

2016 Ex. Sess. 4

**SENATE
EDUCATION/HIGHER
EDUCATION**

MINUTES

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2015—2016 Session**

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Senate Committee on Education/Higher Education Bill Index

| <u>Bil Number</u> | <u>Date Heard</u> | <u>Action Taken</u> |
|-------------------|-------------------|--------------------------------------|
| HB 17 | 12/16/2016 | Un. Fav. To Bill, Fav. To Comm. Sub. |



Principal Clerk
Reading Clerk

Corrected #1: Time and room change

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Education/Higher Education** will meet at the following time:

| DAY | DATE | TIME | ROOM |
|------------|-------------------|-------------|-------------|
| Friday | December 16, 2016 | 9:30 AM | 544 LOB |

Will consider HB 17 should it be received from the House of Representatives

Senator Chad Barefoot, Co-Chair
Senator Jerry W. Tillman, Co-Chair



**Senate Committee on Education/Higher Education
Friday, December 16, 2016 at 9:30 AM
Room 544 of the Legislative Office Building**

MINUTES

The Senate Committee on Education/Higher Education met at 9:30 AM on December 16, 2016 in Room 544 of the Legislative Office Building. 13 members were present.

Senator David Curtis, Vice Chair, presided.

Senator Curtis opened the meeting and thanked the Senate Sergeants at Arms.

HB17 Modify Certain Appts/Employment (Rep. Lewis)

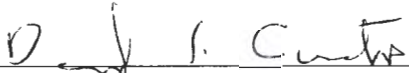
Senator Rabin made a motion to adopt the Proposed Committee Substitute for HB 17. Senator Rucho seconded the motion and it was approved.

Senator Barefoot explained the Proposed Committee Substitute for HB 17 and members of the committee were given the opportunity to ask questions of the bill sponsor.

Members of the audience were given the chance to address the committee about HB 17. Kris Nordstrom of the North Carolina Justice Center spoke in opposition to HB 17.

Senator Rabin moved for a favorable report of the new committee substitute and an unfavorable report to the original bill with a serial referral to Appropriations. Senator Rucho seconded the motion and it was approved.

The meeting adjourned at 10:20 AM.



Senator David Curtis, Vice Chair
Presiding



Eric Naisbitt, Committee Clerk



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

**Senator Barefoot, Co-Chair
Senator Tillman, Co-Chair**

Friday, December 16, 2016

Senator Curtis,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 17 (CS#1)

Modify Certain Appts/Employment.

| | |
|-----------------------|----------------------------|
| Draft Number: | H17-PCS40016-TC-1 |
| Sequential Referral: | Appropriations/Base Budget |
| Recommended Referral: | None |
| Long Title Amended: | Yes |

TOTAL REPORTED: 1

Senator Chad Barefoot will handle HB 17



★ C M R 1 3 - V - 1 ★

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

H

D

HOUSE BILL 17
Committee Substitute Favorable 12/15/16
Third Edition Engrossed 12/15/16
PROPOSED SENATE COMMITTEE SUBSTITUTE H17-CSTC-1 [v.3]
12/15/2016 08:39:38 PM

Short Title: Modify Certain Appts/Employment.

(Public)

Sponsors:

Referred to:

December 14, 2016

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION'S ROLE AS
THE ADMINISTRATIVE HEAD OF THE DEPARTMENT OF PUBLIC INSTRUCTION,
TO CHANGE THE APPOINTMENTS PROCESS FOR THE BOARDS OF TRUSTEES FOR
THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA,
TO MODIFY THE APPOINTMENT OF HEADS OF PRINCIPAL STATE
DEPARTMENTS, AND TO ESTABLISH TASK FORCE FOR SAFER SCHOOLS.

The General Assembly of North Carolina enacts:

PART I. CLARIFY ROLES/DPI/SBE

SECTION 1. G.S. 115C-11 reads as rewritten:

"§ 115C-11. Organization and internal procedures of Board.

...

(a1) Student advisors. – The ~~Governor~~Superintendent of Public Instruction is hereby
authorized to appoint two high school students who are enrolled in the public schools of North
Carolina as advisors to the State Board of Education. The student advisors shall participate in
State Board deliberations in an advisory capacity only. The State Board may, in its discretion,
exclude the student advisors from executive sessions.

~~The Governor shall make initial appointments of student advisors to the State Board as follows:~~

- (1) ~~One high school junior shall be appointed for a two-year term beginning September 1, 1986, and expiring June 14, 1988; and~~
- (2) ~~One high school senior shall be appointed for a one-year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor~~The Superintendent of Public Instruction shall appoint a stagger the appointments of the two student advisors so that a high school junior ~~for~~is serving in the first year of a two-year term and a high school senior is serving in the second year of a two-year term simultaneously. The appointment of a high school junior shall be made beginning June 15 of ~~that~~each year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the ~~Governor~~Superintendent of Public Instruction shall appoint a student advisor for the remainder of the unexpired term.



1 Student advisors shall receive per diem and necessary travel and subsistence expenses in
2 accordance with the provisions of G.S. 138-5.

3 ...

4 (a3) ~~Governor~~Superintendent of Public Instruction shall
5 appoint a superintendent of a local school administrative unit as an advisor to the State Board of
6 Education. The superintendent advisor shall serve for a term of one year. The superintendent
7 advisor shall participate in State Board deliberations and committee meetings in an advisory
8 capacity only. The State Board may, in its discretion, exclude the superintendent advisor from
9 executive sessions.

10 In the event that a superintendent advisor ceases to be a superintendent in a local school
11 administrative unit, the position of superintendent advisor shall be deemed vacant. In the event
12 that a vacancy occurs in the position for whatever reason, the ~~Governor~~Superintendent of Public
13 Instruction shall appoint a superintendent advisor for the remainder of the unexpired term. The
14 superintendent advisor to the State Board shall receive per diem and necessary travel and
15 subsistence expenses in accordance with the provisions of G.S. 138-5.

16 ...

17 (i) Administrative Assistance. – The Superintendent of Public Instruction shall provide
18 technical assistance and administrative assistance, including all personnel except as otherwise
19 provided in subsection (j) of this section, to the State Board of Education through the Department
20 of Public Instruction.

21 (j) Certain Personnel Appointed by the State Board. – The State Board may appoint only
22 the following personnel positions to support the operations of the State Board of Education
23 through the Department of Public Instruction:

| | <u>Position number</u> | <u>Title</u> |
|----|------------------------|------------------------------|
| 24 | | |
| 25 | (1) 65023576 | Attorney I. |
| 26 | (2) 60009384 | Attorney II. |
| 27 | (3) 65003194 | Paralegal II. |
| 28 | (4) 60095070 | Administrative Assistant I." |

29 SECTION 2. G.S. 115C-12 reads as rewritten:

30 **"§ 115C-12. Powers and duties of the Board generally.**

31 The general supervision and administration of the free public school system shall be vested in
32 the State Board of Education. The State Board of Education shall establish ~~policy~~all needed rules
33 and regulations for the system of free public schools, subject to laws enacted by the General
34 Assembly. In accordance with Sections 7 and 8 of Article III of the North Carolina Constitution,
35 the Superintendent of Public Instruction, as an elected officer and Council of State member, shall
36 administer all needed rules and regulations adopted by the State Board of Education through the
37 Department of Public Instruction. The powers and duties of the State Board of Education are
38 defined as follows:

39"

40 SECTION 3. G.S. 115C-19 reads as rewritten:

41 **"§ 115C-19. Chief administrative officer of the State Board of Education.**

42 As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent of
43 Public Instruction shall be the secretary and chief administrative officer of the State Board of
44 Education. ~~As secretary and chief administrative officer of the State Board of Education, the~~
45 ~~Superintendent manages on a day-to-day basis the administration of the free public school system,~~
46 ~~subject to the direction, control, and approval of the State Board. Subject to the direction, control,~~
47 ~~and approval of the State Board of Education, the Superintendent of Public Instruction~~As provided
48 in Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public
49 Instruction shall be an elected officer and Council of State member and shall carry out the duties
50 prescribed under G.S. 115C-21.G.S. 115C-21 as the administrative head of the Department of
51 Public Instruction. The Superintendent of Public Instruction shall administer all needed rules and

regulations adopted by the State Board of Education through the Department of Public Instruction."

SECTION 4. G.S. 115C-21 reads as rewritten:

"§ 115C-21. Powers and duties generally.

(a) Administrative Duties. – ~~Subject to the direction, control, and approval of the State Board of Education, it~~ It shall be the duty of the Superintendent of Public Instruction:

- (1) To organize and establish a Department of Public Instruction which shall include ~~such~~ divisions and departments as ~~the State Board considers necessary~~ for supervision and administration of the public school ~~system-system, to~~ administer the funds appropriated for the operation of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the State Board of Education, and to enter into contracts for the operations of the Department of Public Instruction. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction ~~are subject to the approval of the State Board of Education, which~~ Instruction and the State Board of Education, except for certain personnel appointed by the State Board of Education as provided in G.S. 115C-11(j), shall be under the control and management of the Superintendent of Public Instruction who may terminate these appointments ~~for cause~~ in conformity with Chapter 126 of the General Statutes, the North Carolina Human Resources Act.
- (2) To keep the public informed as to the problems and needs of the public schools by constant contact with all school administrators and teachers, by personal appearance at public gatherings, and by information furnished to the press of the State.
- (3) To report biennially to the Governor 30 days prior to each regular session of the General Assembly, such report to include information and statistics of the public schools, with recommendations for their improvement and for changes in the school law.
- (4) To have printed and distributed such educational bulletins as are necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and to have printed all forms necessary and proper for the administration of the Department of Public Instruction.
- (5) To ~~manage~~ have under his or her direction and control, all ~~these~~ matters relating to the direct supervision and administration of the public school ~~system that the State Board delegates to the Superintendent of Public Instruction-system.~~
- (6) To create ~~and administer~~ special ~~fundfunds~~ within the Department of Public Instruction to manage funds received as grants from nongovernmental sources in support of public education. ~~Effective July 1, 1995, this special fund is transferred to the State Board of Education and shall be administered by the State Board~~ education in accordance with G.S. 115C-410.
- (7) Repealed by Session Laws 1995, c. 72, s. 2.
- (8) To administer, through the Department of Public Instruction, all needed rules and regulations established by the State Board of Education.
- (9) To have under his or her direction and control all matters relating to the provision of staff services, except certain personnel appointed by the State Board as provided in G.S. 115C-11(j), and support of the State Board of Education, including implementation of federal programs on behalf of the State Board.

(b) Duties as Secretary to the State Board of Education. – ~~Subject to the direction, control, and approval of the State Board of Education,~~ As secretary to the State Board of Education, it shall be the duty of the Superintendent of Public Instruction:

(1) ~~To administer through the Department of Public Instruction, the instructional policies established by the Board.~~

(1a) Repealed by Session Laws 1995, c. 72, s. 2.

(1b) To administer funds appropriated for the operations of the State Board of Education and for aid to local school administrative units.

(2) To keep the Board informed regarding developments in the field of public education.

(3) To make recommendations to the Board with regard to the problems and needs of education in North Carolina.

(4) To make available to the public schools a continuous program of comprehensive supervisory services.

(5) To collect and organize information regarding the public schools, on the basis of which he or she shall furnish the Board such tabulations and reports as may be required by the Board.

(6) To communicate to the public school administrators all information and instructions regarding ~~instructional policies and procedures~~ needed rules and regulations adopted by the Board.

(7) To have custody of the official seal of the Board and to attest all deeds, leases, or written contracts executed in the name of the Board. All deeds of conveyance, leases, and contracts affecting real estate, title to which is held by the Board, and all contracts of the Board required to be in writing and under seal, shall be executed in the name of the Board by the chairman and attested by the secretary; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.

(8) To attend all meetings of the Board and to keep the minutes of the proceedings of the Board in a well-bound and suitable book, which minutes shall be approved by the Board prior to its adjournment; and, as soon thereafter as possible, to furnish to each member of the Board a copy of said minutes.

(9) To perform such other duties as may be necessary and appropriate for the Superintendent of Public Instruction in the role as secretary to the Board ~~may assign to him from time to time.~~ Board."

SECTION 5. G.S. 115C-408(a) reads as rewritten:

"(a) It is the policy of the State of North Carolina to create a public school system that graduates good citizens with the skills demanded in the marketplace, and the skills necessary to cope with contemporary society, using State, local and other funds in the most cost-effective manner. The Board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Section 7 of Article IX of the State Constitution, and also excepting such local funds as may be provided by a county, city, or district. The Superintendent of Public Instruction shall administer any available educational funds through the Department of Public Instruction in accordance with all needed rules and regulations adopted by the State Board of Education."

SECTION 6. G.S. 115C-410 reads as rewritten:

"§ 115C-410. **Power to accept gifts and grants.**

The Board is authorized to adopt all needed rules and regulations related to the creation and administration of special funds within the Department of Public Instruction to manage any funds received as grants from nongovernmental sources in support of public education. In accordance with the State Board's rules and regulations, the Superintendent of Public Instruction is authorized to create and administer such special funds and to accept, receive, use, or reallocate to local school

administrative units any gifts, donations, grants, devises, or other forms of voluntary contributions."

SECTION 7. G.S. 126-5(d) reads as rewritten:

"(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the North Carolina Human Resources Act, the Governor may designate a total of ~~1,500~~300 exempt positions throughout the following departments and offices:

a. Department of Administration.

b. Department of Commerce.

c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.

d. Department of Public Safety.

e. Department of Natural and Cultural Resources.

f. Department of Health and Human Services.

g. Department of Environmental Quality.

h. Department of Revenue.

i. Department of Transportation.

j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.

k. Department of Information Technology.

~~l. Office of State Budget and Management.~~

~~m. Office of State Human Resources.~~

n. Department of Military and Veterans Affairs.

(2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this ~~sub-subdivisionsub-subdivision~~, other than the Department of Public Instruction, shall be limited to ~~20–25~~ exempt policymaking positions or ~~one–two~~ percent ~~(1%)(2%)~~ of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to ~~20–25~~ positions or ~~one–two~~ percent ~~(1%)(2%)~~ of the total number of full-time positions in the department, whichever is greater. The number of exempt policymaking positions designated by the State Board of Education shall be limited to 70 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions designated by the State Board of Education shall be limited to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.

...

