

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH50047-TC-7A

Short Title: Instructional Material Selection. (Public)

Sponsors: Representatives Elmore, Arp, and Johnson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE THE SELECTION OF INSTRUCTIONAL MATERIALS FOR
3 NORTH CAROLINA PUBLIC SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Part 3 of Article 8 of Chapter 115C is repealed.

6 SECTION 2. Article 8 of Chapter 115C of the General Statutes is amended by adding
7 a new Part to read:

8 "Part 3C. Selection of Instructional Material.

9 **§ 115C-102.20. Definition of instructional materials.**

10 The following definitions apply in this Part:

11 (1) Health and safety programs. – Any instruction, curricula, or materials intended
12 to impart information or promote discussion or understanding regarding any
13 of the following:

14 a. Reproductive health and safety, as provided in
15 G.S. 115C-81.30(a)(1)-(13).

16 b. Mental and emotional health, as provided in G.S. 115C-81.25(c)(1).

17 c. Growth and development, as provided in G.S. 115C-81.25(c)(9).

18 d. Anti-bullying or anti-harassment.

19 (2) Instructional materials. – Systematically organized material comprehensive
20 enough to cover the primary objectives outlined in the standard course of
21 study for a grade or course. Formats for instructional materials may be print
22 or nonprint, including hardbound books, softbound books, activity-oriented
23 programs, classroom kits, or digital resources that require the use of electronic
24 equipment in order to be used in the learning process.

25 (3) Local committee. – A local community media advisory committee.

26 (4) Parent. – A student's parent or legal guardian.

27 (5) State Committee. – The State Community Media Advisory Committee.

28 (6) Supplemental materials. – Educational materials that supplement specific
29 instruction for the standard course of study for a grade or course or general
30 education needs of the school. Supplemental materials may include textbooks,
31 library books, periodicals, audiovisual materials, and other supplemental
32 instructional materials needed for instructional purposes in the local school
33 administrative unit. Supplemental materials may be print or nonprint,
34 including hardbound books, softbound books, activity-oriented programs,
35 classroom kits, or digital resources that require the use of electronic equipment
36 in order to be used in the learning process.



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1 (7) Unfit materials. – Instructional or supplemental materials determined to be
2 inappropriate for use in an elementary or secondary school because the
3 material is either educationally unsuitable, pervasively vulgar, or
4 inappropriate to the age, maturity, or grade level of the students.

5 **"§ 115C-102.25. Selection of instructional materials.**

6 (a) Local Board Adoption. – Local boards of education shall select and adopt
7 instructional materials for each standard course of study at each instructional level in the
8 elementary school and the secondary school adopted by the State Board of Education as provided
9 in Part 1 of Article 8 of this Chapter.

10 (b) Evaluation of Instructional Materials Prior to Adoption. – For each standard course
11 of study, the local board of education may require experts employed by the local board of
12 education and certified in the discipline in which the instructional material would be used to offer
13 evaluation reports to the local board on materials being considered for adoption. Such evaluation
14 reports should give special consideration to the suitability of the instructional materials to the
15 instructional level for which it is offered, the content or subject matter, whether the instructional
16 materials is aligned with the standard course of study, and other criteria prescribed by the local
17 board.

18 **"§ 115C-102.30. Selection of supplemental materials.**

19 (a) Local boards of education shall adopt written policies concerning the procedures to
20 be followed in their local school administrative units for the selection and procurement of
21 supplemental materials. Local boards of education shall have sole authority to select and procure
22 supplemental materials, whether or not the materials contain commercial advertising, to
23 determine if the materials are related to and within the limits of the prescribed curriculum, and
24 to determine when the materials may be presented to students during the school day.

25 (b) Supplemental materials shall neither displace nor be used to the exclusion of
26 instructional materials.

27 **"§ 115C-102.35. Selection of health and safety instructional and supplemental materials.**

28 (a) When adopting, modifying, or amending a health and safety program and the
29 instructional and supplemental materials for that program, a local board of education shall
30 conduct a public hearing after adequately notifying the public at least 10 days prior to the hearing.

