

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1125*
Education/Higher Education Committee Substitute Adopted 8/3/98
Third Edition Engrossed 8/4/98
House Committee Substitute Favorable 8/19/98

Short Title: Misc. Education Changes.

(Public)

Sponsors:

Referred to:

May 14, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS EDUCATION LAWS.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 115C-102.5(b) reads as rewritten:

5 "(b) The Commission shall consist of the following 18 members:

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

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

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

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

15 (5) Four members appointed by the Governor;

16 (6) Six members appointed by the President Pro Tempore of the Senate two
17 of whom shall be members of the Senate. One of these six members

1 shall be appointed by the President Pro Tempore of the Senate to serve
2 as cochair; and

- 3 (7) Six members appointed by the Speaker of the House of Representatives
4 two of whom shall be members of the House of Representatives. One of
5 these six members shall be appointed by the Speaker of the House of
6 Representatives to serve as cochair.

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

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

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

17 Section 2. G.S. 115C-105.36(b) reads as rewritten:

18 "(b) The State Board shall establish a procedure to allocate the funds for these
19 awards to the local school administrative units in which the eligible schools are located.
20 Funds shall become available for expenditure July 1 of each fiscal year. Funds shall
21 remain available until November 30 of the subsequent fiscal year for expenditure for:

22 ~~(1) Awards to the personnel; or~~

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

24 a. ~~Developed and voted on by the personnel in the same manner~~
25 ~~that a school improvement plan is approved under G.S. 115C-~~
26 ~~105.27;~~

27 b. ~~Approved by a majority of the personnel who vote on the plan;~~
28 ~~and~~

29 e. ~~Submitted to and approved by the local board of education.~~

30 ~~The local board shall approve this plan unless the plan involves~~
31 ~~expenditures of funds that are not for a public purpose or that are~~
32 ~~otherwise unlawful. for awards to the personnel. Each local school~~
33 ~~administrative unit shall make these awards to each eligible person no~~
34 ~~later than that person's first regular payday following the local unit's~~
35 ~~receipt of the funds; however, if that payday is fewer than 15 days~~
36 ~~following the unit's receipt of the funds, then the local school~~
37 ~~administrative unit shall make the award to that person no later than that~~
38 ~~person's second regular payday following the unit's receipt of the~~
39 ~~funds.~~"

40 Section 3. G.S. 115C-244 reads as rewritten:

41 "**§ 115C-244. Assignment of pupils to school buses.**

42 (a) ~~The principal of a school, to which any school bus has been assigned by the~~
43 ~~superintendent of the schools of the local school administrative unit embracing such~~

1 school, shall assign to such bus or buses the pupils and employees who may be
2 transported to and from such school upon such bus or buses. ~~The superintendent or~~
3 ~~superintendent's designee shall assign the pupils and employees who may be transported~~
4 ~~to and from school upon the bus or buses assigned to each school and shall implement~~
5 ~~and enforce the plan developed under G.S. 115C-246. No pupil or employee shall be~~
6 ~~permitted to ride upon any school bus to which such pupil or employee has not been so~~
7 ~~assigned by the principal, superintendent or superintendent's designee, except by the~~
8 ~~express direction of the principal, superintendent or superintendent's designee.~~

9 (b) In the event that the superintendent ~~of any local school administrative unit shall~~
10 ~~assign or superintendent's designee assigns~~ a school bus to be used in the transportation of
11 pupils to two or more schools, the superintendent or superintendent's designee shall
12 ~~designate the number of~~ assign the pupils to be transported to and from each ~~such~~ school
13 by ~~such~~ that bus, and the principals of the respective schools shall ~~assign pupils to such~~
14 ~~buses in accordance with such designation.~~ implement and enforce this assignment of pupils.

