

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 113  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S113-PCS15563-BE-45

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 license. Other provisions of this Article notwithstanding, if a person ~~certified-licensed~~ by the



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

11  
 12 **PART II. SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT**  
 13 **PROGRAM**

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

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

17 ...

18 (12) ~~\$10,000,000~~ \$9,000,000 to the Department of Public Instruction to be  
 19 allocated in a manner consistent with the formula for the Instructional Support  
 20 Allotment. These funds shall be used for contracted services provided no later  
 21 than December 30, 2020, for school health support personnel to provide  
 22 additional physical and mental health support services for students in response  
 23 to COVID-19, including remote and in-person physical and mental health  
 24 support services. For purposes of this subdivision, the term "school health  
 25 support personnel" shall refer to school counselors, school nurses, school  
 26 psychologists, and school social workers.

27 (12a) \$1,000,000 to the Department of Public Instruction to implement the School  
 28 Psychologists Recruitment and Retention Pilot Program in accordance with  
 29 Section 4.2E of this act.

30 ...."

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

33 **"SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT**  
 34 **PROGRAM**

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

- 43 (1) Recruit high-quality school psychologists to qualifying local school  
 44 administrative units.  
 45 (2) Retain high-quality school psychologists in qualifying local school  
 46 administrative units by providing signing and retention bonuses to select  
 47 school psychologists.  
 48 (3) To the extent funds are available after providing signing and retention bonuses  
 49 for school psychologists, provide supplemental compensation for mentors of  
 50 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."  
20

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

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

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

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

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

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

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

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

46 (1) Notwithstanding any provisions of G.S. 115C-75.8(d)(9), 115C-84.2(a)(1),  
47 115C-150.12, 115C-218.85(a)(1), 115C-238.53(d), 115C-238.66(1)d.,  
48 116-239.8(b)(2)c., and Section 6(e) of S.L. 2018-32 to the contrary, each  
49 public school unit shall adopt a calendar that includes 190 days of instruction  
50 as follows:

- 1 a. 185 days or 1,025 hours of instruction that include five remote  
2 instruction days in accordance with the Plan developed pursuant to  
3 subsection (a) of this section. Each of the five remote instruction days  
4 may be scheduled in the discretion of the public school unit, except as  
5 provided in subdivision (2) of this subsection.
- 6 b. An additional five instructional days that shall be satisfied only by five  
7 individually separate and distinct full instructional days and not by an  
8 accumulation of instructional hours.
- 9 (2) Notwithstanding any provisions of G.S. 115C-84.2(d) to the contrary, each  
10 local school administrative unit shall adopt a school calendar in accordance  
11 with the following:
- 12 a. Except for schools defined in subdivision (4) or (6) of Section 2.1 of  
13 this Part, an opening date for students of August 17, 2020.
- 14 b. Except for schools defined in subdivision (4) or (6) of Section 2.1 of  
15 this Part, a closing date for students no later than June 11, 2021.
- 16 c. No remote instruction day shall be scheduled prior to August 24, 2020,  
17 unless the school operates on a year-round or modified calendar  
18 schedule. A year-round or modified calendar school shall not schedule  
19 a remote instruction day prior to the sixth instructional day of the  
20 year-round or modified calendar.
- 21 c1. A local board of education may alter the adopted calendar of a  
22 single-track year-round school in a manner that no longer meets the  
23 requirements of Section 2.1(6)b. of this act, if both of the following  
24 are met:
- 25 1. The local board of education determines the modification is  
26 necessary to ensure the health and safety of students.
- 27 2. The altered calendar complies with all other requirements for  
28 year-round schools in this section.
- 29 d. Remote instruction days may be scheduled for use as teacher  
30 workdays, including as teacher workdays on which teachers may take  
31 accumulated vacation leave, provided that remote instruction material  
32 is prepared and provided for students to use during the remote  
33 instruction days. Local school administrative units may, in their  
34 discretion, schedule remote instruction days as teacher workdays to  
35 facilitate completion of first semester course exams prior to a winter  
36 holiday period. This sub-subdivision only applies to the five remote  
37 instruction days scheduled as required by sub-subdivision a. of  
38 subdivision (1) of this subsection.
- 39 e. The following apply for a local school administrative unit granted a  
40 good cause waiver for the 2020-2021 school year:
- 41 1. The opening date for students shall not be earlier than August  
42 17, 2020, except for schools defined in subdivision (4) or (6)  
43 of Section 2.1 of this Part.
- 44 2. Up to an additional five remote instruction days may be used,  
45 if those days are (i) provided in accordance with the  
46 requirements of this subsection for remote instruction days and  
47 (ii) used solely as make-up days for days on which schools  
48 have been closed due to inclement weather or other emergency  
49 situations.
- 50 (3) ~~If, during the 2020-2021 school year, a state of emergency or disaster is~~  
51 ~~declared under Chapter 166A of the General Statutes ordering school closure~~

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

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

#### 13 14 **PART IV. MODIFY USE OF SCHOOL NUTRITION FUNDS**

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

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

#### 24 25 **PART V. LME/MCO EXPENDITURE FOR STUDENT BEHAVIORAL HEALTH** 26 **NEEDS**

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

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

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

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

## 32 PART VI. CHANGE CHARTER SCHOOL REPORT DATE

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

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

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

## 47 PART VII. SUPERINTENDENT MAY APPROVE BONDS TO FINANCE OR 48 REFINANCE A CHARTER SCHOOL FACILITY

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

51 "§ 115C-218.37. Public approval for private activity bonds.

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

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

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

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

## 17 PART VIII. REVISE SCHOOL ADMINISTRATOR INTERN STIPEND

18 SECTION 8. If Senate Bill 818, 2019 Regular Session, becomes law, then Section  
19 6(c) of that act reads as rewritten:

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

## 31 PART IX. EXTEND MAXIMUM GRANT TERM TO SIX YEARS FOR THE NORTH 32 CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM

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

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

- 35 a. Grants shall be no more than ~~five~~six years and no fewer than two years  
36 in duration, unless the Commission finds early termination of a grant  
37 is necessary due to noncompliance with grant terms.  
38 b. The Commission may renew a grant based on compliance with the  
39 grant terms and performance, including allowing the grantee to scale  
40 up or replicate the successful program as provided in subdivision (3)  
41 of this subsection."

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

## 45 PART X. EFFECTIVE DATE

46 SECTION 10. Except as otherwise provided, this act is effective when it becomes  
47 law.