31 (b) The local board of education shall also provide both electronic and written notice to
32 all parents of students in the local school administrative unit of the public hearing and the
33 opportunity to review those materials in the program repository, as provided in
34 G.S. 115C-102.50, at least 60 days before the public hearing occurs.

35 (c) The notice to parents provided for in subsection (b) of this section shall include the
36 following in both written and electronic form:

37 (1) A detailed description of the program's objectives and any proposed changes,
38 including any topics that the local board of education determines that a
39 reasonable parent in that community may wish to examine as to the age
40 appropriateness of the topics.

41 (2) All written and audio materials that will be used.

42 (3) A link to, or information on how to access, the program repository on the local
43 school administrative unit's Web site, as provided in G.S. 115C-102.50.

44 **"§ 115C-102.40. Purchase of instructional and supplemental materials.**

45 (a) Funds allocated by the State Board of Education or appropriated in the current
46 expense or capital outlay budgets of the local school administrative units shall be used by the
47 local board of education for purchase, lease, or rental of instructional or supplemental materials
48 and for hardware, software, or other equipment necessary for the use of the instructional or
49 supplemental materials. The title of those materials and equipment shall be vested in the local
50 board of education.

1 **(b) Local boards of education are encouraged to partner with other local boards of**
2 **education and other public schools to jointly purchase instructional and supplemental materials.**

3 **(c) All instructional materials purchased with State funds shall include a clause granting**
4 **to the local board of education the license to produce braille, large print, and audio recording**
5 **copies of the instructional materials for use in the local school administrative unit.**

6 **(d) The local board of education shall publish on the Web site of the local school**
7 **administrative unit the title, author, and publisher of all instructional and supplemental materials**
8 **purchased by the local board of education.**

9 **"§ 115C-102.45. Provision and maintenance of instructional and supplemental materials.**

10 **(a) The students of the public elementary and secondary schools of the State shall be**
11 **provided with free instructional materials within the appropriation of the General Assembly for**
12 **that purpose. The local board shall provide for the free use by students, with proper care and**
13 **return, of elementary and secondary instructional materials. No local board of education may**
14 **charge any pupil a rental fee for the use of instructional materials or for hardware, software, or**
15 **other equipment necessary for the use of the instructional or supplemental materials.**

16 **(b) Local boards of education shall provide adequate and safe storage facilities for the**
17 **proper care of instructional and supplemental materials and emphasize to all students the**
18 **necessity for proper care of instructional and supplemental materials and equipment necessary**
19 **for the use of the instructional materials.**

20 **(c) A pupil's parents or legal guardians may be charged damage fees for abuse or loss of**
21 **instructional or supplemental materials or equipment necessary for the use of those materials**
22 **under rules adopted by the local board of education. Damage fees collected under this subsection**
23 **shall be used by the local board of education for purchase of instructional and supplemental**
24 **materials as provided in G.S. 115C-120.40.**

25 **"§ 115C-102.50. Instructional materials repository.**

26 **(a) A local board of education shall maintain a continuous repository of current**
27 **instructional and supplemental materials that have been purchased by the local board of**
28 **education. The materials shall be maintained at a central location for in-person review by parents**
29 **and the public upon request, and the names of all those materials shall be posted to the local**
30 **school administrative unit's Web site for review by parents and the public.**

31 **(b) In addition to the requirements of subsection (a) of this section, a local board of**
32 **education shall also maintain a continuous repository of current objectives, entire curricula, texts,**
33 **and all other materials used in any health and safety program as follows:**

34 **(1) The current objectives, entire curricula, texts, and all other materials used in**
35 **any health and safety program shall be maintained at a central location for**
36 **in-person review by parents and the public upon request.**

37 **(2) Electronic copies of the current objectives, and names of curricula, texts, or**
38 **any other materials used in any health and safety program shall be posted to**
39 **the local school administrative unit's Web site for review by parents and the**
40 **public. The Web site shall also include the curricula, texts, and any other**
41 **materials used in the health and safety program, including links to any**
42 **materials available on the publisher's Web site.**

43 **(3) The local board of education shall add to the central location and electronic**
44 **repository any objectives, curricula, texts, and other materials that may be**
45 **proposed for adoption, amendment, or modification to the health and safety**
46 **program, and shall clearly indicate that status while the materials are under**
47 **consideration.**