(2c) Changes in Cabinet Department Exempt Position Designation. – If the status of a position designated exempt pursuant to subsection (d)(1) of this section is changed and the position is made subject to the provisions of this Chapter, an employee occupying the position who has been continuously employed in a permanent position for the immediate 12 preceding months, shall be deemed a career State employee as defined by G.S. 126-1.1(a) upon the effective date of the change in designation.

...."

SECTION 8. G.S. 126-5(d), as amended by Section 7 of this act, reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the North Carolina Human Resources Act, the Governor may designate a total of 300 exempt positions throughout the following departments and offices:
- a. Department of Administration.
 - b. Department of Commerce.
 - c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - d. Department of Public Safety.
 - e. Department of Natural and Cultural Resources.
 - f. Department of Health and Human Services.
 - g. Department of Environmental Quality.
 - h. Department of Revenue.
 - i. Department of Transportation.
 - j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - k. Department of Information Technology.
 - l. Repealed.
 - m. Repealed.
 - n. Department of Military and Veterans Affairs.
- (2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Superintendent of Public Instruction, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. ~~The State Board of Education may designate exempt positions in the Department of Public Instruction.~~ The number of exempt policymaking positions in each department headed by an elected department head listed above in this ~~sub-subdivision, other than the Department of Public Instruction,~~ sub-subdivision shall be limited to 25 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to 25 positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt policymaking positions designated by the ~~State Board of Education~~ Superintendent of Public Instruction shall be limited to 70 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions designated by the ~~State Board of Education~~ Superintendent of Public Instruction shall be limited to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.
- (2a) Designation of Additional Positions. – ~~The Governor, Governor or~~ elected department head, ~~or State Board of Education~~ head may request that additional positions be designated as exempt. The request shall be made by sending a list of exempt positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate. A copy of the list also shall be sent to the Director of the Office of State Human Resources. The General Assembly may authorize all, or part of, the additional positions to be designated as exempt positions. If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list shall be deemed approved by

- the General Assembly, and the positions shall be designated as exempt positions. If the General Assembly is not in session when the list is submitted, the 30-day period shall not begin to run until the next date that the General Assembly convenes or reconvenes, other than for a special session called for a specific purpose not involving the approval of the list of additional positions to be designated as exempt positions; the policymaking positions shall not be designated as exempt during the interim.
- (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 for the Departments of Commerce, Environmental Quality, and Transportation are designated as exempt.
- (2c) Changes in Cabinet Department Exempt Position Designation. – If the status of a position designated exempt pursuant to subsection (d)(1) of this section is changed and the position is made subject to the provisions of this Chapter, an employee occupying the position who has been continuously employed in a permanent position for the immediate 12 preceding months, shall be deemed a career State employee as defined by G.S. 126-1.1(a) upon the effective date of the change in designation.
- (3) Letter. – These positions shall be designated in a letter to the Director of the Office of State Human Resources, the Speaker of the House of Representatives, and the President of the Senate by July 1 of the year in which the oath of office is administered to each Governor unless the provisions of subsection (d)(4) apply.
- (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the office of a member of the Council of State, the person who succeeds to or is appointed or elected to fill the unexpired term shall make such designations in a letter to the Director of the Office of State Human Resources, the Speaker of the House of Representatives, and the President of the Senate within 180 days after the oath of office is administered to that person. ~~In the event of a vacancy in the Office of Governor, the State Board of Education shall make these designations in a letter to the Director of the Office of State Human Resources, the Speaker of the House of Representatives, and the President of the Senate within 180 days after the oath of office is administered to the Governor.~~
- (5) Creation, Transfer, or Reorganization. – ~~The Governor,~~Governor or elected department head, ~~or State Board of Education head~~ may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after October 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the Director of the Office of State Human Resources, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 180 days after such position is created, transferred, or in which reorganization has occurred.
- (6) Reversal. – Subsequent to the designation of a position as an exempt position as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the ~~Governor,~~Governor or by an elected department head, ~~or by the State Board of Education head~~ in a letter to the Director of the Office of State Human Resources, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate.
- (7) Hearing Officers. – Except for deputy commissioners appointed pursuant to G.S. 97-79 and as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings,

take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents shall be designated as exempt. This subdivision shall apply beginning July 1, 1985, and no list submitted after that date shall designate as exempt any employee described in this subdivision."

SECTION 9. G.S. 143-745(a)(1) reads as rewritten:

"(1) "Agency head" means the Governor, a Council of State member, a cabinet secretary, the President of The University of North Carolina, the President of the Community College System, the State Controller, and other independent appointed officers with authority over a State agency. ~~The agency head for the Department of Public Instruction shall be the State Board of Education.~~"

SECTION 10. G.S. 143A-44.1 reads as rewritten:

"§ 143A-44.1. Creation.

There is hereby created a Department of Public Instruction. The head of the Department of Public Instruction is the ~~State Board of Education~~. Any provision of G.S. 143A-9 to the contrary notwithstanding, the appointment of the ~~State Board of Education~~ shall be as prescribed in Article IX, Section (4)(1) of the Constitution. Superintendent of Public Instruction."

SECTION 11. G.S. 143A-44.2 is repealed.

SECTION 12. G.S. 143A-44.3 reads as rewritten:

"§ 143A-44.3. Superintendent of Public Instruction; creation; transfer of powers and duties.

The office of the Superintendent of Public Instruction, as provided for by Article III, Section 7 of the Constitution, and the Department of Public Instruction are transferred to the Department of Public Instruction. The Superintendent of Public Instruction shall be the Secretary and Chief Administrative Officer of the State Board of Education, and shall have all powers and duties conferred by this Chapter and the Constitution, delegated to him or her by the Governor and by the State Board of Education, and conferred by Chapter 115C of the General Statutes, Statutes and the laws of this State."

SECTION 13. G.S. 14-234(d6) is repealed.

SECTION 14. G.S. 115C-75.5(4) reads as rewritten:

"(4) ASD Superintendent. – The superintendent of the ASD appointed by the ~~State Board of Education~~ Superintendent of Public Instruction in accordance with G.S. 115C-75.6(b)."

SECTION 15. G.S. 115C-75.6 reads as rewritten:

"§ 115C-75.6. Achievement School District.

(a) There is established the Achievement School District (ASD) under the administration of the ~~State Board of Education~~ Education and the Superintendent of Public Instruction. The ASD shall assume the supervision, management, and operation of elementary schools that have been selected as achievement schools pursuant to this Article.

(b) ~~An ASD Superintendent Selection Advisory Committee shall be established to make a recommendation to the State Board of Education on appointment of a superintendent to serve as the executive officer of the ASD. The Committee shall ensure that the individual recommended has qualifications consistent with G.S. 115C-271(a). The Lieutenant Governor shall serve as chair of the Committee and shall appoint the following additional members:~~

(1) ~~Three members of the State Board of Education.~~

(2) ~~One teacher or retired teacher.~~

(3) ~~One principal or retired principal.~~

(4) ~~One superintendent or retired superintendent.~~

(5) ~~One parent of a student currently enrolled in a low-performing school, as defined in G.S. 115C-105.37.~~

(c) ~~The State Board of Education~~ Superintendent of Public Instruction shall ~~consider the recommendation of the ASD Superintendent Selection Advisory Committee and~~ shall appoint a superintendent to serve as the executive officer of the ASD. The ASD Superintendent shall serve

at the pleasure of the ~~State Board of Education~~ Superintendent of Public Instruction at a salary established by the ~~State Board of Education~~ Superintendent of Public Instruction within the funds appropriated for this purpose. The ASD Superintendent shall have qualifications consistent with G.S. 115C-271(a) and report directly to the ~~State Board of Education~~ Superintendent of Public Instruction.

(d) By January 15 annually, the State Board of ~~Education~~ Education, Superintendent of Public Instruction, and the ASD Superintendent shall report to the Joint Legislative Education Oversight Committee on all aspects of operation of ASD, including the selection of achievement schools and their progress."

SECTION 16. G.S. 115C-150.11 reads as rewritten:

"§ 115C-150.11. State Board of Education as governing agency.

The State Board of Education shall be the sole governing agency for the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf. The ~~Department~~ Superintendent of Public Instruction through the Department of Public Instruction shall be responsible for the ~~administration~~ administration, including appointment of staff, and oversight of a school governed by this Article."

SECTION 17. G.S. 115C-218 reads as rewritten:

"§ 115C-218. Purpose of charter schools; establishment of North Carolina Charter Schools Advisory Board and North Carolina Office of Charter Schools.

...

(b) North Carolina Charter Schools Advisory Board. –

(1) Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Article as the Advisory Board. The Advisory Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.

(2) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Advisory Board and a nonvoting member. ~~The Chair of the State Board of Education shall appoint a member of the State Board to serve as a nonvoting member of the Advisory Board.~~ The Advisory Board shall consist of the following 11 voting members:

a. ~~Three members appointed by the Governor, including the chair of the Advisory Board.~~

b. ~~Three~~ Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

c. ~~Three~~ Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

d. ~~One member~~ Two members appointed by the State Board of Education who ~~is~~ are not a ~~current member~~ members of the State Board of Education and who ~~is~~ are charter school ~~advocate~~ advocates in North Carolina.

e. The Lieutenant Governor or the Lieutenant Governor's designee.

(3) Covered board. – The Advisory Board shall be treated as a board for purposes of Chapter 138A of the General Statutes.

(4) Qualifications of members. – Members appointed to the Advisory Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Advisory Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

- 1 (5) Terms of office and vacancy appointments. – Appointed members shall serve
2 four-year terms of office beginning on July 1. No appointed member shall serve
3 more than eight consecutive years. Vacancy appointments shall be made by the
4 appointing authority for the remainder of the term of office.
- 5 (6) Presiding officers and quorum. – The Advisory Board shall annually elect a
6 chair and a vice-chair from among its membership. The chair shall preside over
7 the Advisory Board's meetings. In the absence of the chair, the vice-chair shall
8 preside over the Advisory Board's meetings. A majority of the Advisory Board
9 constitutes a quorum.
- 10 (7) Presiding officers and quorum. – Meetings. – Meetings of the Advisory Board
11 shall be held upon the call of the chair or the vice-chair with the approval of the
12 chair.
- 13 (8) Expenses. – Members of the Advisory Board shall be reimbursed for travel and
14 subsistence expenses at the rates allowed to State officers and employees by
15 G.S. 138-6(a).
- 16 (9) Removal. – Any appointed member of the Advisory Board may be removed by
17 a vote of at least two-thirds of the members of the Advisory Board at any duly
18 held meeting for any cause that renders the member incapable or unfit to
19 discharge the duties of the office.
- 20 (10) Powers and duties. – The Advisory Board shall have the following duties:
21 a. To make recommendations to the State Board of Education on the
22 adoption of rules regarding all aspects of charter school operation,
23 including time lines, standards, and criteria for acceptance and approval
24 of applications, monitoring of charter schools, and grounds for
25 revocation of charters.
- 26 b. To review applications and make recommendations to the State Board
27 for final approval of charter applications.
- 28 c. To make recommendations to the State Board on actions regarding a
29 charter school, including renewals of charters, nonrenewals of charters,
30 and revocations of charters.
- 31 d. To undertake any other duties and responsibilities as assigned by the
32 State Board.
- 33 (11) Duties of the chair of the Advisory Board. – In addition to any other duties
34 prescribed in this Article, the chair of the Advisory Board, or the chair's
35 designee, shall advocate for the recommendations of the Advisory Board at
36 meetings of the State Board upon the request of the State Board.
- 37 (c) North Carolina Office of Charter Schools. –
- 38 (1) Establishment of the North Carolina Office of Charter Schools. – There is
39 established the North Carolina Office of Charter Schools, hereinafter referred to
40 in this Article as the Office of Charter Schools. The Office of Charter Schools
41 shall be administratively located in the Department of Public ~~Instruction,~~
42 ~~subject to the supervision, direction, and control of the State Board of~~
43 ~~Education-Instruction.~~ The Office of Charter Schools shall consist of an
44 executive director appointed by the ~~State Board of Education~~Superintendent of
45 Public Instruction and such other professional, administrative, technical, and
46 clerical personnel as may be necessary to assist the Office of Charter Schools in
47 carrying out its powers and duties.
- 48 (2) Executive Director. – The Executive Director shall report to and serve at the
49 pleasure of the ~~State Board of Education~~Superintendent of Public Instruction at
50 a salary established by the ~~State Board~~Superintendent within the funds
51 appropriated for this purpose. The duties of the Executive Director shall include

- 1 presenting the recommendations of the Advisory Board at meetings of the State
2 Board upon the request of the State Board.
- 3 (3) Powers and duties. – The Office of Charter Schools shall have the following
4 powers and duties:
- 5 a. Serve as staff to the Advisory Board and fulfill any task and duties
6 assigned to it by the Advisory Board.
- 7 b. Provide technical assistance and guidance to charter schools operating
8 within the State.
- 9 c. Provide technical assistance and guidance to nonprofit corporations
10 seeking to operate charter schools within the State.
- 11 d. Provide or arrange for training for charter schools that have received
12 preliminary approval from the State Board.
- 13 e. Assist approved charter schools and charter schools seeking approval
14 from the State Board in coordinating services with the Department of
15 Public Instruction.
- 16 f. Other duties as assigned by the ~~State Board~~ Superintendent of Public
17 Instruction.
- 18 (4) Agency cooperation. – All State agencies and departments shall cooperate with
19 the Office of Charter Schools in carrying out its powers and duties as necessary
20 in accordance with this Article."

21 **SECTION 18.** G.S. 115C-218.20(b) reads as rewritten:

22 "(b) No civil liability shall attach to the State Board of Education, the Superintendent of
23 Public Instruction, or to any of their members or employees, individually or collectively, for any
24 acts or omissions of the charter school."

25 **SECTION 19.** G.S. 115C-238.73(g) reads as rewritten:

26 "(g) There shall be no liability for negligence on the part of the board of directors, or its
27 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~ any of
28 their members or employees, individually or collectively, arising from any act taken or omission
29 by any of them in carrying out the provisions of this section. The immunity established by this
30 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
31 would otherwise be actionable. The immunity established by this subsection shall be deemed to
32 have been waived to the extent of indemnification by insurance, indemnification under Articles
33 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
34 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General
35 Statutes."

36 **SECTION 20.** G.S. 115C-332(g) reads as rewritten:

37 "(g) There shall be no liability for negligence on the part of a local board of education, or its
38 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~ any of
39 their members or employees, individually or collectively, arising from any act taken or omission
40 by any of them in carrying out the provisions of this section. The immunity established by this
41 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
42 would otherwise be actionable. The immunity established by this subsection shall be deemed to
43 have been waived to the extent of indemnification by insurance, indemnification under Articles
44 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
45 waived under the Tort Claims Act, as set forth in Chapter 31 of Chapter 143 of the General
46 Statutes."

