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 115C-528. Lease purchase and installment purchase contracts for certain equipment.  
 115C-529. Useful life guidelines.  
 115C-530. Operational leases of school buildings and school facilities.  
 115C-531, 115C-532. [Reserved.]

**Article 38.**

**State Insurance of Public School Property.**

- 115C-533. Duty of State Board to operate insurance system.  
 115C-534. Duty to insure property.  
 115C-535. Authority and rules for organization of system.  
 115C-536. Public School Insurance Fund; decrease of premiums when fund reaches five percent of total insurance in force.  
 115C-537. Insurance of property by local boards; notice of election to insure and information to be furnished; outstanding policies.  
 115C-538. Inspections of insured public school properties.  
 115C-539. Information to be furnished prior to insuring in Fund; providing for payment of premiums.  
 115C-540. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payment thereof.  
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- praisers; payment of amounts to treasurers of local school administrative units; disbursement of funds.  
 115C-542. Maintenance of inspection and engineering service; cancellation of insurance.  
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 115C-544 through 115C-546. [Reserved.]

**Article 38A.**

**Public School Building Capital Fund.**

- 115C-546.1. Creation of Fund; administration.  
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SUBCHAPTER X. PRIVATE AND PROPRIETARY SCHOOLS.

**Article 39.**

**Nonpublic Schools.**

Part 1. Private Church Schools and Schools of Religious Charter.

- 115C-547. Policy.  
 115C-548. Attendance; health and safety regulations.  
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Part 2. Qualified Nonpublic Schools.

- 115C-555. Qualification of nonpublic schools.  
 115C-556. Attendance; health and safety regulations.  
 115C-557. Standardized testing requirements.  
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 115C-559. Voluntary participation in the State programs.  
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 115C-561. Duly authorized representative.  
 115C-562. Requirements exclusive.

Part 3. Home Schools.

- 115C-563. Definitions.  
 115C-564. Qualifications and requirements.  
 115C-565. Requirements exclusive.

Part 4. Miscellaneous Requirements.

- 115C-566. Driving eligibility certificates; requirements.  
 115C-567. [Reserved.]

**Article 40.**

**Proprietary Schools.**

- 115C-568 through 115C-583. [Recodified.]

**SUBCHAPTER I. GENERAL PROVISIONS.**

**ARTICLE 1.**

*Definitions and Preliminary Provisions.*

**§ 115C-1. General and uniform system of schools.**

A general and uniform system of free public schools shall be provided throughout the State, wherein equal opportunities shall be provided for all students, in accordance with the provisions of Arti-

cle IX of the Constitution of North Carolina. Tuition shall be free of charge to all children of the State, and to every person of the State less than 21 years old, who has not completed a standard high school course of study. There shall be operated in every local school administrative unit a uniform school term of nine months, without the levy of a State ad valorem tax therefor. (1955, c. 1372, art. 1, s. 1; 1963, c. 448, s. 24; 1971, c. 704, s. 1; c. 1231, s. 1; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 21; 1985, c. 780, s. 1.)

**Local Modification.** — (As to Chapter 115C) Cabarrus: 2000-87; (As to Chapter 115C) Caswell: 1987 (Reg. Sess., 1988), c. 1016, s. 12; Cumberland: 1991, c. 445; 1991, c. 445; 1991 (Reg. Sess., 1992), c. 810; Nash: 1989 (Reg. Sess., 1990), c. 903; city of Clinton: 1989 (Reg. Sess., 1990), c. 886; Durham City Board of Education: 1983 (Reg. Sess., 1984), c. 948; Kannapolis City School Administrative Unit: 1983 (Reg. Sess., 1984), c. 963; Monroe City Board of Education: 1985, c. 41; New Hanover County Board of Education: 1983, c. 573.

**Teacher Training Task Force.** — Session Laws 1991 (Reg. Sess., 1992), c. 971, as amended by Session Laws 1993, c. 561, s. 58(a) and (b), establishes a new Teacher Training Task Force to review the progress made toward implementing the 39 objectives of the original Task Force established in 1985 regarding teacher education, and to study additional issues of legislative concern. The Task Force was mandated to study both preservice and ongoing professional development of teachers.

**Supplemental Funding in Low-Wealth Counties — 2003-2004 and 2004-2005.** — Session Laws 2003-284, s. 7.6(a), provides that funds are appropriated to State Aid to Local School Administrative Units for the 2003-2004 fiscal year and the 2004-2005 fiscal year to be used for supplemental funds for schools in low-wealth counties.

Session Laws 2003-284, s. 7.6(b), provides that supplemental funds shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks, and (ii) for salary supplements for instructional personnel and instructional support personnel. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee.

Session Laws 2003-284, s. 7.6(c)-(j), provides for the following with regard to this section: (c) definitions; (d) eligibility of funds; (e) allocation of funds; (f) formula for distribution of supplemental funding pursuant to this section only; (g) minimum effort required; (h) nonsupplant requirement; (i) reports; and (j) Department of Revenue reports.

For similar prior provisions, see Session Laws 1999-237, s. 8.5(a)-(j) and Session Laws 2001-424, s. 28.6(a)-(j).

