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SENATE BILL 113
House Committee Substitute Favorable 6/23/20
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Short Title: Education Omnibus.

(Public)

Sponsors:

Referred to:

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN SCHOOL PSYCHOLOGISTS FROM NORTH CAROLINA PSYCHOLOGY BOARD LICENSURE; TO REVISE ALLOCATIONS OF APPROPRIATIONS FROM THE CORONAVIRUS RELIEF FUND TO ESTABLISH THE SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT PROGRAM; TO MAKE MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR REQUIREMENTS TO EXPAND THE USE OF REMOTE LEARNING DAYS AND ALLOW MODIFICATIONS FOR SINGLE-TRACK YEAR-ROUND SCHOOLS; TO CLARIFY THAT SCHOOL NUTRITION FUNDS FROM THE CORONAVIRUS RELIEF FUND ARE FOR EMERGENCY SCHOOL NUTRITION SERVICES, AUTHORIZE THE USE OF THESE FUNDS FOR THE SUMMER FOOD SERVICE PROGRAM, AND EXTEND THE PERIOD OF USE FOR THESE FUNDS UNTIL DECEMBER 30, 2020; TO ALLOW LME/MCO REINVESTMENT PLANS TO INCLUDE PROVIDING ASSISTANCE TO PUBLIC SCHOOL UNITS; TO CHANGE A CHARTER SCHOOL REPORT DATE; TO DESIGNATE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS AN APPROVER OF PRIVATE ACTIVITY BONDS; TO REVISE THE CALCULATION OF THE SCHOOL ADMINISTRATOR INTERN STIPEND; AND TO EXTEND THE GRANT TERM FOR THE NORTH CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM.

The General Assembly of North Carolina enacts:

PART I. SCHOOL PSYCHOLOGIST LICENSURE EXEMPTION

SECTION 1. G.S. 90-270.4(c) reads as rewritten:

"(c) Persons ~~certified-licensed~~ by the State Board of Education as school psychologists and serving as ~~regular-salaried-employees or contractors~~ of the Department of Public Instruction or ~~local boards of education~~ any public school unit are not required to be licensed under this Article in order to perform the duties for which they serve the Department of Public Instruction or ~~local boards of education~~, public school unit, and nothing in this Article shall be construed as limiting their activities, services, or titles while performing those duties for which they serve the Department of Public Instruction or ~~local boards of education~~, public school units. If a person ~~certified-licensed~~ by the State Board of Education as a school psychologist and serving as a ~~regular-salaried-an employee or contractor~~ of the Department of Public Instruction or a ~~local board of education~~ public school unit is or becomes a licensed psychologist under this Article, he or she shall be required to comply with all conditions, requirements, and obligations imposed by statute or by Board rules upon all other licensed psychologists as a condition to retaining that



1 license. Other provisions of this Article notwithstanding, if a person ~~certified~~licensed by the
 2 State Board of Education as a school psychologist and serving as a ~~regular salaried~~an employee
 3 or contractor of the Department of Public Instruction or a ~~local board of education~~public school
 4 unit is or becomes a licensed psychological associate under this Article, he or she shall not be
 5 required to comply with the supervision requirements otherwise applicable to licensed
 6 psychological associates by Board rules or by this Article in the course of his or her ~~regular~~
 7 ~~salaried~~employment or contractual relationship with the Department of Public Instruction or a
 8 ~~local board of education~~public school unit, but he or she shall be required to comply with all
 9 other conditions, requirements, and obligations imposed by statute or a ~~local board of education~~
 10 public school unit or by Board rules upon all other licensed psychological associates as a
 11 condition to retaining that license."
 12

13 PART II. SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT 14 PROGRAM

15 SECTION 2.(a) Section 3.3 of S.L. 2020-4 reads as rewritten:

16 "SECTION 3.3. Allocations of Funds. – OSBM shall allocate the funds appropriated in
 17 Section 3.2 of this act as follows:

18 ...