47 **SECTION 21.** G.S. 115C-333(e) reads as rewritten:

48 "(e) Civil Immunity. – There shall be no liability for negligence on the part of the State
49 Board of ~~Education~~ Education, the Superintendent of Public Instruction, or a local board of
50 education, or their members or employees, individually or collectively, arising from any action
51 taken or omission by any of them in carrying out the provisions of this section. The immunity

1 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional
2 wrongdoing that would otherwise be actionable. The immunity established by this subsection shall
3 be deemed to have been waived to the extent of indemnification by insurance, indemnification
4 under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign
5 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the
6 General Statutes."

7 **SECTION 22.** G.S. 115C-333.1(g) reads as rewritten:

8 "(g) Civil Immunity. – There shall be no liability for negligence on the part of the State
9 Board of ~~Education~~ Education, the Superintendent of Public Instruction, or a local board of
10 education, or their members or employees, individually or collectively, arising from any action
11 taken or omission by any of them in carrying out the provisions of this section. The immunity
12 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional
13 wrongdoing that would otherwise be actionable. The immunity established by this subsection shall
14 be deemed to have been waived to the extent of indemnification by insurance, indemnification
15 under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign
16 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the
17 General Statutes."

18 **SECTION 23.** G.S. 115C-390.3(c) reads as rewritten:

19 "(c) Notwithstanding any other law, no ~~officer~~ officer, member, or employee of the State
20 Board of ~~Education~~ Education, the Superintendent of Public Instruction, or of a local board of
21 ~~education~~ education, individually or collectively, shall be civilly liable for using reasonable force
22 in conformity with State law, State or local rules, or State or local policies regarding the control,
23 discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the
24 claimant to show that the amount of force used was not reasonable."

25 **SECTION 24.** G.S. 115C-521 reads as rewritten:

26 "**§ 115C-521. Erection of school buildings.**

27 ...

28 (b) It shall be the duty of the local boards of education ~~of the several local school~~
29 ~~administrative school units of the State~~ to make provisions for the public school term by providing
30 adequate school buildings equipped with suitable school furniture and apparatus. The needs and
31 the cost of those buildings, equipment, and apparatus, shall be presented each year when the
32 school budget is submitted to the respective tax-levying authorities. The boards of commissioners
33 shall be given a reasonable time to provide the funds which they, upon investigation, shall find to
34 be necessary for providing their respective units with buildings suitably equipped, and it shall be
35 the duty of the several boards of county commissioners to provide funds for the same.

36 Upon determination by a local board of education that the existing permanent school building
37 does not have sufficient classrooms to house the pupil enrollment anticipated for the school, the
38 local board of education may acquire and use as temporary classrooms for the operation of the
39 school, relocatable or mobile classroom units, whether built on the lot or not, which units and
40 method of use shall meet the approval of the School Planning Division of the ~~State Board of~~
41 ~~Education~~ Department of Public Instruction, and which units shall comply with all applicable
42 requirements of the North Carolina State Building Code and of the local building and electrical
43 codes applicable to the area in which the school is located. These units shall also be anchored in a
44 manner required to assure their structural safety in severe weather. The acquisition and installation
45 of these units shall be subject in all respects to the provisions of Chapter 143 of the General
46 Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to
47 persons, firms or corporations engaged in the sale or furnishing to local boards of education and
48 the delivery and installation upon school sites of classroom trailers as a single building unit or of
49 relocatable or mobile classrooms delivered in less than four units or sections.

50 ...

(f) A local board of education may use prototype designs from the clearinghouse established under subsection (e) of this section that is a previously approved and constructed project by the School Planning Division of the ~~State Board of Education~~, Department of Public Instruction and other appropriate review agencies. The local board of education may contract with the architect of record to make changes and upgrades as necessary for regulatory approval.

...."

SECTION 25. G.S. 115C-535 reads as rewritten:

"§ 115C-535. Authority and rules for organization of system.

The ~~State Board of Education~~Superintendent of Public Instruction is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school ~~property~~property in accordance with all needed rules and regulations adopted by the State Board of Education. The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The ~~Board~~Superintendent of Public Instruction shall employ a director, safety inspectors, engineers and other personnel with suitable training and experience, which in ~~its~~his or her opinion is necessary to insure and protect effectively public school property, and ~~it~~he or she shall fix their compensation consistent with the ~~approval~~policies of the ~~Personnel~~State Human Resources Commission."

SECTION 26. G.S. 116-239.12(g) reads as rewritten:

"(g) There shall be no liability for negligence on the part of the board of trustees, or its employees, or the State Board of ~~Education~~Education, the Superintendent of Public Instruction, or ~~its~~their members or employees, individually or collectively, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 27. G.S. 143B-146.16(g) reads as rewritten:

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

SECTION 28. Section 8.37 of S.L. 2015-241, as amended by Section 8.30 of S.L. 2016-94, reads as rewritten:

"BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION

"SECTION 8.37.(a) Notwithstanding G.S. 143C-6-4, the ~~State Board of Education~~Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize the Department of Public Instruction, if necessary, to implement the budget reductions for the 2015-2017 fiscal biennium. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The ~~State Board~~Department of Public Instruction shall provide a current organization chart for the Department of Public Instruction in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

"SECTION 8.37.(b) In implementing budget reductions for the 2015-2017 fiscal biennium, the ~~State Board of Education~~ Department of Public Instruction shall make no reduction to funding or positions for (i) the North Carolina Center for Advancement of Teaching and (ii) the Eastern North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead School, except that the ~~State Board~~ Superintendent of Public Instruction may, in its discretion, reduce positions at these institutions that have been vacant for more than 16 months. The ~~State Board~~ Department of Public Instruction shall also make no reduction in funding to any of the following entities:

- (1) Communities in Schools of North Carolina, Inc.
- (2) Teach For America, Inc.
- (3) Beginnings for Parents of Children who are Deaf or Hard of Hearing, Inc.

"SECTION 8.37.(c) In implementing budget reductions for the 2016-2017 fiscal year, the Department of Public Instruction shall do all of the following:

- (1) In addition to the prohibition on a reduction to funding and positions for the items listed in subsection (b) of this section, the Department shall make no transfers from or reduction to funding or positions for the following:
 - a. The Excellent Public Schools Act, Read to Achieve Program, initially established under Section 7A.1 of S.L. 2012-142.
 - b. The North Carolina School Connectivity Program.
- (2) The Department shall transfer the sum of fifty thousand dollars (\$50,000) to the Office of Administrative Hearings to be allocated to the Rules Review Commission, created by G.S. 143B-30.1, to pay for any litigation costs incurred in the defense of *North Carolina State Board of Education v. The State of North Carolina and The Rules Review Commission*, Wake County Superior Court, File No. 14 CVS 14791 (filed November 7, 2014). These funds shall not revert at the end of the 2016-2017 fiscal year but shall remain available during the 2017-2018 fiscal year for expenditure in accordance with the provisions of this subdivision."

SECTION 29. By May 15, 2017, the State Board of Education shall revise, as necessary, any of its rules and regulations to comply with the provisions of this Part.

SECTION 30. The Department of Public Instruction shall review all State laws and rules and regulations governing the public school system to ensure compliance with the intent of this Part to restore authority to the Superintendent of Public Instruction as the administrative head of the Department of Public Instruction and the Superintendent's role in the direct supervision of the public school system. By April 15, 2017, the Department of Public Instruction shall report to the 2017 General Assembly on the results of its review, including any recommended legislation.

SECTION 31. Notwithstanding G.S. 115C-11, as amended by this act, the current student advisor and the local superintendent advisor members serving on the State Board of Education as of the effective date of this Part shall serve the remainder of their terms. Thereafter, as terms expire, or when a vacancy occurs prior to the expiration of a term, the student advisor and local superintendent advisor members on the State Board shall be appointed by the Superintendent of Public Instruction in accordance with G.S. 115C-11, as amended by this act.

SECTION 32. Notwithstanding G.S. 115C-218, as amended by this act, the current members serving on the North Carolina Charter Schools Advisory Board as of the effective date of this Part shall serve the remainder of their terms. Thereafter, as terms expire, or when a vacancy occurs prior to the expiration of a term, the members on the North Carolina Charter Schools Advisory Board shall be appointed in accordance with G.S. 115C-218, as amended by this act. If a vacancy occurs in a seat appointed by the Governor, the State Board of Education shall fill that vacancy for the remainder of that term. Upon expiration of that term, the member shall be appointed in accordance with G.S. 115C-218.

SECTION 33. Sections 1 through 6 and Sections 8 through 32 of this Part become effective January 1, 2017. The remainder of this Part is effective when it becomes law.

PART II. MODIFY APPOINTMENT OF UNC BOARDS OF TRUSTEES

SECTION 35. G.S. 116-31 reads as rewritten:

"§ 116-31. Membership of the boards of trustees.

(a) ~~All persons who, as of June 30, 1972, are serving as trustees of the regional universities and of the North Carolina School of the Arts, redesignated effective August 1, 2008, as the "University of North Carolina School of the Arts," except those who may have been elected to the Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of all such trustees shall continue for the period of one year.~~

(b) Effective July 1, 1972, a separate board of trustees shall be created for each of the following institutions: North Carolina State University at Raleigh, the University of North Carolina at Asheville, the University of North Carolina at Chapel Hill, the University of North Carolina at Charlotte, the University of North Carolina at Greensboro, and the University of North Carolina at Wilmington. ~~For the period commencing July 1, 1972, and ending June 30, 1973, each such board shall be constituted as follows:~~

(1) ~~Twelve or more persons elected prior to July 1, 1972, by and from the membership of the Board of Trustees of the University of North Carolina, and~~

(2) ~~The president of the student government of the institution, ex officio.~~

(e) ~~If any vacancy should occur in any board of trustees during the year beginning July 1, 1972, the Governor may appoint a person to serve for the balance of the year.~~

(d) Except as provided in G.S. 116-65, effective July 1, 1973, each of the 16 institutions of higher education set out in G.S. 116-2(4) shall have board of trustees composed of 13 persons chosen as follows:

(1) Eight elected by the Board of Governors, Governors.

(2) Four appointed by the Governor, and

(2a) Four members appointed by the General Assembly under G.S. 120-121, two of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate and two of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives.

(3) The president of the student government ex officio.

The Board of Trustees of the North Carolina School of Science and Mathematics shall be established in accordance with G.S. 116-233.

(e) ~~From and after July 1, 1973, the~~ The term of office of all trustees, except the ex officio member, shall be four years, commencing on July 1 of odd-numbered years. In every odd-numbered year the Board of Governors shall elect four persons to each board of trustees and ~~the Governor-General Assembly shall appoint two persons one person upon the recommendation of the President Pro Tempore of the Senate and one person upon the recommendation of the Speaker of the House of Representatives to each such board.~~

(g) ~~From and after July 1, 1973, any~~ Any person who has served two full four-year terms in succession as a member of a board of trustees shall, for a period of one year, be ineligible for election or appointment to the same board but may be elected or appointed to the board of another institution.

(h) No member of the General Assembly or officer or employee of the State, The University of North Carolina, or any constituent institution shall be eligible for election or appointment as a trustee. No spouse of a member of the General Assembly, or of an officer or employee of a constituent institution may be a trustee of that constituent institution. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, The University of North Carolina, or any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes an officer or employee of that

1 constituent institution shall be deemed thereupon to resign from his or her membership on the
2 board of trustees.

3 (i) No person may serve simultaneously as a member of a board of trustees and as a
4 member of the Board of Governors. Any trustee who is elected or appointed to the Board of
5 Governors shall be deemed to resign as a trustee effective as of the date that his or her term
6 commences as a member of the Board of Governors.

7 (j) ~~From and after July 1, 1973, whenever~~ Whenever any vacancy shall occur in the
8 membership of a board of trustees among those appointed by the ~~Governor~~ General Assembly, it
9 shall be the duty of the secretary of the board to inform the ~~Governor~~ General Assembly of the
10 existence of such vacancy, and the ~~Governor shall appoint a person to fill the unexpired term,~~
11 vacancy shall be filled as provided in G.S. 120-122, and whenever any vacancy shall occur among
12 those elected by the Board of Governors, it shall be the duty of the secretary of the board to inform
13 the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a
14 person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill
15 health or service in the interest of the State or nation, to be present for three successive regular
16 meetings of a board of trustees, his or her place as a member shall be deemed vacant."

17 **SECTION 36.** G.S. 116-233 reads as rewritten:

18 **"§ 116-233. Board of Trustees; appointment; terms of office.**

19 (a) Notwithstanding the provisions of G.S. 116-31(d), there shall be a Board of Trustees of
20 the School, which shall consist of up to 30 members as follows:

- 21 (1) Thirteen members who shall be appointed by the Board of Governors of The
22 University of North Carolina, one from each congressional district.
- 23 (2) Four members without regard to residency who shall be appointed by the Board
24 of Governors of The University of North Carolina.
- 25 (3) Three members, ex officio, who shall be the chief academic officers,
26 respectively, of constituent institutions. The Board of Governors shall in 1985
27 and quadrennially thereafter designate the three constituent institutions whose
28 chief academic officers shall so serve, such designations to expire on June 30,
29 1989, and quadrennially thereafter.
- 30 (4) The chief academic officer of a college or university in North Carolina other
31 than a constituent institution, ex officio. The Board of Governors shall
32 designate in 1985 and quadrennially thereafter which college or university
33 whose chief academic officer shall so serve, such designation to expire on June
34 30, 1989, and quadrennially thereafter.
- 35 (5) ~~Two—Three~~ members appointed by the General Assembly upon the
36 recommendation of the President Pro Tempore of the Senate in accordance with
37 G.S. 120-121.
- 38 (6) ~~Two—Three~~ members appointed by the General Assembly upon the
39 recommendation of the Speaker of the House of Representatives in accordance
40 with G.S. 120-121.
- 41 (7) ~~Two members appointed by the Governor.~~
- 42 (8) The president of the student government, ex officio, who shall be a nonvoting
43 member.
- 44 (9) Up to two additional nonvoting members selected at the discretion of the
45 chancellor and the Board of Trustees, with terms expiring June 30 of each year.