48 **(c) Each school year, at least 14 days before students participate in a health and safety**
49 **program, a local board of education shall give both written and electronic notice to parents of**
50 **students participating in that program of the right of parents to review the objectives, complete**
51 **materials, and entire curriculum of that program in the program repository maintained by the**

1 local board of education, as provided in subsection (b) of this section. The notice shall include
2 the same information provided under G.S. 115C-102.35(c). The notice shall also inform parents
3 of the local board's policy for participation in reproductive health and safety programs, as
4 established in G.S. 115C-81.30(c), when applicable, and provide a form that allows parents to
5 exercise parental rights under that policy.

6 **"§ 115C-102.55. Right to purchase; disposal of textbooks and materials.**

7 (a) Any parent, guardian, or person in loco parentis may purchase any instructional
8 material needed for any student in the public schools of the State from the board of education of
9 the local school administrative unit in which the child is enrolled.

10 (b) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4),
11 or any other provision of law, a local board of education may dispose of discontinued
12 instructional or supplemental materials.

13 **"§ 115C-102.60. Local community media advisory committee.**

14 (a) A local board of education shall establish a local community media advisory
15 committee to investigate and evaluate challenges from parents, teachers, and members of the
16 public to instructional materials and supplemental materials on the grounds that they are unfit
17 materials.

18 (b) The local committee shall, at a minimum, include the following:

19 (1) A principal from a high school, middle school, and elementary school,
20 respectively.

21 (2) A teacher from a high school, middle school, and elementary school,
22 respectively.

23 (3) A parent of a student in high school, middle school, and elementary school,
24 respectively.

25 (c) Individuals challenging unfit materials shall make challenges in writing to the local
26 board of education and shall specify whether the materials are being challenged on the grounds
27 of being educationally unsuitable, pervasively vulgar, or inappropriate to the age, maturity, or
28 grade level of the students.

29 (d) Within two weeks of the filing of the challenge, the local committee shall hold a
30 hearing and provide the challengers an opportunity to present their concerns to the local
31 committee. The local committee may, in the local committee's discretion, request additional
32 information at the hearing from experts on the subject matter employed by the local school
33 administrative unit. Within two weeks of the hearing, the local committee shall make a
34 recommendation to the local board of education on whether the challenge has merit and whether
35 the challenged material should be retained or removed as an unfit material. The local committee's
36 determination shall be limited to considerations of whether the material is unfit on the specific
37 grounds of the material being educationally unsuitable, pervasively vulgar, or inappropriate to
38 the age, maturity, or grade level of the students.

39 (e) At the next meeting of the local board of education after the local committee's
40 recommendation is received, the local board shall determine whether the challenge has merit and
41 whether the challenged material should be retained or removed as unfit material.

42 (f) If the local board of education determines that the challenged material shall be
43 retained, a challenger may appeal the local board's decision to the State Community Media
44 Advisory Committee. The challenger must make the appeal in the form and manner designated
45 by the State Board of Education within two weeks of the local board's decision.

46 **"§ 115C-102.65. State Community Media Advisory Committee.**

47 (a) The State Board of Education shall establish a State Community Media Advisory
48 Committee to review challenges to instructional and supplemental materials appealed under
49 G.S. 115C-102.55.

50 (b) The State Committee shall, at a minimum, include the following:

51 (1) The State Superintendent of Public Instruction, or designee.

- 1 (2) One superintendent of a local school administrative unit.
2 (3) A principal from a high school, middle school, and elementary school,
3 respectively.
4 (4) A teacher from a high school, middle school, and elementary school,
5 respectively.
6 (5) A parent of a student in high school, middle school, and elementary school,
7 respectively.

8 (c) A member of the State Committee may be recused from any challenge to materials
9 used in the local school administrative unit in which the member is employed or in which the
10 member's child is enrolled.

11 (d) The State Board of Education shall designate the form and manner for appeals to be
12 made to the State Committee. Upon receipt of an appeal, notice and a copy of the appeal shall be
13 provided to the local board of education.