19 (12) ~~\$10,000,000~~\$9,000,000 to the Department of Public Instruction to be
 20 allocated in a manner consistent with the formula for the Instructional Support
 21 Allotment. These funds shall be used for contracted services provided no later
 22 than December 30, 2020, for school health support personnel to provide
 23 additional physical and mental health support services for students in response
 24 to COVID-19, including remote and in-person physical and mental health
 25 support services. For purposes of this subdivision, the term "school health
 26 support personnel" shall refer to school counselors, school nurses, school
 27 psychologists, and school social workers.

28 (12a) \$1,000,000 to the Department of Public Instruction to implement the School
 29 Psychologists Recruitment and Retention Pilot Program in accordance with
 30 Section 4.2E of this act.

31"

32 SECTION 2.(b) S.L. 2020-4 is amended by adding the following new section to
 33 read:

34 "SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT 35 PROGRAM

36 "SECTION 4.2E.(a) School Psychologists Recruitment and Retention Pilot Program;
 37 Purpose. – Due to the coronavirus disease 2019 (COVID-19), the accompanying increased
 38 demand for school mental health services, and the insufficient number of school psychologists
 39 available in many local school administrative units to address the mental and psychological
 40 impacts of COVID-19 among students and school personnel, the State Board of Education shall
 41 use the funds allocated in subdivision (12a) of Section 3.3 of this act to establish the 2020 School
 42 Psychologists Recruitment and Retention Pilot Program (Program). The purpose of the Program
 43 is to do the following:

- 44 (1) Recruit high-quality school psychologists to qualifying local school
 45 administrative units.
- 46 (2) Retain high-quality school psychologists in qualifying local school
 47 administrative units by providing signing and retention bonuses to select
 48 school psychologists.
- 49 (3) To the extent funds are available after providing signing and retention bonuses
 50 for school psychologists, provide supplemental compensation for mentors of
 51 school psychologists hired pursuant to the Program and compensation for

1 school psychology interns working in a qualifying local school administrative
2 unit.

3 **"SECTION 4.2E.(b)** Definitions. – For purposes of this section, the following definitions
4 apply:

- 5 (1) High-need qualifying local school administrative unit. – A qualifying local
6 school administrative unit that employed zero full-time school psychologists
7 in the prior school year.
- 8 (2) Qualifying local school administrative unit. – A local school administrative
9 unit that meets either of the following criteria:
- 10 a. Employed two or fewer full-time school psychologists in the prior
11 school year.
- 12 b. Had a ratio of school psychologists to students that was at one school
13 psychologist for every 1,900 or more students in the prior school year.
- 14 (3) Recruitment and retention coordinator. – The person at the Department of
15 Public Instruction, under the direct supervision of the Superintendent of Public
16 Instruction, who is responsible for administering the Program.

17 **"SECTION 4.2E.(c)** Implementation. – The recruitment and retention coordinator shall
18 coordinate with qualifying local school administrative units to allocate funds for the Program,
19 subject to the following requirements:

- 20 (1) Bonuses for school psychologists shall be conditioned on the existence of an
21 agreement between the qualifying local school administrative unit and the
22 school psychologist that is (i) approved by the recruitment and retention
23 coordinator and (ii) at a minimum, includes the following provisions:
- 24 a. The school psychologist agrees to remain employed in the qualifying
25 local school administrative unit as a school psychologist for three to
26 five years, as negotiated by the parties.
- 27 b. The school psychologist agrees to return bonus funds to the
28 Department of Public Instruction on a prorated basis if all of the
29 following criteria are met:
- 30 1. The school psychologist does not remain employed in the
31 qualifying local school administrative unit as a school
32 psychologist for the agreed upon period of time.
- 33 2. The school psychologist has not been terminated due to death,
34 a reduction in force, or disability that prohibits him or her from
35 carrying out the essential functions of the job.
- 36 (2) No individual bonus for a school psychologist shall be greater than thirty
37 thousand dollars (\$30,000).
- 38 (3) In determining how to allocate funds for the Program, the recruitment and
39 retention coordinator shall have as a first priority high-need qualifying local
40 school administrative units. The recruitment and retention coordinator shall
41 have as a second priority qualifying local school administrative units with a
42 ratio in the prior school year of one school psychologist for every 2,000 or
43 more students. The recruitment and retention coordinator shall also consider
44 the unique factors of each qualifying local school administrative unit,
45 including all of the following:
- 46 a. The level of resources available to the qualifying local school
47 administrative unit that would receive the funds.
- 48 b. The overall impact on student mental health in the qualifying local
49 school administrative unit if the funds are provided.
- 50 c. The history of difficulty in recruiting or retaining school psychologists
51 at the qualifying local school administrative unit.