46 (b) Appointed members of the Board of Trustees shall be selected for their interest in and
47 commitment to public education and to the purposes of the School, and they shall be charged with
48 the responsibility of serving the interests of the whole State. In appointing members, the objective
49 shall be to obtain the services of the best qualified persons, taking into consideration the
50 desirability of diversity of membership, including men and women, representatives of different
51 races, and members of different political parties.

(c) No member of the General Assembly or officer or employee of the State, the School, The University of North Carolina, or of any constituent institution of The University of North Carolina, shall be eligible to be appointed to the Board of Trustees except as specified under subdivision (3) of subsection (a) of this section. No spouse of a member of the General Assembly, or of an officer or employee of the school may be a member of the Board of Trustees. Any appointed trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, except as specified under subdivision (3) of subsection (a) of this section, or whose spouse is elected or appointed to the General Assembly or becomes such an officer or employee of the School, shall be deemed thereupon to resign from his or her membership on the Board of Trustees. This subsection does not apply to ex officio members.

(d) Members appointed under subdivisions (1) or (2) of subsection (a) of this section shall serve staggered four-year terms expiring June 30 of odd numbered years.

(d1) Only an ex officio member shall be eligible to serve more than two successive terms.

(d2) Any vacancy in the membership of the Board of Trustees appointed under G.S. 116-233(a)(1) or (2) shall be reported promptly by the Secretary of the Board of Trustees to the Board of Governors of The University of North Carolina, which shall fill any such vacancy by appointment of a replacement member to serve for the balance of the unexpired term. Any vacancy in members appointed under G.S. 116-233(a)(5) or (6) shall be filled in accordance with G.S. 120-122. ~~Any vacancy in members appointed under G.S. 116-233(a)(7) shall be filled by the Governor for the remainder of the unexpired term.~~ Reapportionment of congressional districts does not affect the right of any member to complete the term for which the member was appointed.

(e) ~~Of the initial members appointed under G.S. 116-233(a)(5), G.S. 116-233(a)(5) in 1985, one member shall serve a term to expire June 30, 1987, and one member shall serve a term to expire June 30, 1989. Subsequent appointments shall be for four-year terms. The initial members appointed under G.S. 116-233(a)(6), G.S. 116-233(a)(6) in 1985 shall be appointed for terms to expire June 30, 1987. Subsequent appointments shall be for two-year terms. The initial members appointed under G.S. 116-233(a)(7) shall be appointed for terms to expire January 15, 1989. Successors shall be appointed for four-year terms until January 15, 2017, at which point subsequent appointments shall be for four-year terms.~~

(e1) The initial members appointed under G.S. 116-233(a)(5) and (6) in 2017, and successors of those members, shall serve four-year terms.

(f) Whenever an appointed member of the Board of Trustees shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present at three successive regular meetings of the Board, his or her place as a member of the Board shall be deemed vacant."

SECTION 37. This Part is effective when it becomes law and applies to (i) vacancy appointments made on or after that date and (ii) appointments to fill terms expiring January 15, 2017, and thereafter. A vacancy by any board member appointed by the Governor to any board affected by this Part shall be filled by joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as provided in G.S. 120-121. The terms of members holding office as of the effective date of this Part shall not be affected.

PART III. SENATE CONFIRMATION OF CABINET APPOINTEES

SECTION 38. G.S. 143B-9 reads as rewritten:

"§ 143B-9. Appointment of officers and employees.

(a) The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at ~~his~~ the Governor's pleasure. The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

For each head of each principal State department covered by this subsection, the Governor shall notify the President of the Senate of the name of each person to be appointed, and the

1 appointment shall be subject to senatorial advice and consent in conformance with Section 5(8) of
2 Article III of the North Carolina Constitution unless (i) the senatorial advice and consent is
3 expressly waived by an enactment of the General Assembly or (ii) a vacancy occurs when the
4 General Assembly is not in regular session. Any person appointed to fill a vacancy when the
5 General Assembly is not in regular session may serve without senatorial advice and consent for no
6 longer than the earlier of the following:

7 (1) The date on which the Senate adopts a simple resolution that specifically
8 disapproves the person appointed.

9 (2) The date on which the General Assembly shall adjourn pursuant to a joint
10 resolution for a period longer than 30 days without the Senate adopting a simple
11 resolution specifically approving the person appointed.

12 (b) The head of a principal State department shall appoint a chief deputy or chief assistant,
13 and such chief deputy or chief assistant shall not be subject to the North Carolina Human
14 Resources Act. The salary of such chief deputy or chief assistant shall be set by the Governor.
15 Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the
16 provisions of the ~~Personnel~~ Human Resources Act, the head of each principal State department
17 shall designate the administrative head of each transferred agency and all employees of each
18 division, section, or other unit of the principal State department."

19 SECTION 39. This Part is effective when it becomes law.

20 21 **PART IV. ESTABLISH TASK FORCE FOR SAFER SCHOOLS; TRANSFER CENTER** 22 **FOR SAFER SCHOOLS**

23 SECTION 41.1.(a) Effective December 15, 2016, the Center for Safer Schools is
24 hereby moved to the Department of Public Instruction, Division of Safe and Healthy Schools
25 Support. This transfer shall have all of the elements of a Type I transfer, as defined in
26 G.S. 143A-6.

27 SECTION 41.1.(b) Article 8C of Chapter 115C of the General Statutes is amended by
28 adding two new sections to read:

29 **"§ 115C-105.55. Establish Task Force for Safer Schools.**

30 (a) Task Force Established. – There is hereby created the Task Force for Safer Schools
31 within the North Carolina Department of Public Instruction.

32 (b) Membership. – The Task Force shall consist of 25 members. The composition of the
33 Task Force shall include all of the following:

34 (1) The Secretary of the Department of Public Safety or the Secretary's designee.

35 (2) The Secretary of the Department of Health and Human Services or the
36 Secretary's designee.

37 (3) A member of the State Board of Education appointed by the Governor.

38 (4) Two local school board members appointed by the Chair of the State Board of
39 Education.

40 (5) A representative from the North Carolina Department of Public Safety,
41 Division of Emergency Management, appointed by the Secretary of the
42 Department of Public Safety.

43 (6) A representative from the North Carolina Justice Academy appointed by the
44 Attorney General.

45 (7) A member of the Governor's Crime Commission appointed by the Governor.

46 (8) Two local law enforcement officers appointed by the Governor.

47 (9) Two public school administrators appointed by the Chair of the State Board of
48 Education.

49 (10) A public school teacher appointed by the Chair of the State Board of Education.

50 (11) A public school psychologist appointed by the Governor.

51 (12) A public school resource officer appointed by the Governor.

- 1 (13) Two high school students currently enrolled at public high schools appointed by
2 the Governor.
- 3 (14) A parent of a currently enrolled public school student appointed by the
4 Governor.
- 5 (15) A juvenile justice professional appointed by the Governor.
- 6 (16) A North Carolina licensed social worker appointed by the Governor.
- 7 (17) A North Carolina licensed school counselor appointed by the Governor.
- 8 (18) An expert in gang intervention and prevention in schools appointed by the
9 Governor.
- 10 (19) Three at-large members appointed by the Governor.
- 11 (c) Appointment of Chair and Vice-Chair. – The Governor shall appoint a Chair and
12 Vice-Chair from among the membership of the Task Force. The Chair and Vice-Chair shall serve
13 at the pleasure of the Governor.
- 14 (d) Terms; Vacancies. – Effective December 1, 2016, all members shall be appointed for a
15 term of four years. Members may be reappointed to successive terms. Any appointment to fill a
16 vacancy on the Task Force created by the resignation, dismissal, death, disability, or
17 disqualification of a member shall be for the balance of the unexpired term.
- 18 (e) Removal. – The Governor shall have the authority to remove any member of the Task
19 Force for misfeasance, malfeasance, or nonfeasance, pursuant to the provisions of G.S. 143B-13.
- 20 (f) Per Diem, Etc. – Members of the Task Force may receive necessary per diem,
21 subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as
22 appropriate.
- 23 **"§ 115C-105.56. Task Force for Safer Schools; powers and duties.**
24 The Task Force shall have all of the following duties:
- 25 (1) To serve as an advisory board to the Center for Safer Schools.
- 26 (2) To provide guidance and recommendations to the Governor, Superintendent of
27 Public Instruction, and the General Assembly to improve statewide policy to
28 enhance statewide and local capacities to create safer schools.
- 29 (3) To encourage interagency collaboration among State and local government
30 agencies to achieve effective policies and streamline efforts to create safer
31 schools.
- 32 (4) To Assist the Center for Safer Schools in collecting and disseminating
33 information on recommended best practices and community needs related to
34 creating safer schools in North Carolina.
- 35 (5) Other duties as assigned by the State Board of Education."

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

38 **SECTION 42.** If any provision of this act or its application is held invalid, the
39 invalidity does not affect other provisions or applications of this act that can be given effect
40 without the invalid provisions or application, and to this end, the provisions of this act are
41 severable.

42 **SECTION 43.** Except as otherwise provided, this act is effective when it becomes
43 law.



HOUSE BILL 17: Modify Certain Appts/Employment.

2015-2016 General Assembly

Committee: Senate Education/Higher Education
Introduced by: Reps. Lewis, Bryan, Horn, Ross
Analysis of: PCS to Third Edition
H17-CSTC-1

Date: December 16, 2016
Prepared by: Drupti Chauhan and
Kara McCraw
Staff Attorneys

OVERVIEW: *The 3rd Edition of House Bill 17 makes various changes to the laws pertaining to the Superintendent of Public Instruction; the appointments process for the boards of trustees for the constituent institutions of The University of North Carolina; the appointments of heads of principal State departments; and to establish a task force for safer schools.*

The PCS would require the State Board to provide all staff to the State Board of Education except for 4 positions.

PART I. CLARIFY ROLES/DPI/SBE

SECTIONS 1 and 31.

CURRENT LAW: G.S. 115C-11 sets forth the organization and internal procedures of the State Board of Education (SBE), including the process of advisory appointments.

BILL ANALYSIS: Section 1:

- Authorizes the Superintendent of Public Instruction (Superintendent) instead of the Governor to appoint the student advisors and local superintendent advisor to the SBE.
- Adds an additional provision to require the Superintendent to provide technical assistance and administrative assistance to the SBE through the Department of Public Instruction (DPI), except for 4 designated positions under the SBE.

Section 31 provides that the current advisors in these positions can serve the remainder of their terms.

SECTION 2.

CURRENT LAW: G.S. 115C-12 provides for the general powers and duties of the SBE.

BILL ANALYSIS: This section adds language to clarify that the Superintendent, through DPI, must administer all needed rules and regulations adopted by the SBE.

SECTION 3.

CURRENT LAW: G.S. 115C-19 describes the Superintendent's role as the chief administrative officer of the SBE. It describes the Superintendent's role to manage "on a day-to-day basis the administration of the free public school system, subject to the direction, control, and approval of the State Board" and carry out the duties of the Superintendent "subject to the direction, control, and approval of the State Board of Education."

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 17

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BILL ANALYSIS: This section removes language subordinating the Superintendent to the SBE, and instead adds language that the Superintendent is an elected officer and Council of State member and is the administrative head of DPI.

SECTION 4.

CURRENT LAW: G.S. 115C-21 describes the powers and duties of the Superintendent. It states that these powers and duties are "[s]ubject to the direction, control, and approval of the State Board of Education."

BILL ANALYSIS: This section does the following:

- Removes any references to the Superintendent's powers and duties being subject to the SBE.
- Adds authority to the State Superintendent to administer DPI's funds in accordance with all needed rules and regulations adopted by the State Board of Education and enter contracts for the operation of DPI.
- Establishes that all staff of DPI are under the management of the Superintendent except for the four designated positions appointed by the SBE.
- Provides that the Superintendent, rather than SBE, will administer any special funds within DPI which were received as grants from nongovernmental sources in accordance with G.S. 115C-410.
- Adds new language that all matters related to providing staff services, except for the four designated SBE positions, and support to the SBE, including implementation of federal programs on behalf of the SBE, are under the direction and control of the Superintendent.
- Specifies that as secretary to the SBE, the Superintendent must administer funds appropriated for the operations of the SBE and for aid to local school administrative units.

SECTION 5.

CURRENT LAW: G.S. 115C-408 covers the funds under control of the SBE, and provides that the SBE is charged with the "general supervision and administration of the educational funds" other than those specifically provided in the State Constitution and local funds.

BILL ANALYSIS: This section adds that the Superintendent shall administer any available educational funds through DPI in accordance with all rules and regulations adopted by the SBE.

SECTION 6.

CURRENT LAW: Under Section 5 of Article IX of the State Constitution, the SBE must supervise and administer the educational funds provided for the support of the public school system and it must make all needed rules and regulations regarding those funds, subject to the laws enacted by the General Assembly. G.S. 115C-410 allows the SBE to accept gifts and grants and other forms of voluntary contributions and use those monies or reallocate those monies to the local school administrative units.

BILL ANALYSIS: This section amends the statute to provide that the SBE is authorized to adopt all needed rules and regulations for the creation and administration of special funds within DPI to manage any funds received as grants from nongovernmental sources in support of public education. It then provides that, in accordance with the SBE's rules and regulations, the Superintendent is authorized to create and administer such special funds, to accept gifts and grants, and use those gifts and grants or reallocate those funds to the local school administrative units.

SECTION 7.

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CURRENT LAW: G.S. 126-5(d) describes the positions that can be exempted from the North Carolina Human Resources Act (NCHRA).

BILL ANALYSIS: Section 8 amends G.S. 126-5(d) as follows:

- Decreases from 1500 to 300 the number of positions the Governor may designate as exempt throughout the Cabinet departments and offices.
- Removes the Office of State Budget and Management and the Office of State Human Resources from the list of cabinet departments and offices with exempt positions designated under this subsection.
- Increases the number of positions the Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate as exempt to:
 - 25 exempt policymaking positions, or 2% of the total number of full-time positions, whichever is greater, and
 - 25 exempt managerial positions, or 2% of the total number of full-time positions in the department, whichever is greater.
- Increases the number of positions the State Board of Education may designate as exempt to:
 - 70 exempt policymaking positions, or 2% of the total number of full-time positions, whichever is greater, and
 - 70 exempt managerial positions, or 2% of the total number of full-time positions in the department, whichever is greater.
- Provides that if a position designated as exempt from the NCHRA under this subsection is changed to subject to the NCHRA and the employee occupying the position has been continuously employed in a permanent position for the immediate 12 preceding months, the employee is deemed a career State employee, as defined in G.S.126-1.1(a), upon the effective date of the change in designation.