14 (e) Within four weeks of the filing of the appeal, the State Committee shall hold a hearing
15 and provide the appellants an opportunity to present concerns to the State Committee as well as
16 the local board of education an opportunity to rebut those concerns. The State Committee may,
17 in the State Committee's discretion, request additional information at the hearing from experts on
18 the subject matter employed by the State Board of Education. Within two weeks of the hearing,
19 the State Committee shall make a recommendation to the State Board of Education on whether
20 the appealed challenge has merit and whether the challenged material should be retained or
21 removed as unfit material. The State Committee's determination shall be limited to considerations
22 of whether the material is unfit on the specific grounds of the material being educationally
23 unsuitable, pervasively vulgar, or inappropriate to the age, maturity, or grade level of the
24 students.

25 (f) At the next meeting of the State Board of Education after the State Committee's
26 recommendation is received, the State Board shall determine whether the appealed challenge has
27 merit and whether the challenged material should be retained or removed as unfit material. If the
28 State Board of Education determines that challenged material shall be removed, the local board
29 of education shall remove the material. The decision of the State Board of Education is final, and
30 is not subject to appeal by the local board of education or challenger."

31 **SECTION 3.(a)** G.S. 115C-11(d) reads as rewritten:

32 "(d) Voting. – No voting by proxy shall be permitted. ~~Except in voting on textbook~~
33 ~~adoptions, a~~ A majority of those present and voting shall be necessary to carry a motion and a
34 roll call vote shall be had on each motion. A record of all such votes shall be kept in the minute
35 book."

36 **SECTION 3.(b)** G.S. 115C-11(e) is repealed.

37 **SECTION 3.(c)** G.S. 115C-12(9)b. is repealed.

38 **SECTION 3.(d)** G.S. 115C-12(9c)c. reads as rewritten:

- 39 " c. The Board also shall develop and implement an ongoing process to
40 align State programs and support materials with the revised academic
41 content standards for each core academic area on a regular basis.
42 Alignment shall include revising ~~textbook criteria,~~ support materials,
43 State tests, teacher and school administrator preparation, and ongoing
44 professional development programs to be compatible with content
45 standards. The Board shall develop and make available to teachers and
46 parents support materials, including teacher and parent guides, for
47 academic content standards. The State Board of Education shall work
48 in collaboration with the Board of Governors of The University of
49 North Carolina to ensure that teacher and school administrator degree
50 programs, ongoing professional development, and other university

1 activity in the State's public schools align with the State Board's
2 priorities."

3 **SECTION 3.(e)** G.S. 115C-12(18)d. reads as rewritten:

4 "d. The State Board of Education shall modify the Uniform Education
5 Reporting System to provide clear, accurate, and standard information
6 on the use of funds at the unit and school level. The plan shall provide
7 information that will enable the General Assembly to determine State,
8 local, and federal expenditures for personnel at the unit and school
9 level. The plan also shall allow the tracking of expenditures for
10 ~~textbooks,~~ instructional materials, educational supplies and
11 equipment, capital outlay, at-risk students, and other purposes."

12 **SECTION 3.(f)** G.S. 115C-47(6) reads as rewritten:

13 "(6) To Regulate Fees, Charges and Solicitations. – Local boards of education shall
14 adopt rules and regulations governing solicitations of, sales to, and
15 fund-raising activities conducted by, the students and faculty members in
16 schools under their jurisdiction, and no fees, charges, or costs shall be
17 collected from students and school personnel without approval of the board of
18 education as recorded in the minutes of said board; ~~provided, this subdivision~~
19 ~~shall not apply to such textbooks fees as are determined and established by the~~
20 ~~State Board of Education.~~ board. All schedules of fees, charges and
21 solicitations approved by local boards of education shall be reported to the
22 Superintendent of Public Instruction."

23 **SECTION 3.(g)** G.S. 115C-47(33) reads as rewritten:

24 "(33) To Approve and Use Supplemental Materials. – Local boards of education
25 shall have sole authority to select and procure ~~supplementary instructional~~
26 supplemental materials, whether or not the materials contain commercial
27 advertising, pursuant to the provisions of ~~G.S. 115C-98(b).~~ Part 3C of Article
28 8 of this Chapter."