1 d. The likelihood of success in recruiting or retaining school
2 psychologists at the qualifying local school administrative unit without
3 a bonus.

4 (4) The recruitment and retention coordinator shall not provide any funds to a
5 qualifying local school administrative unit unless the unit agrees that the funds
6 will be used to supplement, and not supplant, local funds for school
7 psychologists.

8 (5) Except as otherwise provided in this subsection, the recruitment and retention
9 coordinator has discretion over the allocation of funds.

10 **"SECTION 4.2E.(d) Report.** – By September 30, 2020, and every subsequent three months
11 in which funds are awarded, the recruitment and retention coordinator shall report to the President
12 Pro Tempore of the Senate, the Speaker of the House of Representatives, the Joint Legislative
13 Education Oversight Committee, and the Fiscal Research Division on the identity of the
14 qualifying local school administrative units receiving funds, the amount of funds received by
15 each qualifying local school administrative unit, and the purposes for which the funds were used.

16 **"SECTION 4.2E.(e) Funds.** – Of the funds allocated to the Department of Public Instruction
17 for the Program pursuant to subdivision (12a) of Section 3.3 of this act, the Department shall use
18 up to one hundred thousand dollars (\$100,000) to establish one new, full-time equivalent
19 recruitment and retention coordinator position at the Department to administer the Program. The
20 Department shall fill the recruitment and retention coordinator position no later than August 31,
21 2020."
22

23 **PART III. MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR**

24 **SECTION 3.(a)** Subdivision (6) of Section 2.1 of S.L. 2020-3 reads as rewritten:

25 "(6) Year-round school. – A school with a single or multi-track instructional
26 calendar that was adopted prior to March 1, 2020, and provides instructional
27 days in compliance with Section 2.11(b)(1) of this Part throughout the entire
28 school calendar year, beginning July 1 and ending June 30, by utilizing at least
29 one of the following plans:

30 a. A plan dividing students into four groups and requiring each group to
31 be in school for assigned and staggered quarters each school calendar
32 year.

33 b. A plan providing students be scheduled to attend ~~45~~an average of
34 between 44 and 46 instructional days followed by an average of
35 between 15 and 20 days of vacation, repeated throughout the school
36 calendar year.

37 c. A plan dividing the school calendar year into five nine-week sessions
38 of classes and requiring each student to attend four assigned and
39 staggered sessions out of the five nine-week sessions to complete the
40 student's instructional year."

41 **SECTION 3.(b)** Section 2.11(b) of S.L. 2020-3 reads as rewritten:

42 **"SECTION 2.11.(b) School Calendar.** – Except as otherwise provided in this subsection,
43 the requirements of G.S. 115C-84.2, including the requirement that a school calendar consist of
44 215 days, apply to the 2020-2021 school calendar for local school administrative units. The
45 provisions of this subsection supersede any school calendar adopted by a public school unit prior
46 to the enactment of this Part. For the 2020-2021 school year only, the following applies to the
47 school calendar for public school units:

48 (1) Notwithstanding any provisions of G.S. 115C-75.8(d)(9), 115C-84.2(a)(1),
49 115C-150.12, 115C-218.85(a)(1), 115C-238.53(d), 115C-238.66(1)d.,
50 116-239.8(b)(2)c., and Section 6(e) of S.L. 2018-32 to the contrary, each