15 (c) Any pupil enrolled in any school, or the parent or guardian of any such pupil,
16 or the person standing in loco parentis to such pupil, may apply to the principal of such
17 school for transportation of such pupil to and from such school by school bus for the
18 regularly organized school day. ~~Upon application, the principal~~ The principal shall deliver
19 the application to the superintendent or superintendent's designee, who shall assign a
20 pupil to a school bus if the pupil is entitled to school bus transportation under this Article
21 and the rules of the State Board of Education. Such assignment shall be made by the
22 ~~principal~~ superintendent or superintendent's designee so as to provide for the orderly, safe
23 and efficient transportation of pupils to such school and so as to promote the orderly and
24 efficient administration of the school and the health, safety and general welfare of the
25 pupils to be so transported. Assignments of pupils and employees to school buses may be
26 changed by the ~~principal of the school~~ superintendent or superintendent's designee as he
27 may from time to time find proper for the safe and efficient transportation of such pupils
28 and employees.

29 (d) The parent or guardian of any pupil enrolled in any school, or the person
30 standing in loco parentis to any such pupil, who shall apply ~~to the principal of such school~~
31 under subsection (c) of this section for the transportation of such pupil to and from such
32 school by school bus, may, if such application is denied, or if such pupil is assigned to a
33 school bus not satisfactory to such parent, guardian, or person standing in loco parentis to
34 such pupil, pursuant to rules and regulations established by the local board of education,
35 apply to such board for such transportation upon a school bus designated in such
36 application, and shall be entitled to a prompt and fair hearing by such board in
37 accordance with the rules and regulations established by it. The majority of such board
38 shall be a quorum for the purpose of holding such hearing and passing upon such
39 application, and the decision of the majority of the members present at such hearing shall
40 be the decision of the board. If, at such hearing, the board shall find that pupil is entitled
41 to be transported to and from such school upon the school bus designated in such
42 application, or if the board shall find that the transportation of such pupil upon such bus
43 to and from such school will be for the best interests of such pupil, will not interfere with

1 the proper administration of such school, or with the safe and efficient transportation by
2 school bus of other pupils enrolled in such school and will not endanger the health or
3 safety of the children there enrolled, the board shall direct that such child be assigned to
4 and transported to such school upon such bus.

5 (e) A decision of a local board under subsection (d) is final and, except as
6 provided in this subsection, is subject to judicial review in accordance with Article 4 of
7 Chapter 150B of the General Statutes. A person seeking judicial review shall file a
8 petition in the superior court of the county where the local board made its decision.

9 (f) No employee shall be assigned to or permitted to ride upon a school bus when
10 to do so will result in the overcrowding of such bus or will prevent the assignment to
11 such bus of a pupil entitled to ride thereon, or will otherwise, in the opinion of the
12 ~~principal, superintendent or superintendent's designee,~~ be detrimental to the comfort or
13 safety of the pupils assigned to such bus, or to the safe, efficient and proper operation of
14 such bus."

15 Section 4. G.S. 115C-245 reads as rewritten:

16 "**§ 115C-245. School bus drivers; monitors; safety assistants.**

17 (a) Each local board, which elects to operate a school bus transportation system,
18 shall employ the necessary drivers for such school buses. The drivers shall have all
19 qualifications prescribed by the regulations of the State Board of Education herein
20 provided for and must be at least 18 years old and have at least six months driving
21 experience as a licensed operator of a motor vehicle before employment as a regular or
22 substitute driver, but the selection and employment of each driver shall be made by the
23 local board of education, and the driver shall be the employee of such local school
24 administrative unit. Each local board of education shall assign the bus drivers employed
25 by it to the respective schools within the jurisdiction of such board, and the ~~principal of~~
26 ~~each such school~~ superintendent or superintendent's designee shall assign the drivers to the
27 school buses to be driven by them. No school bus shall at any time be driven or operated
28 by any person other than the bus driver assigned ~~by such principal~~ to such bus except by
29 the express direction of ~~such principal~~ the superintendent or superintendent's designee or
30 in accordance with rules and regulations of the appropriate local board of education.

