1997

SENATE EDUCATION/HIGHER ED COMMITTEE

MINUTES

SENATE
EDUCATION/HIGHER EDUCATION
COMMITTEE
MEMBERSHIP LIST 1997

SENATOR HOWARD N. LEE, CO-CHAIR

SENATOR LESLIE J. WINNER, CO-CHAIR

SENATOR CHARLIE DANNELLY, VICE-CHAIR

SENATOR ED N. WARREN, VICE-CHAIR

SENATOR DAVID HOYLE, VICE-CHAIR

SENATOR FLETCHER HARTSELL, JR. VICE-CHAIR

SENATOR AUSTIN ALLRAN, RANKING MINORITY

SENATOR J. RICHARD CONDER

SENATOR ROY COOPER

SENATOR WIB GULLEY

SENATOR JEANNE LUCAS

SENATOR BILL MARTIN

SENATOR BEVERLY PERDUE

SENATOR WALTER H. DALTON

SENATOR BETSY COCHRANE

SENATOR VIRGINIA FOXX

SENATOR HAM HORTON

SENATOR JOHN A. GARWOOD

SENATOR ROBERT A. RUCHO

SENATOR JIM FORRESTER

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — SENATE: EDUCATION / HIGHER EDUCATION — Valid Through 9-SEP-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 11	NICHOLS	SCHOOL SNOW-DAY FLEXIBILITY	*S -REF TO COM ON ED/HIED	02-26-97	
H 78=	ROGERS	SCHOOL ADMINISTRATOR EXEMPTION	R -CH. SL 97-0020	03-13-97	03-26-97
H 87	PRESTON	CENTENNIAL CAMPUS/UMSTEAD EXEMPTION	*H -PRES. TO GOV. 08-28	03-11-97	08-11-97
H 88=	PRESTON	STATE BD OF EDUC SUBPOENA	R -CH. SL 97-0325	04-03-97	07-09-97
H 89	PRESTON	NOTIFY SCHOOL/JUV. PROBATION	*S -REF TO COM ON ED/HIED	03-13-97	
H 113	OWENS	ALBEMARLE COLLEGE TRUSTEES	R -CH. SL 97-0012	02-24-97	03-26-97
H 510	FOX	TEACHER CERTIFICATION POLICY	*R -CH. SL 97-0383	03-24-97	07-23-97
H 511	CAPPS	EVOLUTION NOT TAUGHT AS FACT	*S -REF TO COM ON ED/HIED	05-06-97	
H 628	DAVIS D	MILITARY JOB INTERVIEWS	*S -REF TO COM ON ED/HIED	04-21-97	
H 746=	RUSSELL	HIGHER ED. ADMISSION REQUIREMENTS	*R -CH. SL 97-0240	04-14-97	06-05-97
H 769	SHERRILL	DROPOUT PREVENTION/ DRIVERS LICENSE	*H -PRES. TO GOV. 08-28	06-02-97	06-26-97
H 945	NESBITT	NURSING SCHOLARS PROGRAM	R -CH. SL 97-0214	04-29-97	05-21-97
H 977	**JEFFUS**	**PARENTS ON SCHOOL IMPROVEMENT TEAMS**	***R -CH. SL 97-0159**	**04-29-97**	**05-21-97**
H1046	SHUBERT	NC PARTNERSHIP AUDIT PROCESS	S -REF TO COM ON ED/HIED	04-28-97	
H1054	RUSSELL	CONFIRM BD. EDUC. APPOINTMENTS-2	R -CH. RES 97-11	05-06-97	05-14-97
H1098	PRESTON	SPECIAL EDUCATION MEDIATION	*R -CH. SL 97-0115	04-30-97	05-14-97
H1099	PRESTON	KINDERGARTEN ENTRY/GIFTED STUDENTS	*R -CH. SL 97-0269	05-06-97	05-14-97
H1099	PRESTON	KINDERGARTEN ENTRY/GIFTED STUDENTS	*R -CH. SL 97-0269	06-10-97	06-11-97
H1142	REDWINE	TUITION WAIVERS/EMERGENCY WORKERS	*H -PRES. TO GOV. 08-29	05-06-97	07-10-97
H1152	RAYFIELD	BD. COMM. COLLEGE ELECTION DATE	R -CH. RES 97-10	05-06-97	05-14-97
S 4	**WINNER**	**SAFE SCHOOLS ACT OF 1997**	***S -RE-REF COM ON APPROPR**	**02-03-97**	**04-09-97**
S 5	WINNER	EDUCATION GOVERNANCE CHANGES	*HF-FAILED 2ND READING	02-03-97	04-24-97
S 6	WINNER	REVISE SCHOOL CALENDAR	*S -RE-REF COM ON APPROPR	02-03-97	03-05-97
S 6	WINNER	REVISE SCHOOL CALENDAR	*S -RE-REF COM ON APPROPR	03-06-97	03-06-97
S 19	PERDUE	NO SOCIAL PROMOTIONS PERMITTED	*H -RE-REF COM ON RULES	02-03-97	04-24-97
S 70=	LUCAS	OBSOLETE SCHOOL LAWS	*R -CH. SL 97-0018	02-10-97	02-24-97
S 71=	HARTSELL	LEASE BLDGS FOR SCHOOLS	*R -CH. SL 97-0236	02-10-97	02-24-97
S 72=	DANNELLY	STATE BD OF EDUC SUBPOENA	H -REF TO COM ON EDUCATN	02-10-97	03-26-97
S 83=	LEE	SCHOOL ADMINISTRATOR EXEMPTION	S -REF TO COM ON ED/HIED	02-11-97	
S 88	LEE	UNC BD. GOV. ELECTION	S -ADOPTED	02-11-97	02-12-97