- 1 public school unit shall adopt a calendar that includes 190 days of instruction
2 as follows:
- 3 a. 185 days or 1,025 hours of instruction that include five remote
4 instruction days in accordance with the Plan developed pursuant to
5 subsection (a) of this section. Each of the five remote instruction days
6 may be scheduled in the discretion of the public school unit, except as
7 provided in subdivision (2) of this subsection.
- 8 b. An additional five instructional days that shall be satisfied only by five
9 individually separate and distinct full instructional days and not by an
10 accumulation of instructional hours.
- 11 (2) Notwithstanding any provisions of G.S. 115C-84.2(d) to the contrary, each
12 local school administrative unit shall adopt a school calendar in accordance
13 with the following:
- 14 a. Except for schools defined in subdivision (4) or (6) of Section 2.1 of
15 this Part, an opening date for students of August 17, 2020.
- 16 b. Except for schools defined in subdivision (4) or (6) of Section 2.1 of
17 this Part, a closing date for students no later than June 11, 2021.
- 18 c. No remote instruction day shall be scheduled prior to August 24, 2020,
19 unless the school operates on a year-round or modified calendar
20 schedule. A year-round or modified calendar school shall not schedule
21 a remote instruction day prior to the sixth instructional day of the
22 year-round or modified calendar.
- 23 c1. A local board of education may alter the adopted calendar of a
24 single-track year-round school in a manner that no longer meets the
25 requirements of Section 2.1(6)b. of this act, if both of the following
26 are met:
- 27 1. The local board of education determines the modification is
28 necessary to ensure the health and safety of students.
- 29 2. The altered calendar complies with all other requirements for
30 year-round schools in this section.
- 31 d. Remote instruction days may be scheduled for use as teacher
32 workdays, including as teacher workdays on which teachers may take
33 accumulated vacation leave, provided that remote instruction material
34 is prepared and provided for students to use during the remote
35 instruction days. Local school administrative units may, in their
36 discretion, schedule remote instruction days as teacher workdays to
37 facilitate completion of first semester course exams prior to a winter
38 holiday period. This sub-subdivision only applies to the five remote
39 instruction days scheduled as required by sub-subdivision a. of
40 subdivision (1) of this subsection.
- 41 e. The following apply for a local school administrative unit granted a
42 good cause waiver for the 2020-2021 school year:
- 43 1. The opening date for students shall not be earlier than August
44 17, 2020, except for schools defined in subdivision (4) or (6)
45 of Section 2.1 of this Part.
- 46 2. Up to an additional five remote instruction days may be used,
47 if those days are (i) provided in accordance with the
48 requirements of this subsection for remote instruction days and
49 (ii) used solely as make-up days for days on which schools
50 have been closed due to inclement weather or other emergency
51 situations.

- 1 (3) ~~If, during the 2020-2021 school year, a state of emergency or disaster is~~
2 ~~declared under Chapter 166A of the General Statutes ordering school closure~~
3 ~~for more than five days, If the governing board of a public school unit~~
4 ~~determines that additional remote instruction beyond the five days required by~~
5 ~~subdivision (1) of this subsection is needed to ensure the health and safety of~~
6 ~~students, a public school unit providing may provide remote instruction in~~
7 ~~accordance with the Plan developed pursuant to subsection (a) of this section~~
8 ~~may use additional remote instruction days as necessary to satisfy~~
9 ~~instructional time requirements. The public school unit shall ensure that it is~~
10 ~~in compliance with all required COVID-19 guidance related to the operation~~
11 ~~of elementary and secondary schools issued by the State Board of Education,~~
12 ~~the Department of Public Instruction, and the Department of Health and~~
13 ~~Human Services."~~

14 **SECTION 3.(c)** This section is effective when it becomes law.

