

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-220
SENATE BILL 1125

AN ACT TO CLARIFY THAT THE PRESIDENT PRO TEMPORE OF THE SENATE APPOINTS ONE COCHAIR OF THE SCHOOL TECHNOLOGY COMMISSION; TO REQUIRE LOCAL SCHOOL ADMINISTRATIVE UNITS TO MAKE ABC'S AWARDS NO LATER THAN THE SECOND REGULAR TEACHER PAYROLL; TO REQUIRE ABC'S AWARDS TO GO ONLY FOR DIRECT AWARDS TO CERTIFIED PERSONNEL AND TEACHER ASSISTANTS; TO CLARIFY THAT THE SUPERINTENDENT OR HIS DESIGNEE DEVELOPS THE SCHOOL BUS ASSIGNMENT PLAN; TO EXEMPT FROM THE SCHOOL ADMINISTRATOR EXAM INDIVIDUALS WHO OBTAINED OR RENEWED A SCHOOL ADMINISTRATOR/SUPERVISOR CERTIFICATE DURING THE FIVE YEARS BEFORE JANUARY 1, 1998; TO AUTHORIZE THE STATE BOARD OF EDUCATION TO ADOPT POLICIES GOVERNING THE REQUIREMENTS FOR THE CERTIFICATION OF INDIVIDUALS WHO ARE CERTIFIED IN ANOTHER STATE AS SCHOOL ADMINISTRATORS; TO MOVE THE COMPETENCY TEST FROM TENTH TO NINTH GRADE; TO CLARIFY THAT THE SUPERINTENDENT MAKES DECISIONS CONCERNING SUSPENSION OR EXPULSION OF STUDENTS; TO CLARIFY THAT SUPERINTENDENTS MUST KEEP DATA ON STUDENTS WHO ARE SUSPENDED MORE THAN TEN DAYS; TO REQUIRE THE PROVISION OF REMEDIAL ASSISTANCE IN NINTH GRADE TO STUDENTS WHO FAIL TO PASS THE EIGHTH GRADE END-OF-GRADE TESTS; TO PROHIBIT PRINCIPALS OR THEIR DESIGNEES FROM WITHHOLDING A STUDENT RECORD WHEN A STUDENT TRANSFERS TO ANOTHER SCHOOL EXCEPT IN ACCORDANCE WITH FEDERAL LAW; TO AMEND THE EXCELLENT SCHOOLS ACT TO CLARIFY THAT ACTION PLANS ARE REQUIRED FOR CERTIFIED EMPLOYEES IN LOW-PERFORMING SCHOOLS WHEN THEY RECEIVE AN UNSATISFACTORY EVALUATION RELATED TO THEIR INSTRUCTIONAL DUTIES AND TO REQUIRE LOCAL BOARDS TO ADOPT POLICIES THAT REQUIRE ACTION PLANS FOR CERTIFIED EMPLOYEES IN OTHER SCHOOLS WHO RECEIVE AN UNSATISFACTORY EVALUATION; TO ALLOW THE INITIAL CONTRACT FOR A SCHOOL ADMINISTRATOR TO BE FOR A TERM OF LESS THAN TWELVE MONTHS; TO DIRECT THE STATE BOARD OF EDUCATION TO EVALUATE THE SAFE SCHOOLS BONUS FOR PRINCIPALS AND ASSISTANT PRINCIPALS; AND TO DIRECT THE STATE BOARD OF EDUCATION AND UNC BOARD OF GOVERNORS

TO DEVELOP A PROPOSAL FOR A STATEWIDE LATERAL ENTRY
TEACHER LICENSURE PROGRAM.

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

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

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

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

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

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

- ~~(1) Awards to the personnel; or~~
- ~~(2) The purposes authorized in a plan that has been:~~

- a. ~~Developed and voted on by the personnel in the same manner that a school improvement plan is approved under G.S. 115C-105.27;~~
- b. ~~Approved by a majority of the personnel who vote on the plan; and~~
- e. ~~Submitted to and approved by the local board of education.~~
The local board shall approve this plan unless the plan involves expenditures of funds that are not for a public purpose or that are otherwise unlawful. for awards to the personnel. Each local school administrative unit is encouraged to make these awards to each eligible person no later than the first regular teacher payroll following the local unit's receipt of the funds, and shall make these awards to each eligible person no later than the second regular teacher payroll following the local unit's receipt of the funds."

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

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

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

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

(c) Any pupil enrolled in any school, or the parent or guardian of any such pupil, or the person standing in loco parentis to such pupil, may apply to the principal of such school for transportation of such pupil to and from such school by school bus for the regularly organized school day. ~~Upon application, the principal~~ The principal shall deliver the application to the superintendent or superintendent's designee, who shall assign a pupil to a school bus if the pupil is entitled to school bus transportation under this Article and the rules of the State Board of Education. Such assignment shall be made by the principal, superintendent or superintendent's designee so as to provide for the orderly, safe and efficient transportation of pupils to such school and so as to promote the orderly and efficient administration of the school and the health, safety and general welfare of the pupils to be so transported. Assignments of pupils and employees

to school buses may be changed by the ~~principal of the school~~ superintendent or superintendent's designee as he may from time to time find proper for the safe and efficient transportation of such pupils and employees.