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — SENATE: EDUCATION / HIGHER EDUCATION — Valid Through 9-SEP-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 196	SHAW R	REMOVE DISRUPTIVE STUDENTS	S -REF TO COM ON ED/HIED	02-20-97	
S 236	BLUST	STUDENT DISCIPLINE/CIVIL IMMUNITY	S -REF TO COM ON ED/HIED	02-25-97	
S 265	LEE	UNC FLEXIBILITY PROCEDURES	*R -CH. SL 97-0071	02-27-97	03-18-97
S 272=	BASNIGHT	EXCELLENT SCHOOLS ACT	*R -CH. SL 97-0221	02-27-97	03-24-97
S 297=	GULLEY W	AMEND CHARTER SCHOOL LAWS	*R -CH. SL 97-0430	03-05-97	04-03-97
S 297=	GULLEY W	AMEND CHARTER SCHOOL LAWS	*R -CH. SL 97-0430	07-07-97	
S 319	PLYLER	NEW COMMUNITY COLLEGE AUTHORIZED	H -REF TO COM ON EDUCATN	03-06-97	03-12-97
S 366	WINNER	REVISE SCHOOL/COUNTY MEDIATION	*R -CH. SL 97-0222	03-11-97	04-14-97
S 369	**ODOM**	**DARE/DART PROGRAM EXPANSION**	**S -RE-REF COM ON APPROPR**	**03-18-97**	**03-31-97**
S 415	**FOXX**	**INCENTIVES/COLLEGE WORK IN H.S.**	**S -RE-REF COM ON APPROPR**	**03-18-97**	**03-31-97**
S 442	ALLRAN	AMERICAN HISTORY ACT	*R -CH. SL 97-0422	03-20-97	04-28-97
S 457	SHAW R	STUDENTS LEARN CPR	*R -CH. SL 97-0273	03-24-97	04-09-97
S 468	HARTSELL	POSTSECONDARY EDUCATION PROGRAM	S -REF TO COM ON ED/HIED	03-24-97	
S 472=	COCHRANE	HIGHER ED. ADMISSION REQUIREMENTS	S -REF TO COM ON ED/HIED	03-24-97	
S 560=	**LEE**	**EXPAND TECHNOLOGY IN SCHOOLS**	**S -REF TO COM ON APPROPR**	**04-01-97**	**04-07-97**
S 587	HARTSELL	SCHOOL PERSONNEL/CLASS EXPERIENCE	*H -REF TO COM ON EDUCATN	04-01-97	04-21-97
S 616	HORTON	LIMIT APPEALS TO SCHOOL BOARDS	*H -RE-REF COM ON EDUCATN	04-01-97	04-30-97
S 640=	RUCHO	COMMUNITY BASED SCHOOL ASSIGNMENTS	S -REF TO COM ON ED/HIED	04-01-97	
S 647	ALBERTSON	DUPLIN COUNTY LOCAL ACT	S -REF TO COM ON ED/HIED	04-02-97	
S 668=	HOYLE	CPA EDUCATION REQUIREMENTS	*R -CH. SL 97-0284	04-02-97	04-17-97
S 765	DANNELLY	ADEQUATE FUNDING/ALT. SCHOOLS	*R -CH. SL 97-0239	04-29-97	04-30-97
S 889	MARTIN W	STUDY AMERICAN SIGN LANGUAGE	*S -RE-REF COM ON RULES &	06-03-97	07-10-97
S 937	WARREN	UNIV. SUMMER PROGRAM MISSION CHANGE	S -REF TO COM ON ED/HIED	04-17-97	
S 958	HARTSELL	STUDENTS ELIGIBLE TO ATTEND SCHOOL	*R -CH. SL 97-0271	04-17-97	04-28-97
S 983	DALTON	CLARIFY BD. OF GOV. CONFLICTS	S -REF TO COM ON ED/HIED	04-21-97	
S 995	LUCAS	NOTIFY PARENTS/CLASS-SIZE EXCEPTION	S -REF TO COM ON ED/HIED	04-21-97	
S1011	FOXX	INITIAL ENTRY INTO KINDERGARTEN	*R -CH. SL 97-0204	04-21-97	04-24-97
S1058	KINNAIRD	BOG STUDY	*S -RE-REF COM ON RULES &	04-21-97	04-30-97
S1066	MARTIN W	IDENTIFY/REMEDIATE AT-RISK STUDENTS	R -CH. SL 97-0243	04-21-97	04-30-97