15
16 **PART IV. MODIFY USE OF SCHOOL NUTRITION FUNDS**

17 **SECTION 4.** Subdivision (6) of Section 3.3 of S.L. 2020-4 reads as rewritten:

- 18 "(6) \$75,000,000 to the Department of Public Instruction for emergency school
19 nutrition services—services, including innovative school meals, provided to
20 students in response to COVID-19 by public school units participating in the
21 National School Lunch Program or Program, School Breakfast Program
22 Program, or Summer Food Service Program from March 16, 2020, through
23 ~~the end of the 2019-2020 school year. December 30, 2020.~~ Funds for these
24 services shall be allocated in the same manner as if the participating public
25 school units were reimbursed by school meal receipts or federal funds."
26

27 **PART V. LME/MCO EXPENDITURE FOR STUDENT BEHAVIORAL HEALTH**
28 **NEEDS**

29 **SECTION 5.** G.S. 122C-125.2(a) reads as rewritten:

30 "(a) Beginning on September 1, 2018, the Department shall calculate on a quarterly basis
31 a solvency range for each LME/MCO as a sum of the following figures to produce upper and
32 lower range values:

- 33 (1) Incurred but not reported claims figure. – The incurred but not reported claims
34 figure shall be calculated by multiplying an LME/MCO's service spending for
35 the preceding 12 months by six and eight-tenths percent (6.8%). If an
36 LME/MCO experiences extenuating circumstances supported by actuarial
37 documentation, then the Department may utilize a percentage other than six
38 and eight-tenths (6.8%) for that LME/MCO.
- 39 (2) Net operating liabilities figure. – The net operating liabilities figure shall be
40 calculated by subtracting noncash current accounts receivable from the
41 nonclaims current liabilities, as reported on the LME/MCO's most recent
42 balance sheet. If the noncash accounts receivable are greater than the nonclaim
43 liabilities, then the value for the net operating liabilities figure is zero.
- 44 (3) Catastrophic or extraordinary events range. – The catastrophic or
45 extraordinary events range shall be calculated as the range between a lower
46 figure and an upper figure. The lower figure shall be calculated by multiplying
47 an LME/MCO's service expenditures from the preceding 12 months by four
48 and fifteen-hundredths percent (4.15%). The upper figure shall be calculated
49 by multiplying an LME/MCO's service expenditures from the preceding 12
50 months by eight and three-tenths percent (8.3%).

- 1 (4) Required intergovernmental transfers figure. – The required
2 intergovernmental transfers figure is the amount of funds needed by an
3 LME/MCO to make any intergovernmental transfers required by law over the
4 subsequent 24 months.
- 5 (5) Projected operating loss figure. – The projected operating loss figure is the
6 projected net loss for an LME/MCO over the subsequent 24 months. In
7 projecting the net loss for an LME/MCO, the Department shall use the net loss
8 of the LME/MCO in the preceding 12 months adjusted for any changes in
9 single-stream funding, intergovernmental transfers, or other factors known to
10 the Department that will impact the LME/MCO's net loss over the subsequent
11 24 months. If a net profit is projected for an LME/MCO, then this figure is
12 zero.
- 13 (6) Reinvestment plan figure. – The reinvestment plan figure is the amount
14 required for all qualifying expenditures contained in an LME/MCO's
15 reinvestment plans over the subsequent 36 months. To qualify as an
16 expenditure under this subdivision, the expenditure must be related to one of
17 the following:
- 18 a. An initiative that supports specific goals or health status outcomes of
19 the State in relation to the State's behavioral health needs.
- 20 b. An initiative that meets a State behavioral health need, as defined in
21 law or by the Department.
- 22 c. Funding for infrastructure that supports the effective and efficient
23 operation of the LME/MCO.
- 24 d. Funding for a facility within the LME/MCO catchment area that is
25 necessary to meet to the needs of the population served by the
26 LME/MCO.
- 27 e. New or expanded initiatives and programmatic improvements to the
28 State behavioral health system.
- 29 f. Working capital to be utilized to fund changes in rates, operations, or
30 programs.
- 31 g. Assistance to public school units within the LME/MCO catchment
32 area for student behavioral health needs."

