

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1125*
Education/Higher Education Committee Substitute Adopted 8/3/98

Short Title: Misc. Education Changes.

(Public)

Sponsors:

Referred to:

May 14, 1998

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

The General Assembly of North Carolina enacts:

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

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

- (1) The State Superintendent of Public Instruction or a designee;
- (2) One representative of The University of North Carolina, appointed by the President of The University of North Carolina;
- (3) One representative of the North Carolina Community College System, appointed by the President of the North Carolina Community College System;
- (4) A person with management responsibility concerning information technology related State Government functions, designated by the Secretary of Commerce;
- (5) Four members appointed by the Governor;
- (6) Six members appointed by the President Pro Tempore of the Senate two of whom shall be members of the Senate. One of these six members shall be appointed by the President Pro Tempore of the Senate to serve as cochair; and

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

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

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

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

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

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

20 (1) Awards to the personnel; or

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

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

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

27 c. ~~Submitted to and approved by the local board of education.~~

28 ~~The local board shall approve this plan unless the plan involves~~
29 ~~expenditures of funds that are not for a public purpose or that are~~
30 ~~otherwise unlawful. for awards to the personnel that are made within 30~~
31 ~~days of the local board's receipt of the funds."~~

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

33 **"§ 115C-244. Assignment of pupils to school buses.**

34 (a) ~~The principal of a school, to which any school bus has been assigned by the~~
35 ~~superintendent of the schools of the local school administrative unit embracing such~~
36 ~~school, shall assign to such bus or buses the pupils and employees who may be~~
37 ~~transported to and from such school upon such bus or buses. The superintendent or~~
38 ~~superintendent's designee shall assign the pupils and employees who may be transported~~
39 ~~to and from school upon the bus or buses assigned to each school and shall implement~~
40 ~~and enforce the plan developed under G.S. 115C-246. No pupil or employee shall be~~
41 ~~permitted to ride upon any school bus to which such pupil or employee has not been so~~
42 ~~assigned by the principal, superintendent or superintendent's designee, except by the~~
43 ~~express direction of the principal, superintendent or superintendent's designee.~~

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

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

21 (d) The parent or guardian of any pupil enrolled in any school, or the person
22 standing in loco parentis to any such pupil, who shall apply ~~to the principal of such school~~
23 under subsection (c) of this section for the transportation of such pupil to and from such
24 school by school bus, may, if such application is denied, or if such pupil is assigned to a
25 school bus not satisfactory to such parent, guardian, or person standing in loco parentis to
26 such pupil, pursuant to rules and regulations established by the local board of education,
27 apply to such board for such transportation upon a school bus designated in such
28 application, and shall be entitled to a prompt and fair hearing by such board in
29 accordance with the rules and regulations established by it. The majority of such board
30 shall be a quorum for the purpose of holding such hearing and passing upon such
31 application, and the decision of the majority of the members present at such hearing shall
32 be the decision of the board. If, at such hearing, the board shall find that pupil is entitled
33 to be transported to and from such school upon the school bus designated in such
34 application, or if the board shall find that the transportation of such pupil upon such bus
35 to and from such school will be for the best interests of such pupil, will not interfere with
36 the proper administration of such school, or with the safe and efficient transportation by
37 school bus of other pupils enrolled in such school and will not endanger the health or
38 safety of the children there enrolled, the board shall direct that such child be assigned to
39 and transported to such school upon such bus.

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

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

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

8 "**§ 115C-245. School bus drivers; monitors; safety assistants.**

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

23 (b) The driver of a school bus subject to the direction of the ~~principal~~
24 superintendent or superintendent's designee shall have complete authority over and
25 responsibility for the operation of the bus and the maintaining of good order and conduct
26 upon such bus, and shall report promptly to the principal any misconduct upon such bus
27 or disregard or violation of the driver's instructions by any person riding upon such bus.
28 The principal may take such action with reference to any such misconduct upon a school
29 bus, or any violation of the instructions of the driver, as he might take if such misconduct
30 or violation had occurred upon the grounds of the school.