29 **SECTION 3.(h)** G.S. 115C-47(33a) reads as rewritten:

30 "(33a) To Approve and Use ~~Textbooks Not Adopted by State Board of Education.~~
31 Instructional Materials. – Local boards of education shall have the sole
32 authority to select, procure, and use ~~textbooks not adopted by the State Board~~
33 ~~of Education~~ instructional materials as provided in ~~G.S. 115C-98(b1).~~ Part 3C
34 of Article 8 of this Chapter."

35 **SECTION 3.(i)** G.S. 115C-75.10(c) reads as rewritten:

36 "(c) Funding Memorandum of Understanding. – The IS operator, in consultation with the
37 ISD Superintendent, may enter into a funding memorandum of understanding with the local
38 board of education of the local school administrative unit where the innovative school is located
39 for all student support and operational services and instructional services to be provided by the
40 local board of education in the same manner and degree as in the prior school year or funding in
41 an amount equivalent to the amount the local board of education would have expended on those
42 services if provided. For the purposes of this subsection, student support and operational services
43 include cafeteria services, custodial services, broadband and utilities, and student information
44 services, and instructional services include alternative education, special education services, test
45 administration services, ~~textbooks,~~ instructional materials, technology, media resources,
46 instructional equipment, and other resources. The IS operator and local board of education shall
47 finalize the funding memorandum of understanding within 30 days of the initial request for the
48 memorandum by the IS operator. If the parties have not completed the funding memorandum of
49 understanding within 30 days, the State Board of Education shall resolve any issues in dispute."

50 **SECTION 3.(j)** G.S. 115C-81.5(b)(3) is repealed.

51 **SECTION 3.(k)** G.S. 115C-81.25(b)(3) is repealed.

1 **SECTION 3.(l)** G.S. 115C-81.25(d) reads as rewritten:

2 "(d) Parental Review. – The State Board of Education shall make available to all local
3 school administrative units for review by the parents and legal guardians of students enrolled at
4 those units any State-developed objectives for instruction ~~any approved textbooks~~, the list of
5 reviewed materials, and any other State-developed or approved materials that pertain to or are
6 intended to impart information or promote discussion or understanding in regard to the
7 prevention of sexually transmitted diseases, including HIV/AIDS, to the avoidance of
8 out-of-wedlock pregnancy, or to the reproductive health and safety education curriculum. The
9 review period shall extend for at least 60 days before use."

10 **SECTION 3.(m)** G.S. 115C-242(3) reads as rewritten:

11 "(3) The board of education of any local school administrative unit may operate
12 the school buses of such unit one day prior to the opening of the regular school
13 term for the transportation of pupils and employees to and from the school to
14 which such pupils are assigned or in which they are enrolled and such
15 employees are employed, for the purposes of the registration of students, the
16 organization of classes, the distribution of ~~textbooks~~, instructional materials,
17 and such other purposes as will, in the opinion of the superintendent of the
18 schools of such unit, promote the efficient organization and operation of such
19 public schools."

20 **SECTION 3.(n)** G.S. 115C-271(d)(2) reads as rewritten:

21 "(2) Local funds appropriated for teachers, ~~textbooks~~, instructional materials, or
22 classroom materials, supplies, and equipment are not transferred or used for
23 this purpose."

24 **SECTION 3.(o)** G.S. 115C-384(c) reads as rewritten:

25 "(c) Rental Fees for ~~Textbooks~~ Instructional Materials Prohibited; Damage Fees
26 Authorized. – No rental fees are permitted for the use of ~~textbooks~~, instructional materials, but
27 damage fees may be collected pursuant to the provisions of ~~G.S. 115C-100~~ G.S. 115C-102.45."

28 **SECTION 3.(p)** G.S. 115C-390.2(l)(1) reads as rewritten:

29 "(1) The opportunity to take ~~textbooks~~ instructional materials and school-furnished
30 digital devices home for the duration of the absence."

31 **SECTION 3.(q)** G.S. 115C-390.5(c)(1) reads as rewritten:

32 "(1) The opportunity to take ~~textbooks~~ instructional materials home for the
33 duration of the suspension."