This section becomes effective when it becomes law.

SECTION 8.

CURRENT LAW: G.S. 126-5(d) describes the positions that can be exempted from the North Carolina Human Resources Act. It provides that the SBE may designate certain positions as exempt in DPI.

BILL ANALYSIS: Section 8 provides that the Superintendent will designate exempt positions, rather than the SBE, beginning January 1, 2017.

SECTION 9.

CURRENT LAW: G.S. 143-745 provides the definitions applicable to State agency internal auditing programs. The SBE is designated as the head of DPI.

BILL ANALYSIS: This section changes the designation of the head of DPI from the SBE to the Superintendent.

SECTIONS 10-12.

CURRENT LAW: Article 5 of Chapter 143A of the General Statutes creates DPI and provides that the head of DPI is the SBE.

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BILL ANALYSIS: These sections provide that the Superintendent will be the head of DPI and have all the powers and duties conferred by the Constitution, the various statutes, and delegated to the Superintendent by the Governor and SBE.

SECTION 13.

CURRENT LAW: G.S. 14-234 generally prohibits public officers and employees who are involved in the making or administration of a contract from deriving a direct benefit from the contract. Subsection (d6) of that statute exempts employment contracts between the SBE and its chief executive officer.

BILL ANALYSIS: This section repeals subsection (d6).

SECTIONS 14-15.

CURRENT LAW: The Achievement School District (ASD) is under the administration of the SBE and the ASD Superintendent Selection Advisory Committee makes recommendations to the SBE on the appointment of a superintendent of the ASD. The SBE makes the final selection of the ASD superintendent who serves at the pleasure of the SBE.

BILL ANALYSIS: These sections place the ASD under the administration of the SBE and the Superintendent. In addition, the ASD Superintendent Selection Advisory Committee is repealed. The Superintendent would select the ASD superintendent who would serve at the pleasure of the Superintendent. The salary of the ASD superintendent would be established by the Superintendent rather than the SBE and reporting would be directly to the Superintendent as well.

SECTION 16.

CURRENT LAW: G.S. 115C-150.11 provides that the SBE is the sole governing agency for the School for the Blind and the Schools for the Deaf.

BILL ANALYSIS: This section clarifies that the Superintendent, through DPI, is responsible for the administration, appointment of staff, and oversight of these schools.

SECTIONS 17-18 and 32.

CURRENT LAW: Sections 17-18 address the charter school statutes and membership on the North Carolina Charter Schools Advisory Board (Advisory Board) and civil liability regarding the acts and omissions of charter schools. The Governor currently appoints 3 members of the Advisory Board, including the chair. These sections also set forth the administrative control of the Office of Charter Schools.

BILL ANALYSIS: Sections 17-18 remove the Governor's appointing authority to the Advisory Board and gives the House of Representatives, the Senate, and the SBE each 1 additional member to appoint.

The Advisory Board would annually elect the chair of the Advisory Board from among its membership.

These sections remove language that provide that the Office of Charter Schools would be "subject to the supervision, direction, and control" of the SBE. The executive director would be appointed by the Superintendent who would also set the salary. The executive director of the Office of Charter Schools would report to and serve at the pleasure of the Superintendent rather than the SBE.

Finally, these sections add the Superintendent to the list of entities that are protected from any civil liability for any acts or omissions of a charter school.

Section 32 provides that the current members of the Advisory Board can serve the remainder of their terms.

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SECTIONS 19-23 and 26-27.

CURRENT LAW and BILL ANALYSIS: These sections make conforming changes to add the Superintendent to the list of entities that cannot be held liable for negligence for actions in the following areas: criminal history checks, personnel evaluations, and use of reasonable force.

SECTION 24.

BILL ANALYSIS: This section would provide that the School Planning Division is a part of DPI rather than the SBE.

SECTION 25.

CURRENT LAW and BILL ANALYSIS: The SBE is authorized to manage and operate a system of insurance for public school property. This section places the Superintendent in charge of the system of insurance for public school property, which is to be done in accordance with rules and regulations adopted by the SBE. The Superintendent is to employ the personnel rather than the SBE.

SECTION 28.

BILL ANALYSIS: This section changes the 2015 Appropriations Act by providing that DPI must implement budget reductions and provide an organizational chart rather than the SBE. The Superintendent would not need approval from the SBE to make position reductions but must still follow any rules and regulations from the SBE relating to funds and programs administered by DPI that could be impacted by funding reductions.

SECTION 29.

BILL ANALYSIS: The SBE must revise any rules and regulations to comply with this legislation by May 15, 2017.

SECTION 30.

BILL ANALYSIS: This section requires DPI to review State laws, rules, and regulations to ensure compliance with the intent of this legislation and to report to the General Assembly by April 15, 2017 on the results of its review.

EFFECTIVE DATE: Sections 1-6 and Sections 8-32 become effective January 1, 2017. The remainder of this Part becomes effective when it becomes law.

PART II. MODIFY APPOINTMENT OF UNC BOARDS OF TRUSTEES

SECTIONS 35-37.

CURRENT LAW: The board of trustees of the constituent institutions of The University of North Carolina are composed of 13 individuals: 8 appointed by the Board of Governors, 4 appointed by the Governor, and the president of the student government. The Board of Trustees for the North Carolina School of Science and Mathematics (NCSSM) is composed of 30 individuals, including 2 members appointed by the General Assembly upon the recommendation of the Speaker of the House, 2 members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and 2 members appointed by the Governor.

BILL ANALYSIS: Section 35 would eliminate appointments by the Governor to the constituent institution boards of trustees and require that the General Assembly appoint 4 members to each board, with 2 members recommended by the Speaker of the House of Representatives, and 2 members recommended by the President Pro Tempore of the Senate.

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Section 36 would also eliminate appointments by the Governor to the NCSSM board of trustees and require that the General Assembly appoint 6 members to each board, with 3 members recommended by the Speaker of the House of Representatives, and 3 members recommended by the President Pro Tempore of the Senate.

Members holding office as of the effective date of the bill would complete their term. Vacancies originally appointed by the Governor would be filled by joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

EFFECTIVE DATE: This Part would become effective when it becomes law and applies to terms expiring January 15, 2017, and thereafter.

PART III. SENATE CONFIRMATION OF CABINET APPOINTEES

SECTIONS 38-39.

CURRENT LAW: G.S. 143B-9 provides that the head of each principal State department that is not popularly elected is appointed by the Governor and serve at the Governor's pleasure. These departments are established in G.S. 143B-6 as follows: Department of Natural and Cultural Resources, Department of Health and Human Services, Department of Revenue, Department of Public Safety, Department of Environmental Quality, Department of Transportation, Department of Administration, Department of Commerce, Community Colleges System Office, Department of Information Technology, and the Department of Military and Veterans Affairs.

The North Carolina Constitution provides in Article III, Sec. 5(8) that the Governor shall "nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for."

BILL ANALYSIS: This section would require the Governor to notify the Senate of the name of each person nominated to be the head of a principal State department, and the appointment would be subject to the advice and consent of the Senate unless one of the following occurs:

- The senatorial advice and consent is expressly waived by an enactment of the General Assembly.
- A vacancy occurs when the General Assembly is not in regular session. Any person appointed when the General Assembly is not in regular session may serve without senatorial advice and consent for no longer than the earlier of the following:
 - The date the Senate adopts a simple resolution specifically disapproving the person appointed.
 - The date the General Assembly adjourns by joint resolution for a period of longer than 30 days without adoption by the Senate of a simple resolution approving that person.

EFFECTIVE DATE: This Part would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

H

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HOUSE BILL 17
Committee Substitute Favorable 12/15/16
Third Edition Engrossed 12/15/16

Short Title: Modify Certain Appts/Employment.

(Public)

Sponsors:

Referred to:

December 14, 2016

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION'S ROLE AS
THE ADMINISTRATIVE HEAD OF THE DEPARTMENT OF PUBLIC INSTRUCTION,
TO CHANGE THE APPOINTMENTS PROCESS FOR THE BOARDS OF TRUSTEES FOR
THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA,
TO ESTABLISH TASK FORCE FOR SAFER SCHOOLS, AND TO MODIFY THE
APPOINTMENT OF HEADS OF PRINCIPAL STATE DEPARTMENTS.

The General Assembly of North Carolina enacts:

PART I. CLARIFY ROLES/DPI/SBE

SECTION 1. G.S. 115C-11 reads as rewritten:

"§ 115C-11. Organization and internal procedures of Board.

...

(a1) Student advisors. – The ~~Governor~~Superintendent of Public Instruction is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions.

~~The Governor shall make initial appointments of student advisors to the State Board as follows:~~

- (1) ~~One high school junior shall be appointed for a two year term beginning September 1, 1986, and expiring June 14, 1988; and~~
- (2) ~~One high school senior shall be appointed for a one year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor~~The Superintendent of Public Instruction shall appoint a stagger the appointments of the two student advisors so that a high school junior for is serving in the first year of a two-year term and a high school senior is serving in the second year of a two-year term simultaneously. The appointment of a high school junior shall be made beginning June 15 of that each year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the GovernorSuperintendent of Public Instruction shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.



...
(a3) Superintendent Advisor. – The ~~Governor~~Superintendent of Public Instruction shall appoint a superintendent of a local school administrative unit as an advisor to the State Board of Education. The superintendent advisor shall serve for a term of one year. The superintendent advisor shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the superintendent advisor from executive sessions.

In the event that a superintendent advisor ceases to be a superintendent in a local school administrative unit, the position of superintendent advisor shall be deemed vacant. In the event that a vacancy occurs in the position for whatever reason, the ~~Governor~~Superintendent of Public Instruction shall appoint a superintendent advisor for the remainder of the unexpired term. The superintendent advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

...
(i) Administrative Assistance. – The Superintendent of Public Instruction shall provide technical and administrative assistance, to the State Board of Education through the Department of Public Instruction, but shall not provide staff to the State Board of Education."

SECTION 2. G.S. 115C-12 reads as rewritten:

"§ 115C-12. Powers and duties of the Board generally.

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish ~~policy~~all needed rules and regulations for the system of free public schools, subject to laws enacted by the General Assembly. In accordance with Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public Instruction, as an elected officer and Council of State member, shall administer all needed rules and regulations adopted by the State Board of Education through the Department of Public Instruction. The powers and duties of the State Board of Education are defined as follows:

...."

SECTION 3. G.S. 115C-19 reads as rewritten:

"§ 115C-19. Chief administrative officer of the State Board of Education.

As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. ~~As secretary and chief administrative officer of the State Board of Education, the Superintendent manages on a day-to-day basis the administration of the free public school system, subject to the direction, control, and approval of the State Board. Subject to the direction, control, and approval of the State Board of Education, the Superintendent of Public Instruction~~As provided in Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public Instruction shall be an elected officer and Council of State member and shall carry out the duties prescribed under ~~G.S. 115C-21~~G.S. 115C-21 as the administrative head of the Department of Public Instruction. The Superintendent of Public Instruction shall administer all needed rules and regulations adopted by the State Board of Education through the Department of Public Instruction."

SECTION 4. G.S. 115C-21 reads as rewritten:

"§ 115C-21. Powers and duties generally.

(a) Administrative Duties. – ~~Subject to the direction, control, and approval of the State Board of Education, it~~It shall be the duty of the Superintendent of Public Instruction:

(1) To organize and establish a Department of Public Instruction which shall include ~~such~~divisions and departments as the State Board considers necessary for supervision and administration of the public school system, to administer the funds appropriated for the operation of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the

- 1 State Board of Education, and to enter into contracts for the operations of the
2 Department of Public Instruction. All appointments of administrative and
3 supervisory personnel to the staff of the Department of Public Instruction are
4 subject to the approval of the State Board of Education, which Instruction shall
5 be under the control and management of the Superintendent of Public
6 Instruction who may terminate these appointments for cause in conformity with
7 Chapter 126 of the General Statutes, the North Carolina Human Resources Act.
8 The internal auditor and staff serving the State Board of Education shall not be
9 under the control and management of the Superintendent of Public Instruction.
- 10 (2) To keep the public informed as to the problems and needs of the public schools
11 by constant contact with all school administrators and teachers, by personal
12 appearance at public gatherings, and by information furnished to the press of
13 the State.
- 14 (3) To report biennially to the Governor 30 days prior to each regular session of the
15 General Assembly, such report to include information and statistics of the
16 public schools, with recommendations for their improvement and for changes in
17 the school law.
- 18 (4) To have printed and distributed such educational bulletins as are necessary for
19 the professional improvement of teachers and for the cultivation of public
20 sentiment for public education, and to have printed all forms necessary and
21 proper for the administration of the Department of Public Instruction.
- 22 (5) To ~~manage~~ have under his or her direction and control, all these matters
23 relating to the direct supervision and administration of the public school system
24 that the State Board delegates to the Superintendent of Public
25 Instruction system.
- 26 (6) To create ~~and administer~~ special fund ~~within the Department of Public~~
27 Instruction to manage funds received as grants from nongovernmental sources
28 in support of public education. Effective July 1, 1995, this special fund is
29 transferred to the State Board of Education and shall be administered by the
30 State Board of Education in accordance with G.S. 115C-410.
- 31 (7) Repealed by Session Laws 1995, c. 72, s. 2.
- 32 (8) To administer, through the Department of Public Instruction, all needed rules
33 and regulations established by the State Board of Education.
- 34 (9) To have under his or her direction and control all matters relating to the support
35 of the State Board of Education, including implementation of federal programs
36 on behalf of the State Board.
- 37 (b) Duties as Secretary to the State Board of Education. – ~~Subject to the direction, control,~~
38 ~~and approval of the State Board of Education, As secretary to the State Board of Education,~~ it shall
39 be the duty of the Superintendent of Public Instruction:
- 40 (1) ~~To administer through the Department of Public Instruction, the instructional~~
41 ~~policies established by the Board.~~
- 42 (1a) Repealed by Session Laws 1995, c. 72, s. 2.
- 43 (1b) To administer funds appropriated for the operations of the State Board of
44 Education and for aid to local school administrative units.
- 45 (2) To keep the Board informed regarding developments in the field of public
46 education.
- 47 (3) To make recommendations to the Board with regard to the problems and needs
48 of education in North Carolina.
- 49 (4) To make available to the public schools a continuous program of
50 comprehensive supervisory services.