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

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

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

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

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

(a) Each local board, which elects to operate a school bus transportation system, shall employ the necessary drivers for such school buses. The drivers shall have all qualifications prescribed by the regulations of the State Board of Education herein provided for and must be at least 18 years old and have at least six months driving experience as a licensed operator of a motor vehicle before employment as a regular or substitute driver, but the selection and employment of each driver shall be made by the local board of education, and the driver shall be the employee of such local school administrative unit. Each local board of education shall assign the bus drivers employed by it to the respective schools within the jurisdiction of such board, and the ~~principal of each such school~~ superintendent or superintendent's designee shall assign the drivers to

the school buses to be driven by them. No school bus shall at any time be driven or operated by any person other than the bus driver assigned ~~by such principal~~ to such bus except by the express direction of ~~such principal~~ the superintendent or superintendent's designee or in accordance with rules and regulations of the appropriate local board of education.

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

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

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

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

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

"§ 115C-290.8. Exemptions from requirements.

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

administrator program approval standards set by the State Board. obtained or renewed a State administrator/supervisor certificate.

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

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

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

"(b) Competency Testing Program.

- (1) The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.
- (2) The tests shall be administered annually to all ~~tenth~~-ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ~~tenth~~-ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the ~~tenth~~-ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.
- (3) The State Board of Education may develop and validate alternate means and standards for demonstrating minimum competence. These standards, which must be more difficult than the tests adopted pursuant to subdivision (1) of this subsection, may be passed by students in lieu of the testing requirement of subdivision (2) of this subsection.
- (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14."

Section 7. G.S. 115C-391(d1) reads as rewritten:

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

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

- "(d2) (1) ~~A local board of education shall~~ The superintendent shall, upon recommendation of the principal, remove to an alternative educational setting, as provided in subdivision (4) of this subsection, any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel. If no appropriate alternative educational setting is available, then the ~~board shall~~ superintendent shall, upon recommendation of the principal, suspend for no less than 300 days but no more than 365 days any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel.
- (2) ~~A local board of education may~~ The superintendent may, upon recommendation of the principal, remove to an alternative educational setting any student who is at least 13 and who does one of the following:
- a. Physically assaults a teacher or other adult who is not a student.
 - b. Physically assaults another student if the assault is witnessed by school personnel.
 - c. Physically assaults and seriously injures another student.

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

- (3) For purposes of this subsection, the conduct leading to suspension or removal to an alternative educational setting must occur on school property or at a school-sponsored or school-related activity on or off school property. This subsection shall not apply when the student who is subject to suspension or removal was acting in self-defense. If a teacher is assaulted or injured and as a result a student is suspended or removed to an alternative educational setting under this subsection, then the student shall not be returned to that teacher's classroom unless the teacher consents. If a student is suspended under this subsection, the board may assign the student to an alternative educational setting upon the expiration of the period of suspension.
- (4) If the ~~local board~~ superintendent removes the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred on or before the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and the first 90 school days in the following school year. If the ~~board~~ superintendent chooses to remove the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred after the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and for the entire subsequent school year. Notwithstanding these requirements, the ~~local board~~ superintendent may authorize a shorter

or longer length of time a student must remain in an alternative educational setting if the ~~board~~-superintendent finds this would be more appropriate based upon the recommendations of the principals of the alternative school and the school to which the student will return."

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

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

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

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

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

"(c) Annual Testing Program.

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

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

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

"(b) When any child transfers from one school system to another school system, the receiving school shall, within 30 days of the child's enrollment, obtain the child's record from the school from which the child is transferring. If the child's parent, custodian, or guardian provides a copy of the child's record from the school from which the child is transferring, the receiving school shall, within 30 days of the child's enrollment, request written verification of the school record by contacting the school or institution named on the transferring child's record. Upon receipt of a request, the principal or the principal's designee of the school from which the child is transferring

shall not withhold the record or verification for any reason, except as is authorized under the Family Educational Rights and Privacy Act. Any information received indicating that the transferring child is a missing child shall be reported to the North Carolina Center for Missing Persons."

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

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

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

"(b) Action Plans. –

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

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

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

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

results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance."

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

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

Section 17. The State Board of Education shall evaluate the provision by local boards of education of lump-sum payments of one percent (1%) of the base salaries of principals and assistant principals in schools the boards found to meet the goals of local plans for maintaining safe and orderly schools. The Board shall identify the number of principals and assistant principals who received these payments, how local boards determined whether schools met local goals for maintaining safe and orderly schools, and any other information that boards used to select the individuals to receive these payments. The State Board shall report the results of this evaluation to the Joint Legislative Education Oversight Committee by December 31, 1998.

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

Legislative Education Oversight Committee shall review the proposal and report any suggested legislation to the General Assembly by May 1, 2000.

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

In the General Assembly read three times and ratified this the 29th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:15 p.m. this 5th day of November, 1998