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

34 (d) ~~The principal of a school, to which a school bus has been assigned, may, in his~~
35 ~~discretion, appoint a monitor for any bus so assigned to such school. The superintendent~~
36 or superintendent's designee may, in his discretion, appoint a monitor for any bus
37 assigned to any school. It shall be the duty of such monitor, subject to the direction of the
38 driver of the bus, to preserve order upon the bus and do such other things as may be
39 appropriate for the safety of the pupils and employees assigned to such bus while
40 boarding such bus, alighting therefrom or being transported thereon, and to require such
41 pupils and employees to conform to the rules and regulations established by the local
42 board of education for the safety of pupils and employees upon school buses. Such

1 monitors shall be unpaid volunteers who shall serve at the pleasure of the ~~principal~~
2 superintendent or superintendent's designee.

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

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

10 **"§ 115C-290.8. Exemptions from requirements.**

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

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

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

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

28 "(b) Competency Testing Program.

29 (1) The State Board of Education shall adopt tests or other measurement
30 devices which may be used to assure that graduates of the public high
31 schools and graduates of nonpublic schools supervised by the State
32 Board of Education pursuant to the provisions of Part 1 of Article 39 of
33 this Chapter possess the skills and knowledge necessary to function
34 independently and successfully in assuming the responsibilities of
35 citizenship.

36 (2) The tests shall be administered annually to all ~~tenth~~-ninth grade students
37 in the public schools. Ninth grade students who fail to attain the
38 required minimum standard for graduation shall be given a second
39 opportunity during the ninth grade to take the test. Students—Local
40 boards of education shall make reasonable efforts to provide remedial
41 instruction to students who fail to attain the required minimum standard
42 for graduation in the ~~tenth~~ grade—ninth grade that is calculated to prepare
43 the students to pass the test. Students shall be given the remedial

1 instruction and ~~additional~~ at least two opportunities annually to take the
2 test up to and including the last month of the twelfth grade. Local
3 boards shall make reasonable efforts to provide remedial instruction to
4 students who have not passed the test prior to the last month of the
5 twelfth grade that is calculated to prepare the students to pass the test.
6 These students shall be given the remedial instruction and two
7 additional opportunities to take the test during the summer following the
8 twelfth grade. Students who have met all other conditions of graduation
9 and who pass the test during the summer after the twelfth grade shall be
10 awarded a diploma by the local board. Students who fail to pass parts of
11 the test shall be retested on only those parts they fail. Students in the
12 ~~tenth~~ ninth grade who are enrolled in special education programs or who
13 have been officially designated as eligible for participation in such
14 programs may be excluded from the testing programs.

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

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

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

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

32 "(d2) (1) ~~A local board of education shall~~ The superintendent shall, upon
33 recommendation of the principal, remove to an alternative educational
34 setting, as provided in subdivision (4) of this subsection, any student
35 who is at least 13 and who physically assaults and seriously injures a
36 teacher or other school personnel. If no appropriate alternative
37 educational setting is available, then the ~~board shall~~ superintendent
38 shall, upon recommendation of the principal, suspend for no less than
39 300 days but no more than 365 days any student who is at least 13 and
40 who physically assaults and seriously injures a teacher or other school
41 personnel.

42 (2) ~~A local board of education may~~ The superintendent may, upon
43 recommendation of the principal, remove to an alternative educational

1 setting any student who is at least 13 and who does one of the
2 following:

- 3 a. Physically assaults a teacher or other adult who is not a student.
4 b. Physically assaults another student if the assault is witnessed by
5 school personnel.
6 c. Physically assaults and seriously injures another student.

7 If no appropriate alternative educational setting is available, then the ~~board may~~
8 superintendent may, upon recommendation of the principal, suspend this student for up to
9 365 days.

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

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

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

38 "(e) A decision of a ~~local board superintendent~~ under subsection (c), ~~(d)~~—(d1), or
39 (d2) of this section may be appealed to the local board of education. A decision of the
40 local board upon this appeal or of the local board under subsection (d) of this section is
41 final and, except as provided in this subsection, is subject to judicial review in accordance
42 with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review

1 shall file a petition in the superior court of the county where the local board made its
2 decision."

3 Section 10. G.S. 115C-105.47 is amended by adding the following new
4 subsection:

5 "(d) Nothing in this section shall create a right for a student to be identified or
6 assessed or to receive special services. Local school administrative units, local boards of
7 education, superintendents, and school personnel shall not be liable in a civil action for
8 failure to develop a plan under this section, to address adequately all issues in a plan
9 developed under this section, or to implement effectively a plan developed under this
10 section."