34 PART VI. CHANGE CHARTER SCHOOL REPORT DATE

35 SECTION 6. G.S. 115C-218.110(b) reads as rewritten:

36 "(b) The State Board of Education shall review and evaluate the educational effectiveness
37 of the charter schools authorized under this Article and the effect of charter schools on the public
38 schools in the local school administrative unit in which the charter schools are located. The Board
39 shall report annually no later than ~~February 15~~ June 15 to the Joint Legislative Education
40 Oversight Committee on the following:

- 41 (1) The current and projected impact of charter schools on the delivery of services
42 by the public schools.
- 43 (2) Student academic progress in the charter schools as measured, where
44 available, against the academic year immediately preceding the first academic
45 year of the charter schools' operation.
- 46 (3) Best practices resulting from charter school operations.
- 47 (4) Other information the State Board considers appropriate."

49 PART VII. SUPERINTENDENT MAY APPROVE BONDS TO FINANCE OR 50 REFINANCE A CHARTER SCHOOL FACILITY

1 **SECTION 7.** Article 14A of Chapter 115C of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 115C-218.37. Public approval for private activity bonds.**

4 (a) For purposes of this section, the following definitions shall apply:

5 (1) Charter school facility. – Real property, personal property, or both that is used
6 or intended for use in connection with the operation of a charter school.

7 (2) Applicable elected representative. – An elected official of a governmental unit
8 having jurisdiction over the area in which a charter school facility is located,
9 as defined in section 147(f)(2) of the Internal Revenue Code (26 U.S.C. §
10 147(f)(2)).

11 (b) The Superintendent of Public Instruction is hereby designated as an applicable elected
12 representative who may approve the issuance of one or more private activity bonds to finance or
13 refinance a charter school facility, after a public hearing following reasonable public notice, in
14 accordance with section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable
15 State and federal laws and regulations. Procedures for the public hearing shall be determined by
16 the Superintendent of Public Instruction, and the public hearing shall be conducted by the
17 Superintendent or his or her designee, in the county where the charter school facility is or will be
18 located."

19
20 **PART VIII. REVISE SCHOOL ADMINISTRATOR INTERN STIPEND**

21 **SECTION 8.** If Senate Bill 818, 2019 Regular Session, becomes law, then Section
22 6(c) of that act reads as rewritten:

23 **"SECTION 6.(c)** Participants in an approved full-time master's in school administration
24 program shall receive up to a 10-month stipend during the internship period of the master's
25 program. The stipend shall be at the beginning salary of an assistant principal ~~during the~~
26 internship period of the master's program. The stipend shall not exceed the difference between
27 the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any
28 fellowship funds received by the intern as a full-time student, including awards of the Principal
29 Fellows Program. or, for a teacher who becomes an intern, at least as much as that person would
30 earn as a teacher on the teacher salary schedule. The Principal Fellows Program or the school of
31 education where the intern participates in a full-time master's in school administration program
32 shall supply the Department of Public Instruction with certification of eligible full-time interns."
33

34 **PART IX. EXTEND MAXIMUM GRANT TERM TO SIX YEARS FOR THE NORTH**
35 **CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM**

36 **SECTION 9.(a)** G.S. 116-74.46(c)(1) reads as rewritten:

37 (1) The duration of grants shall be as follows:

38 a. Grants shall be no more than ~~five~~six years and no fewer than two years
39 in duration, unless the Commission finds early termination of a grant
40 is necessary due to noncompliance with grant terms.

41 b. The Commission may renew a grant based on compliance with the
42 grant terms and performance, including allowing the grantee to scale
43 up or replicate the successful program as provided in subdivision (3)
44 of this subsection."

45 **SECTION 9.(b)** This section becomes effective July 1, 2020, and applies to grants
46 awarded or renewed on or after that date.

47
48 **PART X. EFFECTIVE DATE**

49 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
50 law.