- 1 (5) To collect and organize information regarding the public schools, on the basis
2 of which he or she shall furnish the Board such tabulations and reports as may
3 be required by the Board.
- 4 (6) To communicate to the public school administrators all information and
5 instructions regarding ~~instructional policies and procedures~~ needed rules and
6 regulations adopted by the Board.
- 7 (7) To have custody of the official seal of the Board and to attest all deeds, leases,
8 or written contracts executed in the name of the Board. All deeds of
9 conveyance, leases, and contracts affecting real estate, title to which is held by
10 the Board, and all contracts of the Board required to be in writing and under
11 seal, shall be executed in the name of the Board by the chairman and attested by
12 the secretary; and proof of the execution, if required or desired, may be had as
13 provided by law for the proof of corporate instruments.
- 14 (8) To attend all meetings of the Board and to keep the minutes of the proceedings
15 of the Board in a well-bound and suitable book, which minutes shall be
16 approved by the Board prior to its adjournment; and, as soon thereafter as
17 possible, to furnish to each member of the Board a copy of said minutes.
- 18 (9) To perform such other duties as may be necessary and appropriate for the
19 Superintendent of Public Instruction in the role as secretary to the Board ~~may~~
20 ~~assign to him from time to time.~~ Board."

21 **SECTION 5.** G.S. 115C-408(a) reads as rewritten:

22 "(a) It is the policy of the State of North Carolina to create a public school system that
23 graduates good citizens with the skills demanded in the marketplace, and the skills necessary to
24 cope with contemporary society, using State, local and other funds in the most cost-effective
25 manner. The Board shall have general supervision and administration of the educational funds
26 provided by the State and federal governments, except those mentioned in Section 7 of Article IX
27 of the State Constitution, and also excepting such local funds as may be provided by a county,
28 city, or district. The Superintendent of Public Instruction shall administer any available
29 educational funds through the Department of Public Instruction in accordance with all needed
30 rules and regulations adopted by the State Board of Education."

31 **SECTION 6.** G.S. 115C-410 reads as rewritten:

32 **"§ 115C-410. Power to accept gifts and grants.**

33 The Board is authorized to adopt all needed rules and regulations related to the creation and
34 administration of special funds within the Department of Public Instruction to manage any funds
35 received as grants from nongovernmental sources in support of public education. In accordance
36 with the State Board's rules and regulations, the Superintendent of Public Instruction is authorized
37 to create and administer such special funds and to accept, receive, use, or reallocate to local school
38 administrative units any gifts, donations, grants, devises, or other forms of voluntary
39 contributions."

40 **SECTION 7.** G.S. 126-5(d) reads as rewritten:

- 41 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
42 Chapter, which is known as the North Carolina Human Resources Act, the
43 Governor may designate a total of ~~1,500~~ 300 exempt positions throughout the
44 following departments and offices:
- 45 a. Department of Administration.
 - 46 b. Department of Commerce.
 - 47 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and
48 by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - 49 d. Department of Public Safety.
 - 50 e. Department of Natural and Cultural Resources.
 - 51 f. Department of Health and Human Services.

- g. Department of Environmental Quality.
- h. Department of Revenue.
- i. Department of Transportation.
- j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- k. Department of Information Technology.
- ~~l. Office of State Budget and Management.~~
- ~~m. Office of State Human Resources.~~
- n. Department of Military and Veterans Affairs.

(2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this ~~sub-subdivisionsub-subdivision~~, other than the Department of Public Instruction, shall be limited to ~~20–25~~ exempt policymaking positions or ~~one–two percent (1%)(2%)~~ of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to ~~20–25~~ positions or ~~one–two percent (1%)(2%)~~ of the total number of full-time positions in the department, whichever is greater. The number of exempt policymaking positions designated by the State Board of Education shall be limited to 70 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions designated by the State Board of Education shall be limited to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.

...
(2c) Changes in Cabinet Department Exempt Position Designation. – If the status of a position designated exempt pursuant to subsection (d)(1) of this section is changed and the position is made subject to the provisions of this Chapter, an employee occupying the position who has been continuously employed in a permanent position for the immediate 12 preceding months, shall be deemed a career State employee as defined by G.S. 126-1.1(a) upon the effective date of the change in designation.

...."

SECTION 8. G.S. 126-5(d), as amended by Section 7 of this act, reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the North Carolina Human Resources Act, the Governor may designate a total of 300 exempt positions throughout the following departments and offices:
- a. Department of Administration.
 - b. Department of Commerce.
 - c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - d. Department of Public Safety.
 - e. Department of Natural and Cultural Resources.
 - f. Department of Health and Human Services.
 - g. Department of Environmental Quality.
 - h. Department of Revenue.

- 1 i. Department of Transportation.
2 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and
3 by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
4 k. Department of Information Technology.
5 l. Repealed.
6 m. Repealed.
7 n. Department of Military and Veterans Affairs.
- 8 (2) Exempt Positions in Council of State Departments and Offices. – The Secretary
9 of State, the Auditor, the Treasurer, the Attorney General, the Superintendent of
10 Public Instruction, the Commissioner of Agriculture, the Commissioner of
11 Insurance, and the Labor Commissioner may designate exempt positions. ~~The~~
12 ~~State Board of Education may designate exempt positions in the Department of~~
13 ~~Public Instruction.~~ The number of exempt policymaking positions in each
14 department headed by an elected department head listed above in this sub-
15 subdivision, ~~other than the Department of Public Instruction, sub-subdivision~~
16 shall be limited to 25 exempt policymaking positions or two percent (2%) of the
17 total number of full-time positions in the department, whichever is greater. The
18 number of exempt managerial positions shall be limited to 25 positions or two
19 percent (2%) of the total number of full-time positions in the department,
20 whichever is greater. The number of exempt policymaking positions designated
21 by the ~~State Board of Education~~ Superintendent of Public Instruction shall be
22 limited to 70 exempt policymaking positions or two percent (2%) of the total
23 number of full-time positions in the department, whichever is greater. The
24 number of exempt managerial positions designated by the ~~State Board of~~
25 ~~Education~~ Superintendent of Public Instruction shall be limited to 70 exempt
26 managerial positions or two percent (2%) of the total number of full-time
27 positions in the department, whichever is greater.
- 28 (2a) Designation of Additional Positions. – ~~The Governor, Governor or~~ elected
29 ~~department head, or State Board of Education head~~ may request that additional
30 positions be designated as exempt. The request shall be made by sending a list
31 of exempt positions that exceed the limit imposed by this subsection to the
32 Speaker of the North Carolina House of Representatives and the President of
33 the North Carolina Senate. A copy of the list also shall be sent to the Director of
34 the Office of State Human Resources. The General Assembly may authorize all,
35 or part of, the additional positions to be designated as exempt positions. If the
36 General Assembly is in session when the list is submitted and does not act
37 within 30 days after the list is submitted, the list shall be deemed approved by
38 the General Assembly, and the positions shall be designated as exempt
39 positions. If the General Assembly is not in session when the list is submitted,
40 the 30-day period shall not begin to run until the next date that the General
41 Assembly convenes or reconvenes, other than for a special session called for a
42 specific purpose not involving the approval of the list of additional positions to
43 be designated as exempt positions; the policymaking positions shall not be
44 designated as exempt during the interim.
- 45 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for Prosperity
46 Zones set out in G.S. 143B-28.1 for the Departments of Commerce,
47 Environmental Quality, and Transportation are designated as exempt.
- 48 (2c) Changes in Cabinet Department Exempt Position Designation. – If the status of
49 a position designated exempt pursuant to subsection (d)(1) of this section is
50 changed and the position is made subject to the provisions of this Chapter, an
51 employee occupying the position who has been continuously employed in a

- 1 permanent position for the immediate 12 preceding months, shall be deemed a
2 career State employee as defined by G.S. 126-1.1(a) upon the effective date of
3 the change in designation.
- 4 (3) Letter. – These positions shall be designated in a letter to the Director of the
5 Office of State Human Resources, the Speaker of the House of Representatives,
6 and the President of the Senate by July 1 of the year in which the oath of office
7 is administered to each Governor unless the provisions of subsection (d)(4)
8 apply.
- 9 (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the office
10 of a member of the Council of State, the person who succeeds to or is appointed
11 or elected to fill the unexpired term shall make such designations in a letter to
12 the Director of the Office of State Human Resources, the Speaker of the House
13 of Representatives, and the President of the Senate within 180 days after the
14 oath of office is administered to that person. ~~In the event of a vacancy in the~~
15 ~~Office of Governor, the State Board of Education shall make these designations~~
16 ~~in a letter to the Director of the Office of State Human Resources, the Speaker~~
17 ~~of the House of Representatives, and the President of the Senate within 180~~
18 ~~days after the oath of office is administered to the Governor.~~
- 19 (5) Creation, Transfer, or Reorganization. – ~~The Governor, Governor or~~ elected
20 ~~department head, or State Board of Education head~~ may designate as exempt a
21 position that is created or transferred to a different department, or is located in a
22 department in which reorganization has occurred, after October 1 of the year in
23 which the oath of office is administered to the Governor. The designation must
24 be made in a letter to the Director of the Office of State Human Resources, the
25 Speaker of the North Carolina House of Representatives, and the President of
26 the North Carolina Senate within 180 days after such position is created,
27 transferred, or in which reorganization has occurred.
- 28 (6) Reversal. – Subsequent to the designation of a position as an exempt position as
29 hereinabove provided, the status of the position may be reversed and made
30 subject to the provisions of this Chapter by the ~~Governor, Governor or~~ by an
31 ~~elected department head, or by the State Board of Education head~~ in a letter to
32 the Director of the Office of State Human Resources, the Speaker of the North
33 Carolina House of Representatives, and the President of the North Carolina
34 Senate.
- 35 (7) Hearing Officers. – Except for deputy commissioners appointed pursuant to
36 G.S. 97-79 and as otherwise specifically provided by this section, no employee,
37 by whatever title, whose primary duties include the power to conduct hearings,
38 take evidence, and enter a decision based on findings of fact and conclusions of
39 law based on statutes and legal precedents shall be designated as exempt. This
40 subdivision shall apply beginning July 1, 1985, and no list submitted after that
41 date shall designate as exempt any employee described in this subdivision."

42 **SECTION 9.** G.S. 143-745(a)(1) reads as rewritten:

- 43 "(1) "Agency head" means the Governor, a Council of State member, a cabinet
44 secretary, the President of The University of North Carolina, the President of
45 the Community College System, the State Controller, and other independent
46 appointed officers with authority over a State agency. ~~The agency head for the~~
47 ~~Department of Public Instruction shall be the State Board of Education."~~

48 **SECTION 10.** G.S. 143A-44.1 reads as rewritten:

49 **"§ 143A-44.1. Creation.**

50 There is hereby created a Department of Public Instruction. The head of the Department of
51 Public Instruction is the ~~State Board of Education. Any provision of G.S. 143A-9 to the contrary~~

1 ~~notwithstanding, the appointment of the State Board of Education shall be as prescribed in Article~~
2 ~~IX, Section (4)(1) of the Constitution.~~Superintendent of Public Instruction."

3 **SECTION 11.** G.S. 143A-44.2 is repealed.

4 **SECTION 12.** G.S. 143A-44.3 reads as rewritten:

5 **"§ 143A-44.3. Superintendent of Public Instruction; creation; transfer of powers and duties.**

6 The office of the Superintendent of Public Instruction, as provided for by Article III, Section 7
7 of the Constitution, and the Department of Public Instruction are transferred to the Department of
8 Public Instruction. The Superintendent of Public Instruction shall be the Secretary and Chief
9 Administrative Officer of the State Board of Education, and shall have all powers and duties
10 conferred by this Chapter and the Constitution, delegated to him or her by the Governor and by the
11 State Board of Education, and conferred by Chapter 115C of the General Statutes.~~Statutes~~ and the
12 laws of this State."

13 **SECTION 13.** G.S. 14-234(d6) is repealed.

14 **SECTION 14.** G.S. 115C-75.5(4) reads as rewritten:

15 "(4) ASD Superintendent. – The superintendent of the ASD appointed by the ~~State~~
16 ~~Board of Education~~Superintendent of Public Instruction in accordance with
17 G.S. 115C-75.6(b)."

18 **SECTION 15.** G.S. 115C-75.6 reads as rewritten:

19 **"§ 115C-75.6. Achievement School District.**

20 (a) There is established the Achievement School District (ASD) under the administration
21 of the State Board of ~~Education.~~Education and the Superintendent of Public Instruction. The ASD
22 shall assume the supervision, management, and operation of elementary schools that have been
23 selected as achievement schools pursuant to this Article.

24 (b) ~~An ASD Superintendent Selection Advisory Committee shall be established to make a~~
25 ~~recommendation to the State Board of Education on appointment of a superintendent to serve as~~
26 ~~the executive officer of the ASD. The Committee shall ensure that the individual recommended~~
27 ~~has qualifications consistent with G.S. 115C-271(a). The Lieutenant Governor shall serve as chair~~
28 ~~of the Committee and shall appoint the following additional members:~~

29 (1) ~~Three members of the State Board of Education.~~

30 (2) ~~One teacher or retired teacher.~~

31 (3) ~~One principal or retired principal.~~

32 (4) ~~One superintendent or retired superintendent.~~

33 (5) ~~One parent of a student currently enrolled in a low performing school, as~~
34 ~~defined in G.S. 115C-105.37.~~

35 (c) ~~The State Board of Education~~Superintendent of Public Instruction shall consider the
36 ~~recommendation of the ASD Superintendent Selection Advisory Committee and shall appoint a~~
37 ~~superintendent to serve as the executive officer of the ASD. The ASD Superintendent shall serve~~
38 ~~at the pleasure of the State Board of Education~~Superintendent of Public Instruction at a salary
39 established by the ~~State Board of Education~~Superintendent of Public Instruction within the funds
40 appropriated for this purpose. The ASD Superintendent shall have qualifications consistent with
41 G.S. 115C-271(a) and report directly to the ~~State Board of Education.~~Superintendent of Public
42 Instruction.

43 (d) By January 15 annually, the State Board of ~~Education~~Education, Superintendent of
44 Public Instruction, and the ASD Superintendent shall report to the Joint Legislative Education
45 Oversight Committee on all aspects of operation of ASD, including the selection of achievement
46 schools and their progress."