11 Section 11. G.S. 115C-276(r) reads as rewritten:

12 "(r) To Maintain Student Discipline. – The superintendent shall maintain student
13 discipline in accordance with Article 27 of this Chapter and shall keep data on each
14 student suspended for more than 10 days or expelled. This data shall include the race,
15 gender, and age of each student, the duration of suspension for each student, whether an
16 alternative education was considered or provided for each student, and whether a student
17 had multiple suspensions."

18 Section 12. G.S. 115C-74.11(c) reads as rewritten:

19 "(c) Annual Testing Program.

20 (1) The State Board of Education shall adopt a system of annual testing for
21 grades three through 12. These tests shall be designed to measure
22 progress toward reading, communication skills, and mathematics for
23 grades three through eight, and toward competencies designated by the
24 State Board for grades nine through 12. Students who do not pass the
25 tests adopted for eighth grade shall be provided remedial assistance
26 during the ninth grade reasonably calculated to prepare the students to
27 pass the competency test administered under subsection (b) of this
28 section.

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

34 Section 13. G.S. 115C-248(a) reads as rewritten:

35 "(a) The superintendent of each local school administrative unit, shall cause each
36 school bus owned or operated by such local school administrative unit to be inspected at
37 least once each ~~30~~38 days during the school year for mechanical defects, or other defects
38 which may affect the safe operation of such bus. A report of such inspection, together
39 with the recommendations of the person making the inspection, shall be filed promptly in
40 the office of the superintendent of such local school administrative unit, and a copy
41 thereof shall be forwarded to the principal of the school to which such bus is assigned."

42 Section 14. G.S. 115C-403(b) reads as rewritten:

1 "(b) When any child transfers from one school system to another school system, the
2 receiving school shall, within 30 days of the child's enrollment, obtain the child's record
3 from the school from which the child is transferring. If the child's parent, custodian, or
4 guardian provides a copy of the child's record from the school from which the child is
5 transferring, the receiving school shall, within 30 days of the child's enrollment, request
6 written verification of the school record by contacting the school or institution named on
7 the transferring child's record. Upon receipt of a request, the principal or the principal's
8 designee of the school from which the child is transferring shall not withhold the record
9 or verification for any reason, except as is authorized under the Family Educational
10 Rights and Privacy Act. Any information received indicating that the transferring child is
11 a missing child shall be reported to the North Carolina Center for Missing Persons."

12 Section 15. G.S. 115C-288 is amended by adding the following new
13 subsection:

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

16 Section 16. G.S. 115C-333(b), as created in S.L. 1998-5, reads as rewritten:

17 "(b) Action Plans. –

18 (1) If a certified employee in a low-performing school receives an
19 unsatisfactory or below standard rating on any function of the
20 evaluation that is related to the employee's instructional duties, the
21 individual or team that conducted the evaluation shall recommend to the
22 superintendent that: (i) the employee receive an action plan designed to
23 improve the employee's performance; or (ii) the superintendent
24 recommend to the local board that the employee be dismissed or
25 demoted. The superintendent shall determine whether to develop an
26 action plan or to recommend a dismissal proceeding. Action plans shall
27 be developed by the person who evaluated the employee or the
28 employee's supervisor unless the evaluation was conducted by an
29 assistance team or an assessment team. If the evaluation was conducted
30 by an assistance team or an assessment team, that team shall develop the
31 action plan in collaboration with the employee's supervisor. Action
32 plans shall be designed to be completed within 90 instructional days or
33 before the beginning of the next school year. The State Board shall
34 develop guidelines that include strategies to assist local boards in
35 evaluating certified employees and developing effective action plans
36 within the time allotted under this section. Local boards may adopt
37 policies for the development and implementation of action plans or
38 professional development plans for employees who do not require
39 action plans under this section.

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

1 Section 17. G.S. 115C-333(c), as created in S.L. 1998-5, reads as rewritten:

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

10 Section 18. G.S. 115C-287.1(b) reads as rewritten:

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

24 Section 19. This act is effective when it becomes law. Section 18 applies to
25 contracts entered into on or after that date.