced by student achievement;
- 17 (4) Evaluation of career status teachers and administrators, so as to allow
18 the development of an alternative procedure to be used in lieu of the
19 Teacher Performance Appraisal Instrument: Provided, however, any
20 such alternative procedure shall not be referred to as the Teacher
21 Performance Appraisal Instrument or TPAI;
- 22 (5) The scheduling of the instructional school day, as defined by the State
23 Board of Education, and the school year as long as (i) changes are
24 made through the normal process of calendar development and (ii)
25 students receive more than 990 hours of annual contact time per
26 academic year, which is the equivalent of more than 180 school days;
- 27 (6) The provision of driver education services so as to limit access to
28 students who (i) are meeting reasonable local attendance standards, (ii)
29 are making progress toward high school graduation, and (iii) have not
30 dropped out of school;
- 31 (7) The use of staff development funds;
- 32 (8) Traditional class units and the scheduling of end-of-course and end-of-
33 grade testing so as to (i) enable students who can demonstrate mastery
34 of a course to move into more demanding course work at a faster pace,
35 (ii) enable slower students more than a traditional one-year course to
36 master the course content required, (iii) aid the transition to year-round
37 schooling, and (iv) aid in the implementation of an outcome-based
38 education program as defined by the rules, policies, and procedures
39 established pursuant to G.S. 115C-12(9)(c3);
- 40 (9) The obligation of offering summer school by authorizing the
41 substitution of after-school or Saturday remedial or tutorial programs
42 for at-risk students: Provided, however, students who fail to meet
43 promotion standards for grades three, six, and eight shall be eligible
44 for summer school;

- 1 (10) The use of State-provided buses for field trips or for transporting
2 parents and under-school-aged children if the transportation will
3 enhance a local school administrative unit's educational program:
4 Provided, however, that any additional insurance and operating costs
5 for the buses shall be paid with non-State funds;
- 6 (11) The placement of additional students in individual classes of
7 academically gifted programs if the programs for State-identified
8 gifted children are not over-enrolled;
- 9 (12) The system of calculating graduation requirements so as to enable
10 schools (i) to implement an outcome-based accountability program as
11 defined by the rules, policies, and procedures established pursuant to
12 G.S. 115C-12(9)(c3), or, (ii) to count advanced course work toward
13 graduation regardless of the grade level at which the courses were
14 taken, or whether the courses were taken through a cooperative
15 program with a community college or a four-year college: Provided,
16 however, this subdivision is not intended to reduce the requirement
17 that all high school students shall take three units of mathematics
18 during the high school years.

19 The local school administrative unit may exercise such flexibility if, in the estimation of
20 the local board of education, the flexibility will enable it to (i) deliver education in a
21 more effective manner or (ii) organize its schools in a more efficient or economical
22 fashion.

23 (a2) If a local plan contains a request for a waiver of State laws, regulations, or
24 policies, in accordance with ~~G.S. 115C-238.3(e)~~, G.S. 115C-238.3(d), the State
25 Superintendent shall determine whether and to what extent the identified laws,
26 regulations, or policies should be waived. The State Superintendent shall present that
27 plan and his determination to the State Board of Education. If the State Board of
28 Education deems it necessary to do so to enable a local unit to reach its local
29 accountability goals, the State Board, only upon the recommendation of the State
30 Superintendent, may grant waivers of:

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

41 The State Board shall either grant or deny each waiver within 90 days after it is
42 requested. The State Board shall provide a written explanation of why a waiver is
43 denied.

1 If twenty-five percent (25%) of the local school administrative units in the State
2 request a waiver of the same policy or regulation, the State Board shall assess whether
3 the policy or regulation should be modified or deleted.

4 (b) Local school administrative units shall continue to participate in the Program
5 and receive funds for differentiated pay, if their local plans call for differentiated pay, so
6 long as (i) they demonstrate satisfactory progress toward student performance goals set
7 out in their local school improvement plans; or (ii) once their local goals are met, they
8 continue to achieve their local goals and they otherwise demonstrate satisfactory
9 performance, as determined by the State Superintendent in accordance with guidelines
10 set by the State Board of Education.

11 If the local school administrative units do not achieve their goals after two years, the
12 Department of Public Instruction shall provide them with technical assistance to help
13 them meet their goals. If after one additional year they do not achieve their goals, the
14 State Board of Education shall decide what steps shall be taken to improve the
15 education of students in the unit."

16 Sec. 6. G.S. 115C-264 reads as rewritten:

17 **"§ 115C-264. Operation.**

18 In the operation of their public school food programs, the public schools shall
19 participate in the National School Lunch Program established by the federal
20 government. The program shall be under the jurisdiction of the Division of School Food
21 Services of the Department of Public Instruction and in accordance with federal
22 guidelines as established by the Child Nutrition Division of the United States
23 Department of Agriculture.

24 Each school may, with the approval of the local board of education, sell soft drinks
25 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at
26 elementary schools, or (iii) contrary to the requirements of the National School Lunch
27 Program.