47 **SECTION 16.** G.S. 115C-150.11 reads as rewritten:

48 **"§ 115C-150.11. State Board of Education as governing agency.**

49 The State Board of Education shall be the sole governing agency for the Governor Morehead
50 School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina
51 School for the Deaf. The ~~Department~~Superintendent of Public Instruction through the Department

of Public Instruction shall be responsible for the ~~administration~~administration, including appointment of staff, and oversight of a school governed by this Article."

SECTION 17. G.S. 115C-218 reads as rewritten:

"§ 115C-218. Purpose of charter schools; establishment of North Carolina Charter Schools Advisory Board and North Carolina Office of Charter Schools.

...

(b) North Carolina Charter Schools Advisory Board. –

(1) Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Article as the Advisory Board. The Advisory Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.

(2) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Advisory Board and a nonvoting member. ~~The Chair of the State Board of Education shall appoint a member of the State Board to serve as a nonvoting member of the Advisory Board.~~ The Advisory Board shall consist of the following 11 voting members:

a. ~~Three members appointed by the Governor, including the chair of the Advisory Board.~~

b. ~~Three~~Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

c. ~~Three~~Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

d. ~~One member~~Two members appointed by the State Board of Education who ~~is~~are not a ~~current member~~members of the State Board of Education and who ~~is~~are charter school ~~advocate~~advocates in North Carolina.

e. The Lieutenant Governor or the Lieutenant Governor's designee.

(3) Covered board. – The Advisory Board shall be treated as a board for purposes of Chapter 138A of the General Statutes.

(4) Qualifications of members. – Members appointed to the Advisory Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Advisory Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(5) Terms of office and vacancy appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.

(6) Presiding officers and quorum. – The Advisory Board shall annually elect a chair and a vice-chair from among its membership. The chair shall preside over the Advisory Board's meetings. In the absence of the chair, the vice-chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.

(7) Presiding officers and quorum. – Meetings. – Meetings of the Advisory Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.

- 1 (8) Expenses. – Members of the Advisory Board shall be reimbursed for travel and
2 subsistence expenses at the rates allowed to State officers and employees by
3 G.S. 138-6(a).
- 4 (9) Removal. – Any appointed member of the Advisory Board may be removed by
5 a vote of at least two-thirds of the members of the Advisory Board at any duly
6 held meeting for any cause that renders the member incapable or unfit to
7 discharge the duties of the office.
- 8 (10) Powers and duties. – The Advisory Board shall have the following duties:
9 a. To make recommendations to the State Board of Education on the
10 adoption of rules regarding all aspects of charter school operation,
11 including time lines, standards, and criteria for acceptance and approval
12 of applications, monitoring of charter schools, and grounds for
13 revocation of charters.
- 14 b. To review applications and make recommendations to the State Board
15 for final approval of charter applications.
- 16 c. To make recommendations to the State Board on actions regarding a
17 charter school, including renewals of charters, nonrenewals of charters,
18 and revocations of charters.
- 19 d. To undertake any other duties and responsibilities as assigned by the
20 State Board.
- 21 (11) Duties of the chair of the Advisory Board. – In addition to any other duties
22 prescribed in this Article, the chair of the Advisory Board, or the chair's
23 designee, shall advocate for the recommendations of the Advisory Board at
24 meetings of the State Board upon the request of the State Board.
- 25 (c) North Carolina Office of Charter Schools. –
- 26 (1) Establishment of the North Carolina Office of Charter Schools. – There is
27 established the North Carolina Office of Charter Schools, hereinafter referred to
28 in this Article as the Office of Charter Schools. The Office of Charter Schools
29 shall be administratively located in the Department of Public Instruction,
30 ~~subject to the supervision, direction, and control of the State Board of~~
31 ~~Education-Instruction.~~ The Office of Charter Schools shall consist of an
32 executive director appointed by the ~~State Board of Education~~ Superintendent of
33 Public Instruction and such other professional, administrative, technical, and
34 clerical personnel as may be necessary to assist the Office of Charter Schools in
35 carrying out its powers and duties.
- 36 (2) Executive Director. – The Executive Director shall report to and serve at the
37 pleasure of the ~~State Board of Education~~ Superintendent of Public Instruction at
38 a salary established by the ~~State Board~~ Superintendent within the funds
39 appropriated for this purpose. The duties of the Executive Director shall include
40 presenting the recommendations of the Advisory Board at meetings of the State
41 Board upon the request of the State Board.
- 42 (3) Powers and duties. – The Office of Charter Schools shall have the following
43 powers and duties:
44 a. Serve as staff to the Advisory Board and fulfill any task and duties
45 assigned to it by the Advisory Board.
- 46 b. Provide technical assistance and guidance to charter schools operating
47 within the State.
- 48 c. Provide technical assistance and guidance to nonprofit corporations
49 seeking to operate charter schools within the State.
- 50 d. Provide or arrange for training for charter schools that have received
51 preliminary approval from the State Board.

- 1 e. Assist approved charter schools and charter schools seeking approval
2 from the State Board in coordinating services with the Department of
3 Public Instruction.
4 f. Other duties as assigned by the ~~State Board~~ Superintendent of Public
5 Instruction.

- 6 (4) Agency cooperation. – All State agencies and departments shall cooperate with
7 the Office of Charter Schools in carrying out its powers and duties as necessary
8 in accordance with this Article."

9 **SECTION 18.** G.S. 115C-218.20(b) reads as rewritten:

10 "(b) No civil liability shall attach to the State Board of Education, the Superintendent of
11 Public Instruction, or to any of their members or employees, individually or collectively, for any
12 acts or omissions of the charter school."

13 **SECTION 19.** G.S. 115C-238.73(g) reads as rewritten:

14 "(g) There shall be no liability for negligence on the part of the board of directors, or its
15 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~ any of
16 their members or employees, individually or collectively, arising from any act taken or omission
17 by any of them in carrying out the provisions of this section. The immunity established by this
18 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
19 would otherwise be actionable. The immunity established by this subsection shall be deemed to
20 have been waived to the extent of indemnification by insurance, indemnification under Articles
21 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
22 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General
23 Statutes."

24 **SECTION 20.** G.S. 115C-332(g) reads as rewritten:

25 "(g) There shall be no liability for negligence on the part of a local board of education, or its
26 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~ any of
27 their members or employees, individually or collectively, arising from any act taken or omission
28 by any of them in carrying out the provisions of this section. The immunity established by this
29 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
30 would otherwise be actionable. The immunity established by this subsection shall be deemed to
31 have been waived to the extent of indemnification by insurance, indemnification under Articles
32 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
33 waived under the Tort Claims Act, as set forth in Chapter 31 of Chapter 143 of the General
34 Statutes."

35 **SECTION 21.** G.S. 115C-333(e) reads as rewritten:

36 "(e) Civil Immunity. – There shall be no liability for negligence on the part of the State
37 Board of ~~Education~~ Education, the Superintendent of Public Instruction, or a local board of
38 education, or their members or employees, individually or collectively, arising from any action
39 taken or omission by any of them in carrying out the provisions of this section. The immunity
40 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional
41 wrongdoing that would otherwise be actionable. The immunity established by this subsection shall
42 be deemed to have been waived to the extent of indemnification by insurance, indemnification
43 under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign
44 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the
45 General Statutes."

46 **SECTION 22.** G.S. 115C-333.1(g) reads as rewritten:

47 "(g) Civil Immunity. – There shall be no liability for negligence on the part of the State
48 Board of ~~Education~~ Education, the Superintendent of Public Instruction, or a local board of
49 education, or their members or employees, individually or collectively, arising from any action
50 taken or omission by any of them in carrying out the provisions of this section. The immunity
51 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional

wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 23. G.S. 115C-390.3(c) reads as rewritten:

"(c) Notwithstanding any other law, no ~~officer~~officer, member, or employee of the State Board of ~~Education~~Education, the Superintendent of Public Instruction, or of a local board of ~~education~~education, individually or collectively, shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable."

SECTION 24. G.S. 115C-521 reads as rewritten:

"§ 115C-521. Erection of school buildings.

...

(b) It shall be the duty of the local boards of education ~~of the several local school administrative school units of the State~~ to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus. The needs and the cost of those buildings, equipment, and apparatus, shall be presented each year when the school budget is submitted to the respective tax-levying authorities. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same.

Upon determination by a local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for the school, the local board of education may acquire and use as temporary classrooms for the operation of the school, relocatable or mobile classroom units, whether built on the lot or not, which units and method of use shall meet the approval of the School Planning Division of the ~~State Board of Education~~Department of Public Instruction, and which units shall comply with all applicable requirements of the North Carolina State Building Code and of the local building and electrical codes applicable to the area in which the school is located. These units shall also be anchored in a manner required to assure their structural safety in severe weather. The acquisition and installation of these units shall be subject in all respects to the provisions of Chapter 143 of the General Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards of education and the delivery and installation upon school sites of classroom trailers as a single building unit or of relocatable or mobile classrooms delivered in less than four units or sections.

...

(f) A local board of education may use prototype designs from the clearinghouse established under subsection (e) of this section that is a previously approved and constructed project by the School Planning Division of the ~~State Board of Education~~Department of Public Instruction and other appropriate review agencies. The local board of education may contract with the architect of record to make changes and upgrades as necessary for regulatory approval.

...."

SECTION 25. G.S. 115C-535 reads as rewritten:

"§ 115C-535. Authority and rules for organization of system.

The ~~State Board of Education~~Superintendent of Public Instruction is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school ~~property~~property in accordance with all needed rules and regulations adopted by the ~~State Board of Education.~~ The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The

1 ~~Board~~ Superintendent of Public Instruction shall employ a director, safety inspectors, engineers
2 and other personnel with suitable training and experience, which in ~~it~~his or her opinion is
3 necessary to insure and protect effectively public school property, and ~~it~~he or she shall fix their
4 compensation consistent with the ~~approval~~polices of the ~~Personnel~~State Human Resources
5 Commission."

6 **SECTION 26.** G.S. 116-239.12(g) reads as rewritten:

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

17 **SECTION 27.** G.S. 143B-146.16(g) reads as rewritten:

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

28 **SECTION 28.** Section 8.37 of S.L. 2015-241, as amended by Section 8.30 of S.L.
29 2016-94, reads as rewritten:

30 **"BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION**

31 "SECTION 8.37.(a) Notwithstanding G.S. 143C-6-4, the ~~State Board of Education~~
32 Department of Public Instruction may, after consultation with the Office of State Budget and
33 Management and the Fiscal Research Division, reorganize the Department of Public Instruction, if
34 necessary, to implement the budget reductions for the 2015-2017 fiscal biennium. Consultation
35 shall occur prior to requesting budgetary and personnel changes through the budget revision
36 process. The ~~State Board~~Department of Public Instruction shall provide a current organization
37 chart for the Department of Public Instruction in the consultation process and shall report to the
38 Joint Legislative Commission on Governmental Operations on any reorganization.

39 "SECTION 8.37.(b) In implementing budget reductions for the 2015-2017 fiscal biennium,
40 the ~~State Board of Education~~Department of Public Instruction shall make no reduction to funding
41 or positions for (i) the North Carolina Center for Advancement of Teaching and (ii) the Eastern
42 North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor
43 Morehead School, except that the ~~State Board~~Superintendent of Public Instruction may, in its
44 discretion, reduce positions at these institutions that have been vacant for more than 16 months.
45 The ~~State Board~~Department of Public Instruction shall also make no reduction in funding to any of
46 the following entities:

- 47 (1) Communities in Schools of North Carolina, Inc.
- 48 (2) Teach For America, Inc.
- 49 (3) Beginnings for Parents of Children who are Deaf or Hard of Hearing, Inc.

50 "SECTION 8.37.(c) In implementing budget reductions for the 2016-2017 fiscal year, the
51 Department of Public Instruction shall do all of the following:

- (1) In addition to the prohibition on a reduction to funding and positions for the items listed in subsection (b) of this section, the Department shall make no transfers from or reduction to funding or positions for the following:
- a. The Excellent Public Schools Act, Read to Achieve Program, initially established under Section 7A.1 of S.L. 2012-142.
 - b. The North Carolina School Connectivity Program.
- (2) The Department shall transfer the sum of fifty thousand dollars (\$50,000) to the Office of Administrative Hearings to be allocated to the Rules Review Commission, created by G.S. 143B-30.1, to pay for any litigation costs incurred in the defense of *North Carolina State Board of Education v. The State of North Carolina and The Rules Review Commission*, Wake County Superior Court, File No. 14 CVS 14791 (filed November 7, 2014). These funds shall not revert at the end of the 2016-2017 fiscal year but shall remain available during the 2017-2018 fiscal year for expenditure in accordance with the provisions of this subdivision."

SECTION 29. By May 15, 2017, the State Board of Education shall revise, as necessary, any of its rules and regulations to comply with the provisions of this Part.

SECTION 30. The Department of Public Instruction shall review all State laws and rules and regulations governing the public school system to ensure compliance with the intent of this Part to restore authority to the Superintendent of Public Instruction as the administrative head of the Department of Public Instruction and the Superintendent's role in the direct supervision of the public school system. By April 15, 2017, the Department of Public Instruction shall report to the 2017 General Assembly on the results of its review, including any recommended legislation.

SECTION 31. Notwithstanding G.S. 115C-11, as amended by this act, the current student advisor and the local superintendent advisor members serving on the State Board of Education as of the effective date of this Part shall serve the remainder of their terms. Thereafter, as terms expire, or when a vacancy occurs prior to the expiration of a term, the student advisor and local superintendent advisor members on the State Board shall be appointed by the Superintendent of Public Instruction in accordance with G.S. 115C-11, as amended by this act.

SECTION 32. Notwithstanding G.S. 115C-218, as amended by this act, the current members serving on the North Carolina Charter Schools Advisory Board as of the effective date of this Part shall serve the remainder of their terms. Thereafter, as terms expire, or when a vacancy occurs prior to the expiration of a term, the members on the North Carolina Charter Schools Advisory Board shall be appointed in accordance with G.S. 115C-218, as amended by this act. If a vacancy occurs in a seat appointed by the Governor, the State Board of Education shall fill that vacancy for the remainder of that term. Upon expiration of that term, the member shall be appointed in accordance with G.S. 115C-218.

SECTION 33. Sections 1 through 6 and Sections 8 through 32 of this Part become effective January 1, 2017. The remainder of this Part is effective when it becomes law.

PART II. MODIFY APPOINTMENT OF UNC BOARDS OF TRUSTEES

SECTION 35. G.S. 116-31 reads as rewritten:

"§ 116-31. Membership of the boards of trustees.