31 (b) The driver of a school bus subject to the direction of the ~~principal~~
32 superintendent or superintendent's designee shall have complete authority over and
33 responsibility for the operation of the bus and the maintaining of good order and conduct
34 upon such bus, and shall report promptly to the principal any misconduct upon such bus
35 or disregard or violation of the driver's instructions by any person riding upon such bus.
36 The principal may take such action with reference to any such misconduct upon a school
37 bus, or any violation of the instructions of the driver, as he might take if such misconduct
38 or violation had occurred upon the grounds of the school.

39 (c) The driver of any school bus shall permit no person to ride upon such bus
40 except pupils or school employees assigned thereto or persons permitted by the express
41 direction of the ~~principal~~ superintendent or superintendent's designee to ride thereon.

42 (d) ~~The principal of a school, to which a school bus has been assigned, may, in his~~
43 ~~discretion, appoint a monitor for any bus so assigned to such school. The superintendent~~

1 or superintendent's designee may, in his discretion, appoint a monitor for any bus
2 assigned to any school. It shall be the duty of such monitor, subject to the direction of the
3 driver of the bus, to preserve order upon the bus and do such other things as may be
4 appropriate for the safety of the pupils and employees assigned to such bus while
5 boarding such bus, alighting therefrom or being transported thereon, and to require such
6 pupils and employees to conform to the rules and regulations established by the local
7 board of education for the safety of pupils and employees upon school buses. Such
8 monitors shall be unpaid volunteers who shall serve at the pleasure of the ~~principal~~
9 superintendent or superintendent's designee.

10 (e) A local board of education may, in its discretion within funds available,
11 employ transportation safety assistants upon recommendation of the principal through the
12 superintendent. The safety assistants thus employed shall assist the bus drivers with the
13 safety, movement, management, and care of children boarding the bus, leaving the bus, or
14 being transported in it. The safety assistant should be either an adult or a certified student
15 driver who is available as a substitute bus driver."

16 Section 5. G.S. 115C-290.8 reads as rewritten:

17 "**§ 115C-290.8. Exemptions from requirements.**

18 (a) The requirements of this Article do not apply to a person who, at any time
19 during the five years preceding January 1, 1998, ~~(i) completed an administrative internship~~
20 ~~as part of an approved graduate program in school administration and obtained an active State~~
21 ~~administrator/supervisor certificate, (ii) was engaged in school administration while in~~
22 ~~possession of an active State administrator/supervisor certificate, or (iii) was employed in a~~
23 ~~North Carolina college or university as an instructor while in possession of an active State~~
24 ~~administrator/supervisor certificate and whose major responsibilities included the preparation or~~
25 ~~supervision of individuals enrolled in a public school administration program that meets the~~
26 ~~public school administrator program approval standards set by the State Board.~~ obtained or
27 renewed a State administrator/supervisor certificate.

28 (b) The State Board may adopt policies governing the requirements for the
29 certification of individuals who hold a certificate issued in any other state that authorizes
30 them to be employed as school administrators in that state. These policies may exempt
31 some or all of these individuals from the requirements of this Article.

32 (c) A person who is exempt from the requirements of this Article but applies to the
33 Standards Board under this Article shall be subject to the Article."

34 Section 6. G.S. 115C-174.21(b) reads as rewritten:

35 "(b) Competency Testing Program.

36 (1) The State Board of Education shall adopt tests or other measurement
37 devices which may be used to assure that graduates of the public high
38 schools and graduates of nonpublic schools supervised by the State
39 Board of Education pursuant to the provisions of Part 1 of Article 39 of
40 this Chapter possess the skills and knowledge necessary to function
41 independently and successfully in assuming the responsibilities of
42 citizenship.

1 (2) The tests shall be administered annually to all ~~tenth-ninth~~ grade students
2 in the public schools. Students who fail to attain the required minimum
3 standard for graduation in the ~~tenth-ninth~~ grade shall be given remedial
4 instruction and additional opportunities to take the test up to and
5 including the last month of the twelfth grade. Students who fail to pass
6 parts of the test shall be retested on only those parts they fail. Students
7 in the ~~tenth-ninth~~ grade who are enrolled in special education programs
8 or who have been officially designated as eligible for participation in
9 such programs may be excluded from the testing programs.