28 All school food services shall be operated on a nonprofit basis, and any earnings
29 therefrom over and above the cost of operation as defined herein shall be used to reduce
30 the cost of food, to serve better food, or to provide free or reduced-price lunches to
31 indigent children and for no other purpose. The term 'cost of operation' shall be defined
32 as actual cost incurred in the purchase and preparation of food, the salaries of all
33 personnel directly engaged in providing food services, and the cost of nonfood supplies
34 as outlined under standards adopted by the State Board of Education. 'Personnel' shall
35 be defined as food service supervisors or directors, bookkeepers directly engaged in
36 food service record keeping and those persons directly involved in preparing and
37 serving food: Provided, that food service personnel shall be paid from the funds of food
38 services only for services rendered in behalf of lunchroom services. Any cost incurred
39 in the provisions and maintenance of school food services over and beyond the cost of
40 operation shall be included in the budget request filed annually by local boards of
41 education with boards of county commissioners. It shall not be mandatory that the
42 provisions of G.S. 115C-522(a) and 143-129 be complied with in the purchase of
43 supplies and food for such school food services."

1 Sec. 7. Subchapter II of Chapter 115C of the General Statutes is amended by
2 adding a new Article to read:

3 **“ARTICLE 6A.**

4 "State Assistance and Intervention in Low-Performing School Units.

5 **"§ 115C-64.1. Classification of low-performing school units; notification of the**
6 **public, parents, and employees.**

7 (a) Effective July 1, 1992, any local school administrative unit that does not meet
8 the minimum requirements for State accreditation, ranks below average in student
9 achievement on the statewide school system Report Card, and, does not show
10 improvement in student achievement at a rate that is at or above the statewide average
11 shall be classified as a low-performing school unit.

12 (b) The public shall be notified immediately by the local school board of the
13 classification through the same process as for notification of meetings of the local board
14 of education; parents of students attending schools in the local school administrative
15 unit shall be notified in writing of the areas in which the unit fell substantially below
16 measures reported (i) for other units in the State, (ii) and also for other units in the State
17 with similar demographic characteristics.

18 (c) Any school employee who has career status under G.S. 115C-325 shall be
19 notified that the employee shall be reclassified as a first-year probationary employee if
20 at the time of the unit's classification or during the 12-month period following the
21 classification the employee is evaluated as needing improvement, and the unit continues
22 to be classified as a low-performing school unit.

23 **"§ 115C-64.2. Efforts to meet minimum State accreditation requirements.**

24 (a) The Department of Public Instruction shall contact each low-performing
25 school unit, notify it of the services available through the Department to assist the unit,
26 and provide the unit with such assistance. Department services shall include assistance
27 in developing a plan for improvement, monitoring the unit's progress, tutoring and
28 counseling unit personnel in strategies to reach the unit's goals, and providing additional
29 funds to the unit to attain accreditation status and to improve student achievement.

30 (b) Each school administrative unit classified as a low-performing school unit
31 shall develop a plan to attain accreditation status and to improve student achievement.
32 The unit shall submit the plan to the State Board of Education within three months of its
33 classification as a low-performing school unit.

34 **"§ 115C-64.3. Review of plans by the State Board; appointment of management**
35 **team.**

36 (a) If, within one year of being classified as a low-performing school unit, the
37 unit does not meet the minimum requirements for State accreditation, continues to rank
38 below average in student achievement on the statewide school system Report Card, and
39 student achievement continues to fail to improve at a rate which is at or above the
40 statewide average, (i) the unit shall lose all State funds for differentiated pay, (ii) all
41 school employees who have career status under G.S. 115C-325 and who were evaluated
42 as needing improvement at the time of the unit's classification or during the 12-month
43 period following the classification of the unit shall be reclassified as first-year
44 probationary employees, (iii) the local superintendent shall be placed on probation, and

1 (iv) a three-member management team shall be appointed by the State Superintendent,
2 subject to confirmation by the State Board, to oversee the unit.

3 If an employee is reclassified as a first-year probationary employee pursuant to this
4 subsection, and subsequently the employee's evaluation improves to satisfactory or the
5 school unit is no longer classified as a low-performing unit, the employee shall be
6 reclassified as a career status employee.

7 (b) The three-member management team shall act under the direction of the State
8 Board of Education and shall be paid with State funds for aid to local school
9 administrative units by the State Board of Education. The management team shall
10 modify and implement the unit's improvement plan as necessary to assist the unit in
11 attaining accreditation and improving student achievement.

12 The State Board may assign any of the powers and duties of the local
13 superintendent, the local finance officer, or the local board of education to the three-
14 member management team as it deems necessary and appropriate to assist the unit in
15 attaining accreditation requirements and to improve student achievement in the unit.
16 The management team shall perform all of such powers and duties.

17 (c) Any funds that become unavailable to the unit as a consequence of sanctions
18 set out in this Article shall be placed in a reserve under the control of the State Board.
19 The General Assembly shall also consider appropriating additional resources to the
20 reserve for the purpose of improving the school unit. The funds in the reserve may be
21 expended, in the discretion of the State Board, for the purpose of improving the school
22 unit.