**Small School Supplemental Funding.** — Session Laws 2003-284, s. 7.7(a)-(f), provides for funding for small school systems. Section 7.7(a) provides in part: "Except as provided in subsection (b) of this section [s. 7.7(b) of Session Laws 2003-284], the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership of from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students." Section 28.7(a) also provides an allocation formula. Sections 28.7(b) to (f)

set out further requirements, provide phase-out provisions, and provide reporting requirements.

For similar prior provisions, see Session Laws 1993, c. 561, s. 52(b), Session Laws 1999-237, s. 8.6(a), as amended by Session Laws 2000-67, s. 8.25, and Session Laws 2001-424, s. 28.7(a)-(f).

**Commission on Improving Academic Achievement.** — Session Laws 1999-395, ss. 15.1(a), 15.1(b) and 15.2 to 15.11, as amended by Session Laws 2001-424, ss. 28.30(g) and (h), provide for the creation of a Commission on Improving the Academic Achievement of Minority and At-Risk Students. Provisions are made for: 15.1(a) Commission membership; 15.1(b) initial appointments and terms of service; 15.2 co-chairs; 15.3 authorized powers; 15.4 study goals; 15.5 interim report (due April 1, 2002) and final report of findings (due January 10, 2003); 15.6 statutory powers; 15.7 subsistence and travel expenses of members; 15.8 consultant services; 15.9 vacancies on the Commission; 15.10 cooperation of State departments, agencies and local governments; and 15.11 funding.

Session Laws 2001-424, s. 28.30(i) provides that the Commission, in addition to its other responsibilities, shall determine the extent to which additional fiscal resources are needed to close the academic achievement gap and keep it closed, and to report its findings to the 2002 Regular Session of the 2001 General Assembly.

**Performance-Based Licensure Program — Suspension of Portfolio Requirement.** — Session Laws 2002-126, s. 7.18(a)-(e), as amended by 2003-284, s. 7.39, provides: "(a) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the Education Cabinet, shall review teacher preparation programs and the continuing certification process to determine how these programs can be modified to enhance the continuing teacher certification process and to reduce the burden the continuing certification process places on newly certified teachers. This evaluation shall consider strategies for streamlining the current continuing certification process.

"(b) The State Board of Education shall contract with an outside consultant to study and propose modifications to the current North Carolina initial certification, continuing certification, and recertification programs that ensure high standards, support for teachers, and high retention rates. Specifically, the contractor shall:

"(1) Review the administration and implementation of the certification programs and identify significant strengths and weaknesses of the programs;

"(2) Identify issues related to administration, staffing, and paperwork at the school, local, and State levels;

"(3) Investigate and identify communication concerns about the certification programs between the school, local, and State levels;

"(4) Randomly survey and interview participating teachers and administrators regarding key aspects of the certification programs and ways to improve them;

"(5) Examine the possibility of making the programs more focused on and supportive of early teacher development and integrating them more appropriately into a teacher's daily work;

"(6) Examine the portfolios previously submitted and identify the elements that are most troublesome to teachers, schools, and school systems;

"(7) Identify alternatives to the portfolio approach and ways to keep paperwork requirements to a minimum;

"(8) Review the State's mentor program and the mentor's role in support of certification efforts to determine whether the two programs are complementary;

"(9) Examine the effect of the certification programs on teacher retention, using valid evidence; and

"(10) Examine the impact the certification programs have on improving teaching practices, using valid evidence.

"(c) The State Board of Education shall use the results of the study to make recommendations to:

"(1) Improve the administration and implementation of the certification programs, including improving the process for teachers;

"(2) Resolve the issues surrounding the portfolio process and the collection of professional evidence during initial certification;

"(3) Reduce paperwork and bureaucracy in initial certification, continuing certification, and recertification for teachers, schools, and school systems;

"(4) Provide schools and districts incentives and flexibility to participate in more rigorous certification processes;

"(5) Effectively use information regarding teacher supply and

demand, standards and retention to inform policy decisions;

“(6) Improve the relationship and coordination between the certification programs and mentoring programs;

“(7) Provide appropriate sample work to teachers, including lesson plans, unit plans, and other professional work required during initial certification; and

“(8) Provide ongoing program evaluation to monitor the quality of the programs and to inform policymakers.

“(d) The State Board of Education shall enlist the assistance of the Southern Regional Education Board in evaluating the responses to the request for proposals. Prior to awarding the contract for the consultant study, the State Board shall consult with the Joint Legislative Education Oversight Committee.

“The State Board shall use federal No Child Left Behind State Grants for Improving Teacher Quality, to the extent possible, to cover the cost of the consultant and study.

“The State Board shall report the findings of the consultant and the recommendations required by this section to the Joint Legislative Education Oversight Committee by January 1, 2004.

“(e) The Joint Legislative Education Oversight Committee shall make recommendations to the General Assembly on any changes to law or policy affecting certification of teachers on or after August 1, 2004, after reviewing the findings and recommendations of the consultant and State Board of Education.”

