

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 37  
Second Edition Engrossed 2/9/21  
House Committee Substitute Favorable 2/10/21  
Fourth Edition Engrossed 2/11/21

Short Title: In-Person Learning Choice for Families.

(Public)

Sponsors:

Referred to:

February 2, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE ACCESS TO IN-PERSON LEARNING FOR STUDENTS IN  
3 GRADES KINDERGARTEN THROUGH TWELVE.

4 Whereas, the Centers for Disease Control and Prevention (CDC) outlined the  
5 dramatic increase in children's mental health visits to hospital emergency rooms from April to  
6 October of 2020 over the same time period in 2019, an increase of 24% for children ages 5–11  
7 and 30% for children between the ages of 12–17; and

8 Whereas, the CDC further found that with mitigation efforts, the COVID-19  
9 transmission risk in schools appears low, showing that with the necessary precautions in place,  
10 schools can open during the pandemic and that there is little evidence that schools have  
11 contributed meaningfully to increased community transmission; and

12 Whereas, the ABC Science Collaborative confirms the CDC's findings, as it reported  
13 no instances of child-to-adult transmission of COVID-19 were reported within schools during  
14 their examination of 11 open school districts in North Carolina serving 90,000 students during  
15 the first quarter of the 2020-2021 school year; and

16 Whereas, high failure rates in remote learning classes among middle and high school  
17 students are being reported statewide; and

18 Whereas, the Organisation for Economic Co-operation and Development found for  
19 every one-third of a school year lost, current students will suffer a 3% loss in income across their  
20 entire careers; and

21 Whereas, a study in the Journal of the American Medical Association found that  
22 today's students' increased financial stress could be associated with a collective loss of 13.8  
23 million years of life; and

24 Whereas, even last summer, experts at Harvard University warned that school  
25 closures are a disaster that some students may never recover from; Now, therefore,  
26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** Notwithstanding Article 1A of Chapter 166A of the General Statutes,  
28 any executive order, secretarial order or directive authorized pursuant to Article 1A of Chapter  
29 166A of the General Statutes, or any other provision of law, all local school administrative units  
30 shall provide the option of in-person instruction to students in grades kindergarten through 12  
31 enrolled in that unit in accordance with this act for the remainder of the scheduled 2020-2021  
32 school year, beginning no later than the first weekday that occurs fifteen days following the  
33 effective date of this act.



- 1           **SECTION 2.** In providing for in-person instruction, local school administrative units  
2 shall comply with the following:
- 3           (1) Local school administrative units shall comply with all requirements of the  
4 Strong Schools NC Public Health Toolkit (K-12), as that guidance existed on  
5 February 2, 2021, for implementation of Plan A (Minimal Social Distancing)  
6 and Plan B (Moderate Social Distancing) that are appropriate to the Plan of  
7 reopening, as follows:
- 8           a. Local boards of education shall provide the option of in-person  
9 instruction under Plan A (Minimal Social Distancing) to all students  
10 enrolled in that school with an individualized education program, as  
11 defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794)  
12 plan, unless in-person instruction is not permitted under that student's  
13 program or plan. Local boards of education shall provide the option of  
14 remote education for these students to elect to participate in, at the  
15 discretion of the student's parent or guardian, for the remainder of the  
16 2020-2021 school year.
- 17           b. Local boards of education shall provide the option of in-person  
18 instruction under Plan A (Minimal Social Distancing) or Plan B  
19 (Moderate Social Distancing) for all other students enrolled in grades  
20 kindergarten through 12 in that unit. It shall be in the discretion of the  
21 local board whether in-person instruction shall be provided under Plan  
22 A (Minimal Social Distancing), Plan B (Moderate Social Distancing),  
23 or both Plans as necessary to address the needs of different school  
24 settings. Local boards of education shall continue to provide remote  
25 instruction options for students to elect to participate in, at the  
26 discretion of the parent or guardian, for the remainder of the  
27 2020-2021 school year.
- 28           (2) Local boards of education may adjust student assignments as necessary for the  
29 remainder of the 2020-2021 school year to comply with in-person instruction  
30 plan requirements and ensure efficient use of school resources in order to  
31 provide both in-person instruction and offer remote instruction alternatives to  
32 families.
- 33           (3) Reasonable work accommodations for classroom teachers shall be provided  
34 during the 2020-2021 school year as follows:
- 35           a. Local boards of education shall provide reasonable accommodations,  
36 which may include a remote work option, for any classroom teacher  
37 who provides documentation from a licensed physician, licensed  
38 physician assistant, or licensed nurse practitioner that the teacher or a  
39 minor for whom the teacher is the direct caretaker has an underlying  
40 condition that the Centers for Disease Control and Prevention has  
41 identified as placing an individual at increased risk for developing  
42 severe illness from COVID-19.
- 43           b. Local boards of education may provide reasonable accommodations,  
44 which may include a remote work option, for any classroom teacher  
45 who provides documentation from a licensed physician, licensed  
46 physician assistant, or licensed nurse practitioner that the teacher or a  
47 minor for whom the teacher is the direct caretaker has an underlying  
48 condition that the Centers for Disease Control and Prevention has  
49 identified may place an individual at increased risk for developing  
50 severe illness from COVID-19.

1 c. Nothing in this subdivision shall be construed to require a local board  
2 of education to provide any accommodation to an employee where no  
3 reasonable accommodations exist.

4 (4) Local boards of education shall have the authority to make day-to-day  
5 decisions concerning whether shifting individual schools or individual  
6 classrooms that are providing in-person instruction to remote instruction is  
7 necessary due to COVID-19 exposures that result in insufficient school  
8 personnel or required student quarantines. A local board of education shall  
9 report any shift by a school or classroom from in-person to remote instruction  
10 to the Department of Public Instruction within 72 hours of the shift.

11 **SECTION 3.** For the purposes of this act, in-person instruction includes all of the  
12 following components:

13 (1) Is offered to the student in person by a teacher of record on a local school  
14 administrative unit campus. Continued enrollment in a North Carolina Virtual  
15 Public School course or other e-learning course offering or use of prerecorded  
16 learning materials integrated in instruction that occurs on a local school  
17 administrative unit campus shall be considered to meet this requirement.

18 (2) Meal service.

19 (3) Transportation services to the campus where the student is assigned.

20 **SECTION 4.** As the Department of Health and Human Services continues to follow  
21 the Centers for Disease Control and Prevention guidance for COVID-19 vaccinations of frontline  
22 essential workers, local boards of education are encouraged to coordinate with local health  
23 departments and other vaccine providers to facilitate coordinating and scheduling COVID-19  
24 vaccination events for frontline K-12 school-based employees.

25 **SECTION 5.** This act is effective when it becomes law.