23 (d) If, within two years of being classified as a low-performing school unit, the
24 unit does not meet the minimum requirements for State accreditation, continues to rank
25 below average in student achievement on the statewide school system Report Card, and
26 student achievement continues to fail to improve at a rate which is at or above the
27 statewide average, the State Board may remove the local superintendent and the local
28 finance officer with whom the local board of education entered into a contract after July
29 1, 1991. Neither party to any such contract shall be entitled to damages.

30 The State Board may also remove associate superintendents, assistant
31 superintendents, and principals. Any administrator removed from office shall be
32 ineligible for appointment to another position in the unit for a period of four years after
33 removal. The three-member management team shall appoint individuals to fill these
34 positions.

35 (e) After a management team has been appointed, the General Assembly shall
36 consider, at its next session, the future governance of the identified school
37 administrative unit.

38 (f) The three-member management team shall have three years from the time of
39 its appointment to cause the low-performing school unit to reach minimum State
40 accreditation standards. If minimum standards are not reached within three years, the
41 management team shall be dissolved and funds allocated for the management team shall
42 be allocated to the local board for its use in procuring outside assistance.

43 **"§ 115C-64.4. Adoption of rules.**

1 Prior to December 1, 1991, the State Board of Education shall adopt rules, policies,
2 and procedures that it deems necessary to implement this Article."

3 Sec. 8. G.S. 120-30.9G reads as rewritten:

4 **"§ 120-30.9G. School Administrative Units; State Board of Education; Local**
5 **Boards of Education Attorney.**

6 (a) The State Board of Education shall submit to the Attorney General of the
7 United States within 30 days any rules, policies, procedures or actions taken pursuant to
8 G.S. 115C-64.2(b) which could result in the appointment of a three-member
9 management team to perform any of the powers and duties of a local board of education
10 where that school administrative unit is covered by the Voting Rights Act of 1965.

11 (b) The attorney for any local board of education where that school
12 administrative unit is covered by the Voting Rights Act of 1965 shall submit to the
13 Attorney General of the United States within 30 days of ratification any local acts of the
14 General Assembly, or actions of the local boards of education which constitutes a
15 'change affecting voting' under Section 5 of the Voting Rights Act of 1965 in that
16 school administrative unit. If the change affecting voting is a merger of two or more
17 school administrative units, the change shall be submitted jointly by the attorneys of the
18 school administrative units involved, or by one of them by agreement of the attorneys
19 involved."

20 Sec. 9. G.S. 115C-12 is amended by adding a new subdivision to read:

21 "(20) Duty to report appointment of three-member management team. –
22 Pursuant to G.S. 120-30.9G the State Board of Education shall
23 submit to the Attorney General of the United States within 30 days
24 any rules, policies, procedures or actions taken pursuant to G.S.
25 115C-64.2(b) which could result in the appointment of a three-
26 member management team to perform any of the powers and duties
27 of a local board of education where that school administrative unit
28 is covered by the Voting Rights Act of 1965."

29 Sec. 10. Upon ratification of this act, the State Board of Education shall
30 submit, to the Attorney General of the United States for preclearance under the Voting
31 Rights Act of 1965, Article 6A of Chapter 115C, as it is created by this act.

32 Sec. 11. G.S. 115C-451 reads as rewritten:

33 **"§ 115C-451. Reports to State Board of ~~Education.~~ Education; failure to comply**
34 **with School Budget Act.**

35 (a) The State Board of Education shall have authority to require local school
36 administrative units to make such reports as it may deem advisable with respect to the
37 financial operation of the public schools.

38 (b) The State Board of Education shall be responsible for assuring that local
39 boards of education comply with State laws and regulations regarding the budgeting,
40 management, and expenditure of funds. When a local board of education willfully or
41 negligently fails or refuses to comply with these laws and regulations, the State Board
42 of Education shall issue a warning to the local board of education and direct it to take
43 remedial action.

1 (c) If the local board of education, after warning, persists in willfully or
2 negligently failing or refusing to comply with these laws and regulations, the State
3 Board of Education shall by resolution assume control of the financial affairs of the
4 local board of education and shall appoint an administrator to exercise the powers
5 assumed. The adoption of a resolution shall have the effect of divesting the local board
6 of education of its powers as to the adoption of budgets, expenditure of money, and all
7 other financial powers conferred upon the local board of education by law."

8 Sec. 12. If any section or provision of this act is declared invalid under
9 Section 5 of the Voting Rights Act of 1965, or unconstitutional by the courts, it does not
10 affect the validity of this act as a whole, or any part other than the part declared to be
11 unconstitutional.

12 Sec. 13. There is appropriated from the General Fund to the Department of
13 Public Education the sum of \$22,004,579 for the 1991-92 fiscal year and the sum of
14 \$47,400,038 for the 1992-93 fiscal year to provide funds for differentiated pay plans, in
15 accordance with G.S. 115C-238.4(c).

16 Sec. 14. Section 7 of this act becomes effective July 1, 1992. The remainder
17 of this act becomes effective July 1, 1991.