34 **SECTION 3.(r)** G.S. 115C-398 reads as rewritten:

35 "**§ 115C-398. Damage to school buildings, furnishings, textbooks.**

36 Students and their parents or legal guardians may be liable for damage to school buildings,
37 furnishings and ~~textbooks~~ instructional materials pursuant to the provisions of G.S. 115C-523,
38 115C-100 and 14-132."

39 **SECTION 3.(s)** G.S. 143A-48 is repealed.

40 **SECTION 3.(t)** G.S. 143C-9-7(b) reads as rewritten:

41 "(b) Upon appropriation by the General Assembly, funds received in the Indian Gaming
42 Education Revenue Fund shall be allocated quarterly by the State Board of Education to local
43 school administrative units, charter schools, and regional schools on the basis of allotted average
44 daily membership. The funds allotted by the State Board of Education pursuant to this section
45 shall be nonreverting. Funds received pursuant to this section by local school administrative units
46 shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or
47 ~~textbooks~~ instructional materials."

48 **SECTION 4.(a)** Effective July 1, 2019, the existing Textbooks and Digital
49 Resources funding allotment in the State Public School Fund shall be designated as the
50 Instructional Materials funding allotment in the State Public School Fund. The State Board of
51 Education shall establish the purposes for which the funds within the new Instructional Materials

1 funding allotment may be used for as follows: (i) to acquire instructional or supplemental
2 materials as defined in G.S. 115C-102.20, as enacted by this act, and (ii) to acquire hardware,
3 software, or other equipment necessary for the use of the instructional or supplemental materials.

4 **SECTION 4.(b)** G.S. 115C-105.25(b)(12) reads as rewritten:

5 "(12) Funds allotted for ~~textbooks and digital resources~~ instructional materials may
6 only be used for the purchase of ~~textbooks and digital resources~~ instructional
7 and supplemental materials, as defined in G.S. 115C-102.20, and to acquire
8 hardware, software, or other equipment necessary for the use of the
9 instructional or supplemental materials. These funds shall not be transferred
10 out of the allotment for any other purpose."

11 **SECTION 5.** G.S. 115C-81.30(c) reads as rewritten:

12 "(c) Parental Review and Consent. – Each school year, before students may participate in
13 any portion of (i) a program that pertains to or is intended to impart information or promote
14 discussion or understanding in regard to the prevention of sexually transmitted diseases,
15 including HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy or (ii) a reproductive
16 health and safety education program, whether developed by the State or by the local board of
17 education, the parents and legal guardians of those students shall be given an opportunity to
18 review the objectives and materials in the instructional materials repository, as provided in
19 ~~G.S. 115C-81.25(d)~~ G.S. 115C-102.50. Local boards of education shall adopt policies to provide
20 opportunities either for parents and legal guardians to consent or for parents and legal guardians
21 to withhold their consent to the students' participation in any or all of these programs."

22 **SECTION 6.** The State Board of Education shall not enter into any new contracts
23 for textbooks or instructional materials and shall not renew any existing contracts for textbooks
24 or instructional materials. The State Board of Education shall make available for purchase any
25 textbooks or instructional materials available through existing contracts to local boards of
26 education.

27 **SECTION 7.** Notwithstanding G.S. 115C-102.25, as enacted by this act, a local
28 board of education may, by resolution, continue use of previously adopted State textbooks for a
29 standard course of study until that standard course of study is revised by the State Board of
30 Education.

31 **SECTION 8.** No local board of education shall be required to hold a public hearing
32 for any health and safety program, as defined in G.S. 115C-102.20, as enacted by this act, in use
33 prior to the 2018-2019 school year, until that program is amended, modified, or replaced. All
34 local boards of education shall establish a program repository of current health and safety
35 programs, as required by G.S. 115C-102.50, as enacted by this act, for access to parents prior to
36 the start of the 2019-2020 school year, and shall not implement any program until that program
37 is included in the repository.

38 **SECTION 9.** This act becomes effective July 1, 2019, and applies beginning with
39 the 2019-2020 school year.