10 (3) The State Board of Education may develop and validate alternate means
11 and standards for demonstrating minimum competence. These
12 standards, which must be more difficult than the tests adopted pursuant
13 to subdivision (1) of this subsection, may be passed by students in lieu
14 of the testing requirement of subdivision (2) of this subsection.

15 (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14."
16 Section 7. G.S. 115C-391(d1) reads as rewritten:

17 "(d1) A local board of education or superintendent shall suspend for 365 days any
18 student who brings a weapon, as defined in G.S. 14-269.2(b) and G.S. 14-269.2(g), onto
19 school property. The local board of education upon recommendation by the
20 superintendent may modify this suspension requirement on a case-by-case basis that
21 includes, but is not limited to, the procedures established for the discipline of students
22 with disabilities and may also provide, or contract for the provision of, educational
23 services to any student suspended pursuant to this subsection in an alternative school
24 setting or in another setting that provides educational and other services."

25 Section 8. G.S. 115C-391(d2) reads as rewritten:

26 "(d2) (1) ~~A local board of education shall~~ The superintendent shall, upon
27 recommendation of the principal, remove to an alternative educational
28 setting, as provided in subdivision (4) of this subsection, any student
29 who is at least 13 and who physically assaults and seriously injures a
30 teacher or other school personnel. If no appropriate alternative
31 educational setting is available, then the ~~board shall~~ superintendent
32 shall, upon recommendation of the principal, suspend for no less than
33 300 days but no more than 365 days any student who is at least 13 and
34 who physically assaults and seriously injures a teacher or other school
35 personnel.

36 (2) ~~A local board of education may~~ The superintendent may, upon
37 recommendation of the principal, remove to an alternative educational
38 setting any student who is at least 13 and who does one of the
39 following:

- 40 a. Physically assaults a teacher or other adult who is not a student.
41 b. Physically assaults another student if the assault is witnessed by
42 school personnel.
43 c. Physically assaults and seriously injures another student.

1 If no appropriate alternative educational setting is available, then the ~~board may~~
2 superintendent may, upon recommendation of the principal, suspend this student for up to
3 365 days.

4 (3) For purposes of this subsection, the conduct leading to suspension or
5 removal to an alternative educational setting must occur on school
6 property or at a school-sponsored or school-related activity on or off
7 school property. This subsection shall not apply when the student who is
8 subject to suspension or removal was acting in self-defense. If a teacher
9 is assaulted or injured and as a result a student is suspended or removed
10 to an alternative educational setting under this subsection, then the
11 student shall not be returned to that teacher's classroom unless the
12 teacher consents. If a student is suspended under this subsection, the
13 board may assign the student to an alternative educational setting upon
14 the expiration of the period of suspension.

15 (4) If the ~~local board superintendent~~ removes the student to an alternative
16 educational setting, as provided in subdivision (1) of this subsection,
17 and the conduct leading to the removal occurred on or before the
18 ninetieth school day, the board shall remove the student to that setting
19 for the remainder of the current school year and the first 90 school days
20 in the following school year. If the ~~board superintendent~~ chooses to
21 remove the student to an alternative educational setting, as provided in
22 subdivision (1) of this subsection, and the conduct leading to the
23 removal occurred after the ninetieth school day, the board shall remove
24 the student to that setting for the remainder of the current school year
25 and for the entire subsequent school year. Notwithstanding these
26 requirements, the ~~local board superintendent~~ may authorize a shorter or
27 longer length of time a student must remain in an alternative educational
28 setting if the ~~board superintendent~~ finds this would be more appropriate
29 based upon the recommendations of the principals of the alternative
30 school and the school to which the student will return."

31 Section 9. G.S. 115C-391(e) reads as rewritten:

32 "(e) A decision of a ~~local board superintendent~~ under subsection (c), ~~(d)~~,—(d1), or
33 (d2) of this section may be appealed to the local board of education. A decision of the
34 local board upon this appeal or of the local board under subsection (d) of this section is
35 final and, except as provided in this subsection, is subject to judicial review in accordance
36 with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review
37 shall file a petition in the superior court of the county where the local board made its
38 decision."