(a) ~~All persons who, as of June 30, 1972, are serving as trustees of the regional universities and of the North Carolina School of the Arts, redesignated effective August 1, 2008, as the "University of North Carolina School of the Arts," except those who may have been elected to the Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of all such trustees shall continue for the period of one year.~~

(b) Effective July 1, 1972, a separate board of trustees shall be created for each of the following institutions: North Carolina State University at Raleigh, the University of North Carolina at Asheville, the University of North Carolina at Chapel Hill, the University of North

Carolina at Charlotte, the University of North Carolina at Greensboro, and the University of North Carolina at Wilmington. ~~For the period commencing July 1, 1972, and ending June 30, 1973, each such board shall be constituted as follows:~~

(1) ~~Twelve or more persons elected prior to July 1, 1972, by and from the membership of the Board of Trustees of the University of North Carolina, and~~

(2) ~~The president of the student government of the institution, ex officio.~~

(e) ~~If any vacancy should occur in any board of trustees during the year beginning July 1, 1972, the Governor may appoint a person to serve for the balance of the year.~~

(d) Except as provided in G.S. 116-65, effective July 1, 1973, each of the 16 institutions of higher education set out in G.S. 116-2(4) shall have board of trustees composed of 13 persons chosen as follows:

(1) Eight elected by the Board of ~~Governors, Governors.~~

(2) ~~Four appointed by the Governor, and~~

(2a) Four members appointed by the General Assembly under G.S. 120-121, two of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate and two of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives.

(3) The president of the student government ex officio.

The Board of Trustees of the North Carolina School of Science and Mathematics shall be established in accordance with G.S. 116-233.

(e) ~~From and after July 1, 1973, the~~ The term of office of all trustees, except the ex officio member, shall be four years, commencing on July 1 of odd-numbered years. In every odd-numbered year the Board of Governors shall elect four persons to each board of trustees and the Governor-General Assembly shall appoint two persons one person upon the recommendation of the President Pro Tempore of the Senate and one person upon the recommendation of the Speaker of the House of Representatives to each such board.

(g) ~~From and after July 1, 1973, any~~ Any person who has served two full four-year terms in succession as a member of a board of trustees shall, for a period of one year, be ineligible for election or appointment to the same board but may be elected or appointed to the board of another institution.

(h) No member of the General Assembly or officer or employee of the State, The University of North Carolina, or any constituent institution shall be eligible for election or appointment as a trustee. No spouse of a member of the General Assembly, or of an officer or employee of a constituent institution may be a trustee of that constituent institution. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, The University of North Carolina, or any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes an officer or employee of that constituent institution shall be deemed thereupon to resign from his or her membership on the board of trustees.

(i) No person may serve simultaneously as a member of a board of trustees and as a member of the Board of Governors. Any trustee who is elected or appointed to the Board of Governors shall be deemed to resign as a trustee effective as of the date that his or her term commences as a member of the Board of Governors.

(j) ~~From and after July 1, 1973, whenever~~ Whenever any vacancy shall occur in the membership of a board of trustees among those appointed by the ~~Governor, General Assembly,~~ it shall be the duty of the secretary of the board to inform the ~~Governor-General Assembly~~ of the existence of such vacancy, and the ~~Governor shall appoint a person to fill the unexpired term,~~ vacancy shall be filled as provided in G.S. 120-122, and whenever any vacancy shall occur among those elected by the Board of Governors, it shall be the duty of the secretary of the board to inform the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill

health or service in the interest of the State or nation, to be present for three successive regular meetings of a board of trustees, his or her place as a member shall be deemed vacant."

SECTION 36. G.S. 116-233 reads as rewritten:

"§ 116-233. Board of Trustees; appointment; terms of office.

(a) Notwithstanding the provisions of G.S. 116-31(d), there shall be a Board of Trustees of the School, which shall consist of up to 30 members as follows:

- (1) Thirteen members who shall be appointed by the Board of Governors of The University of North Carolina, one from each congressional district.
- (2) Four members without regard to residency who shall be appointed by the Board of Governors of The University of North Carolina.
- (3) Three members, ex officio, who shall be the chief academic officers, respectively, of constituent institutions. The Board of Governors shall in 1985 and quadrennially thereafter designate the three constituent institutions whose chief academic officers shall so serve, such designations to expire on June 30, 1989, and quadrennially thereafter.
- (4) The chief academic officer of a college or university in North Carolina other than a constituent institution, ex officio. The Board of Governors shall designate in 1985 and quadrennially thereafter which college or university whose chief academic officer shall so serve, such designation to expire on June 30, 1989, and quadrennially thereafter.
- (5) ~~Two—Three~~ members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (6) ~~Two—Three~~ members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- ~~(7) Two members appointed by the Governor.~~
- (8) The president of the student government, ex officio, who shall be a nonvoting member.
- (9) Up to two additional nonvoting members selected at the discretion of the chancellor and the Board of Trustees, with terms expiring June 30 of each year.

(b) Appointed members of the Board of Trustees shall be selected for their interest in and commitment to public education and to the purposes of the School, and they shall be charged with the responsibility of serving the interests of the whole State. In appointing members, the objective shall be to obtain the services of the best qualified persons, taking into consideration the desirability of diversity of membership, including men and women, representatives of different races, and members of different political parties.

(c) No member of the General Assembly or officer or employee of the State, the School, The University of North Carolina, or of any constituent institution of The University of North Carolina, shall be eligible to be appointed to the Board of Trustees except as specified under subdivision (3) of subsection (a) of this section. No spouse of a member of the General Assembly, or of an officer or employee of the school may be a member of the Board of Trustees. Any appointed trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, except as specified under subdivision (3) of subsection (a) of this section, or whose spouse is elected or appointed to the General Assembly or becomes such an officer or employee of the School, shall be deemed thereupon to resign from his or her membership on the Board of Trustees. This subsection does not apply to ex officio members.

(d) Members appointed under subdivisions (1) or (2) of subsection (a) of this section shall serve staggered four-year terms expiring June 30 of odd numbered years.

(d1) Only an ex officio member shall be eligible to serve more than two successive terms.

(d2) Any vacancy in the membership of the Board of Trustees appointed under G.S. 116-233(a)(1) or (2) shall be reported promptly by the Secretary of the Board of Trustees to the Board of Governors of The University of North Carolina, which shall fill any such vacancy by appointment of a replacement member to serve for the balance of the unexpired term. Any vacancy in members appointed under G.S. 116-233(a)(5) or (6) shall be filled in accordance with G.S. 120-122. ~~Any vacancy in members appointed under G.S. 116-233(a)(7) shall be filled by the Governor for the remainder of the unexpired term.~~ Reapportionment of congressional districts does not affect the right of any member to complete the term for which the member was appointed.

(e) Of the initial members appointed under ~~G.S. 116-233(a)(5)~~, G.S. 116-233(a)(5) in 1985, one member shall serve a term to expire June 30, 1987, and one member shall serve a term to expire June 30, 1989. Subsequent appointments shall be for four-year terms. The initial members appointed under ~~G.S. 116-233(a)(6)~~, G.S. 116-233(a)(6) in 1985 shall be appointed for terms to expire June 30, 1987. Subsequent appointments shall be for two-year terms. ~~The initial members appointed under G.S. 116-233(a)(7) shall be appointed for terms to expire January 15, 1989. Successors shall be appointed for four year terms.~~ terms until January 15, 2017, at which point subsequent appointments shall be for four-year terms.

(e1) The initial members appointed under G.S. 116-233(a)(5) and (6) in 2017, and successors of those members, shall serve four-year terms.

(f) Whenever an appointed member of the Board of Trustees shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present at three successive regular meetings of the Board, his or her place as a member of the Board shall be deemed vacant."

SECTION 37. This Part is effective when it becomes law and applies to (i) vacancy appointments made on or after that date and (ii) appointments to fill terms expiring January 15, 2017, and thereafter. A vacancy by any board member appointed by the Governor to any board affected by this Part shall be filled by joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as provided in G.S. 120-121. The terms of members holding office as of the effective date of this Part shall not be affected.

PART III. SENATE CONFIRMATION OF CABINET APPOINTEES

SECTION 38. G.S. 143B-9 reads as rewritten:

"§ 143B-9. Appointment of officers and employees.

(a) The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at ~~his~~ the Governor's pleasure. The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

For each head of each principal State department covered by this subsection, the Governor shall notify the President of the Senate of the name of each person to be appointed, and the appointment shall be subject to senatorial advice and consent in conformance with Section 5(8) of Article III of the North Carolina Constitution unless (i) the senatorial advice and consent is expressly waived by an enactment of the General Assembly or (ii) a vacancy occurs when the General Assembly is not in regular session. Any person appointed to fill a vacancy when the General Assembly is not in regular session may serve without senatorial advice and consent for no longer than the earlier of the following:

(1) The date on which the Senate adopts a simple resolution that specifically disapproves the person appointed.

(2) The date on which the General Assembly shall adjourn pursuant to a joint resolution for a period longer than 30 days without the Senate adopting a simple resolution specifically approving the person appointed.

(b) The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the North Carolina Human

Resources Act. The salary of such chief deputy or chief assistant shall be set by the Governor. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the ~~Personnel~~-Human Resources Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

SECTION 39. This Part is effective when it becomes law.

PART IV. ESTABLISH TASK FORCE FOR SAFER SCHOOLS; TRANSFER CENTER FOR SAFER SCHOOLS

SECTION 41.1.(a) Effective December 15, 2016, the Center for Safer Schools is hereby moved to the Department of Public Instruction, Division of Safe and Healthy Schools Support. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 41.1.(b) Article 8C of Chapter 115C of the General Statutes is amended by adding two new sections to read:

"§ 115C-105.55. Establish Task Force for Safer Schools.

(a) Task Force Established. – There is hereby created the Task Force for Safer Schools within the North Carolina Department of Public Instruction.

(b) Membership. – The Task Force shall consist of 25 members. The composition of the Task Force shall include all of the following:

- (1) The Secretary of the Department of Public Safety or the Secretary's designee.
- (2) The Secretary of the Department of Health and Human Services or the Secretary's designee.
- (3) A member of the State Board of Education appointed by the Governor.
- (4) Two local school board members appointed by the Chair of the State Board of Education.
- (5) A representative from the North Carolina Department of Public Safety, Division of Emergency Management, appointed by the Secretary of the Department of Public Safety.
- (6) A representative from the North Carolina Justice Academy appointed by the Attorney General.
- (7) A member of the Governor's Crime Commission appointed by the Governor.
- (8) Two local law enforcement officers appointed by the Governor.
- (9) Two public school administrators appointed by the Chair of the State Board of Education.
- (10) A public school teacher appointed by the Chair of the State Board of Education.
- (11) A public school psychologist appointed by the Governor.
- (12) A public school resource officer appointed by the Governor.
- (13) Two high school students currently enrolled at public high schools appointed by the Governor.
- (14) A parent of a currently enrolled public school student appointed by the Governor.
- (15) A juvenile justice professional appointed by the Governor.
- (16) A North Carolina licensed social worker appointed by the Governor.
- (17) A North Carolina licensed school counselor appointed by the Governor.
- (18) An expert in gang intervention and prevention in schools appointed by the Governor.
- (19) Three at-large members appointed by the Governor.

(c) Appointment of Chair and Vice-Chair. – The Governor shall appoint a Chair and Vice-Chair from among the membership of the Task Force. The Chair and Vice-Chair shall serve at the pleasure of the Governor.

(d) Terms; Vacancies. – Effective December 1, 2016, all members shall be appointed for a term of four years. Members may be reappointed to successive terms. Any appointment to fill a vacancy on the Task Force created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(e) Removal. – The Governor shall have the authority to remove any member of the Task Force for misfeasance, malfeasance, or nonfeasance, pursuant to the provisions of G.S. 143B-13.

(f) Per Diem, Etc. – Members of the Task Force may receive necessary per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

"§ 115C-105.56. Task Force for Safer Schools; powers and duties.

The Task Force shall have all of the following duties:

(1) To serve as an advisory board to the Center for Safer Schools.

(2) To provide guidance and recommendations to the Governor, Superintendent of Public Instruction, and the General Assembly to improve statewide policy to enhance statewide and local capacities to create safer schools.

(3) To encourage interagency collaboration among State and local government agencies to achieve effective policies and streamline efforts to create safer schools.

(4) To Assist the Center for Safer Schools in collecting and disseminating information on recommended best practices and community needs related to creating safer schools in North Carolina.

(5) Other duties as assigned by the State Board of Education."

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 42. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end, the provisions of this act are severable.

SECTION 43. Except as otherwise provided, this act is effective when it becomes law.



VISITOR REGISTRATION SHEET

Ed/Higher Ed

(Committee Name)

12-16-16

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

| <u>NAME</u> | <u>FIRM OR AGENCY AND ADDRESS</u> |
|--------------------|-----------------------------------|
| Kris Nordstrom | NCTC |
| <i>[Signature]</i> | MWC |
| Richard Bealin | NCDPI |
| Adam Pridemore | NCAST |
| Bruce Milder | NLSBA |
| MATT Ellinwood | NCTC |
| Martez Hill | NCSBE |
| Drew Moretz | UNC GA |
| <i>[Signature]</i> | MWC |
| Tom West | NCTC |
| Henry M Lancaster | LCA |
| Pam Cashnell | Ethics |
| Iola Ballard | Pittsboro NC |
| Sally Johnson | Burlington North Carolina |
| Betsy Bailey | CAGC |
| Anne Baron | NCCCS |
| Mary Shuping | NCCCS |



VISITOR REGISTRATION SHEET

Ed/Higher Ed

(Committee Name)

12-16-16

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

| <u>NAME</u> | <u>FIRM OR AGENCY AND ADDRESS</u> |
|----------------|-----------------------------------|
| Tim Crowley | NCAE |
| David Cranford | AIA NC |
| Sarah Stone | NSU |
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VISITOR REGISTRATION SHEET

Ed/Higher Ed

(Committee Name)

12-16-16

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

| <u>NAME</u> | <u>FIRM OR AGENCY AND ADDRESS</u> |
|-------------------|-----------------------------------|
| Susan Deans | JD+A |
| Allyson Zilly | AW |
| Dan Pomeroy | WCSR |
| James Conner | SA |
| Susan Vick | Deke |
| Dina P. Clark | IKC |
| Lee T. Napp | NCAPCS |
| Benjamin J. Helms | Ed. Fellowship Group |
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