Session Laws 2002-126, s. 7.25(a)-(c), provides: “(a) The class size allotment for first grade for the 2002-2003 school year shall be one teacher for every 18 students. The average class size for first grade within a local school administrative unit shall not exceed 21 students. The maximum class size for first grade for individual classes for the 2002-2003 fiscal year shall be 24 students.

“(b) For the 2002-2003 school year only, a local school administrative unit shall use these additional teacher positions to reduce class size in first grade.

“(c) For the 2003-2004 school year and subsequent school years, the maximum class size limit for first grade shall be based on an allotment ratio of one teacher for every 18 students.”

**Editor’s Note.** — This Chapter is former Chapter 115, as rewritten by Session Laws 1981, c. 423, s. 1, and recodified. Where appropriate, the historical citations to the sections in the former Chapter have been added to corresponding sections in the Chapter as rewritten and recodified.

Many of the cases and opinions cited in the annotations under the various sections of this Chapter were decided under corresponding sections of former Chapter 115 and earlier statutes.

Session Laws 1999-395, s. 1, provides that 1999-395 shall be known as “The Studies Act of 1999.”

Session Laws 2000-67, s. 1.1, provides: “This act shall be known as ‘The Current Operations and Capital Improvements Appropriations Act of 2000.’”

Session Laws 2000-67, s. 28.2, provides: “Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2000-2001 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2000-2001 fiscal year.”

Session Laws 2000-67, s. 28.4, contains a severability clause.

Session Laws 2001-424, s. 1.2, provides: “This act shall be known as the ‘Current Operations and Capital Improvements Appropriations Act of 2001.’”

Session Laws 2001-424, s. 36.3, provides: “Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2001-2003 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2001-2003 fiscal biennium.”

Session Laws 2001-424, s. 36.5, is a severability clause.

Session Laws 2002-126, s. 1.2, provides: “This act shall be known as ‘The Current Operations, Capital Improvements, and Finance Act of 2002.’”

Session Laws 2002-126, s. 31.3, provides: “Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2002-2003 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2002-2003 fiscal year. For example, uncodified provisions of this act relating to the Medicaid program apply only to the 2002-2003 fiscal year.”

Session Laws 2002-126, s. 31.6, is a severability clause.

Session Laws 2003-284, s. 1.2, provides: “This act shall be known

as the ‘Current Operations and Capital Improvements Appropriations Act of 2003.’”

Session Laws 2003-284, s. 49.3, provides: “Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2003-2005 fiscal biennium.”

Session Laws 2003-284, s. 49.5, is a severability clause.

**Legal Periodicals.** — For note on *Leandro v. State*, 346 N.C. 336, 488 S.E.2d 249 (1997), see 76 N.C.L. Rev. 1481 (1998).

## CASE NOTES

**Editor’s Note.** — *Most of the cases below were decided under corresponding provisions of former Chapter 115.*

**Mandates of State Constitution.** — The provisions of N.C. Const., Art. I, § 15 and Art. IX, § 2(1), with the activating statutes, embody mandates for the establishment of free public schools in North Carolina, the untrammelled privilege of education for all students, and “the duty of the State to maintain and guard that right,” while guaranteeing equal opportunities to all students. *Webster v. Perry*, 512 F.2d 612 (4th Cir. 1975).

**State-imposed segregation in the public schools is unconstitutional.** *Godwin v. Johnston County Bd. of Educ.*, 301 F. Supp. 1339 (E.D.N.C. 1969).

**Desegregation of Staffs and Faculties.** — There is an affirmative duty on the part of a State school board, as well as on the part of other school officials throughout the State, to desegregate staffs and faculties. This is also a constitutional duty apart from any federal regulatory scheme. *Godwin v. Johnston County Bd. of Educ.*, 301 F. Supp. 1339 (E.D.N.C. 1969).

**Property Interest Entitles Students to Due Process.** — Students in North Carolina have legitimate claims of entitlement to a public education, since by this section a uniform system of free public schools is provided throughout the State, and students are required to attend. Therefore, students have a property interest in public education and would be entitled to due process in connection with suspension from school. *Pegram v. Nelson*, 469 F. Supp. 1134 (M.D.N.C. 1979).

**Cited in** *Britt v. North Carolina State Bd. of Educ.*, 86 N.C. App. 282, 357 S.E.2d 432 (1987).

## § 115C-2. Administrative procedure.

All action of agencies taken pursuant to this Chapter, as agency is defined in G.S. 150B-2, is subject to the requirements of the Administrative Procedure Act, Chapter 150B of the General Statutes. (1981, c. 423, s. 1; 1987, c. 827, s. 1.)

## § 115C-3. Access to information and public records.

Except as otherwise provided in this Chapter, access to information gathered and public records made pursuant to the provisions of this Chapter must be in conformity with the requirements of Chapter 132 of the General Statutes. (1981, c. 423, s. 1.)

## § 115C-4. Open meetings law.

Meetings of governmental bodies held pursuant to the provisions of this Chapter must be in conformity with the requirements of Article 33C of Chapter 143 of the General Statutes. (1981, c. 423, s. 1.)

## CASE NOTES

**An action by a Board of Education to give itself a pay raise must be deliberated at a meeting open to the public.** *Jacksonville*