39 Section 10. G.S. 115C-276(r) reads as rewritten:

40 "(r) To Maintain Student Discipline. – The superintendent shall maintain student
41 discipline in accordance with Article 27 of this Chapter and shall keep data on each
42 student suspended for more than 10 days or expelled. This data shall include the race,
43 gender, and age of each student, the duration of suspension for each student, whether an

1 alternative education was considered or provided for each student, and whether a student
2 had multiple suspensions."

3 Section 11. G.S. 115C-174.21(c) reads as rewritten:

4 "(c) Annual Testing Program.

5 (1) The State Board of Education shall adopt a system of annual testing for
6 grades three through 12. These tests shall be designed to measure
7 progress toward reading, communication skills, and mathematics for
8 grades three through eight, and toward competencies designated by the
9 State Board for grades nine through 12. Students who do not pass the
10 tests adopted for eighth grade shall be provided remedial instruction in
11 the ninth grade. This assistance shall be calculated to prepare the
12 students to pass the competency test administered under subsection (b)
13 of this section.

14 (2) If the State Board of Education finds that additional testing in grades
15 three through 12 is desirable to allow comparisons with national
16 indicators of student achievement, that testing shall be conducted with
17 the smallest size sample of students necessary to assure valid
18 comparisons with other states."

19 Section 12. G.S. 115C-403(b) reads as rewritten:

20 "(b) When any child transfers from one school system to another school system, the
21 receiving school shall, within 30 days of the child's enrollment, obtain the child's record
22 from the school from which the child is transferring. If the child's parent, custodian, or
23 guardian provides a copy of the child's record from the school from which the child is
24 transferring, the receiving school shall, within 30 days of the child's enrollment, request
25 written verification of the school record by contacting the school or institution named on
26 the transferring child's record. Upon receipt of a request, the principal or the principal's
27 designee of the school from which the child is transferring shall not withhold the record
28 or verification for any reason, except as is authorized under the Family Educational
29 Rights and Privacy Act. Any information received indicating that the transferring child is
30 a missing child shall be reported to the North Carolina Center for Missing Persons."

31 Section 13. G.S. 115C-288 is amended by adding the following new
32 subsection:

33 "(j) To Transfer Student Records. – The principal shall not withhold the transfer of
34 student records, except as is provided in G.S. 115C-403(b)."

35 Section 14. G.S. 115C-333(b), as created in S.L. 1998-5, reads as rewritten:

36 "(b) Action Plans. –

37 (1) If a certified employee in a low-performing school receives an
38 unsatisfactory or below standard rating on any function of the
39 evaluation that is related to the employee's instructional duties, the
40 individual or team that conducted the evaluation shall recommend to the
41 superintendent that: (i) the employee receive an action plan designed to
42 improve the employee's performance; or (ii) the superintendent
43 recommend to the local board that the employee be dismissed or

1 demoted. The superintendent shall determine whether to develop an
2 action plan or to recommend a dismissal proceeding. Action plans shall
3 be developed by the person who evaluated the employee or the
4 employee's supervisor unless the evaluation was conducted by an
5 assistance team or an assessment team. If the evaluation was conducted
6 by an assistance team or an assessment team, that team shall develop the
7 action plan in collaboration with the employee's supervisor. Action
8 plans shall be designed to be completed within 90 instructional days or
9 before the beginning of the next school year. The State Board shall
10 develop guidelines that include strategies to assist local boards in
11 evaluating certified employees and developing effective action plans
12 within the time allotted under this section. Local boards may adopt
13 policies for the development and implementation of action plans or
14 professional development plans for employees who do not require
15 action plans under this section.

16 (2) Local boards shall adopt policies to require action plans for all certified
17 employees who receive a below standard or unsatisfactory rating on an
18 evaluation in the event the superintendent does not recommend
19 dismissal, demotion, or nonrenewal."

20 Section 15. G.S. 115C-333(c), as created in S.L. 1998-5, reads as rewritten:

21 "(c) Reevaluation. – Upon completion of an action plan under subdivision (1) of
22 subsection (b) of this section, the superintendent, the superintendent's designee, or the
23 assessment team shall evaluate the employee a second time. If on the second evaluation
24 the employee receives one unsatisfactory or more than one below standard rating on any
25 function that is related to the employee's instructional duties, the superintendent shall
26 recommend that the employee be dismissed or demoted under G.S. 115C-325. The
27 results of the second evaluation shall constitute substantial evidence of the employee's
28 inadequate performance."

29 Section 16. G.S. 115C-287.1(b) reads as rewritten:

30 "(b) Local boards of education shall employ school administrators who are
31 ineligible for career status as provided ~~by~~ in G.S. 115C-325(c)(3), upon the
32 recommendation of the superintendent. All contracts between ~~the~~ a school administrator
33 and ~~the~~ a local board of education shall be for two to four years, ending on June 30 of the
34 final 12 months of the contract. In the case of an initial contract between a school
35 administrator and a local board of education, the first year of the contract may be for a
36 period of less than 12 months provided the contract becomes effective on or before
37 September 1. ~~The~~ A local board of education may, with the written consent of ~~the~~ a
38 school administrator, extend, renew, or offer a new school administrator's contract at any
39 time after the first 12 months of the contract so long as the term of the new, renewed, or
40 extended contract does not exceed four years. Rolling annual contract renewals are not
41 allowed. Nothing in this section shall be construed to prohibit the filling of an
42 administrative position on an interim or temporary basis."

1 Section 17. The State Board of Education shall evaluate the provision by local
2 boards of education of lump-sum payments of one percent (1%) of the base salaries of
3 principals and assistant principals in schools the boards found to meet the goals of local
4 plans for maintaining safe and orderly schools. The Board shall identify the number of
5 principals and assistant principals who received these payments, how local boards
6 determined whether schools met local goals for maintaining safe and orderly schools, and
7 any other information that boards used to select the individuals to receive these payments.
8 The State Board shall report the results of this evaluation to the Joint Legislative
9 Education Oversight Committee by November 15, 1998.

10 Section 18. The State Board of Education and the Board of Governors of The
11 University of North Carolina shall develop a proposal for a statewide lateral entry teacher
12 licensure program and shall report the proposal to the Joint Legislative Education
13 Oversight Committee prior to December 1, 1998. The proposal shall include the
14 following: (i) active recruitment of mid-career college graduates into teaching; (ii)
15 intensive summer preservice preparation prior to the initial year of employment that is
16 delivered at multiple sites throughout the State; (iii) coaching, support, and continued
17 professional preparation for initial licensure provided during the initial year of
18 employment; (iv) portfolio development and professional assessment during the initial
19 year of employment; (v) intensive second summer preparation for initial licensure
20 examination unless the individual has already taken and passed the initial licensure
21 examination; (vi) use of technology for professional and instructional support to increase
22 program accessibility and decrease distance as a barrier to program completion; (vii) a
23 program management plan; and (viii) an estimated annual budget to operate the program.
24 The proposal also shall include a review of the current process for lateral entry and
25 alternative certification, an inventory and description of existing programs designed to
26 assist individuals achieve licensure through lateral entry, and a review of any reports or
27 plans developed by the State Board of Education or the Board of Governors since 1995
28 addressing lateral entry or alternative certification. The Joint Legislative Education
29 Oversight Committee shall review the proposal and report any suggested legislation to
30 the General Assembly by January 27, 1999.

31 Section 19. This act is effective when it becomes law. Section 2 of this act
32 applies to funds awarded beginning with those awarded at the end of the 1998-99 school
33 year, and any plan developed and approved under G.S. 115C-105.36(b) before the
34 effective date of this act shall not apply to those funds. Section 16 of this act applies to
35 contracts entered into on or after that date.