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EDUCATION/HIGHER EDUCATION

AGENDA

FEBRUARY 12TH, 1997

WELCOME	CHAIRMAN
INTRODUCTION OF MEMBERS	MEMBERS
INTRODUCTION OF RESEARCH STAFF	CHAIRMAN
EXPLANATION OF BOARD OF GOVERNORS	KORY GOLDSMITH
CONSIDERATION OF RESOLUTION	MEMBERS
HISTORY OF THE BOARD OF GOVERNORS	JOHN SAUNDERS INSTITUTE OF GOVERNMENT UNC, CHAPEL HILL

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE

Wednesday, February 12, 1997

MINUTES

The Education/Higher Education Committee met at 10:00 a.m. on Wednesday, February 12, 1997, in Room 414. Sixteen members of the committee were present, including Senator Howard Lee, who presided. He introduced Erica Brewington and Melvita Ebron, both pages from Wake County sponsored by Senator Carrington. He also introduced Senator Leslie Winner from Mecklenburg County, Co-chair of the Committee who welcomed back those who had served with her during the previous Session and those who are serving on the Committee for the first time. Senator Lee asked each member to introduce him or herself, sharing information about their interests in education. He then introduced the staff of the committee from the Research Division: Dr. James Watt, Ms. Robin Johnson, Ms. Kory Goldsmith, and Ms. Sara Kamprath.

Senator Lee introduced Ms. Goldsmith to explain the procedures for appointing members to the Board of Governors of the University of North Carolina System found in Senate Resolution 88. She drew members' attention to a copy of a memo which explains the resolution. Senator Dannelly moved a favorable report for adoption of Senate Resolution 88. Motion carried unanimously.

Senator Lee introduced Mr. John Sanders from the Institute of Government, to speak about the history of the Board of Governors and the formation of the University of North Carolina System. Mr. Sanders spoke about the composition and duties of the Board of Governors.

The meeting adjourned at 11:00 a.m.

Howard Lee
Senator Howard Lee, Co-Chair

Dorothy Waugaman
Dorothy Waugaman, Acting Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Sen. Lee, Co-Chair
Sen. Winner, Co-Chair

Wednesday, February 12, 1997

SEN. LEE,
submits the following with recommendations as to passage:

FAVORABLE AS TO ADOPTION

S.R. **88** Electing Members to Board of Gov. of UNC
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: Sen. Lee to sign.

February 10, 1997

MEMORANDUM

TO: Members of the Senate

FROM: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

RE: Nomination Form 1997 Board of Governors

Only the submission of the attached completed nomination form to the offices of Senator Howard Lee or Senator Leslie Winner by 5:00 p.m. on February 18, 1997 shall constitute official nomination of an individual.

NOTE: No member of the General Assembly, State officer or employee, employee of a constituent university, nor any spouse of these persons may serve on the Board.

SENATE

BOARD OF GOVERNORS NOMINATION FORM

(1) _____ (Sponsor's Name) proposes _____ (Name of nominee) as a nominee for election to the Board of Governors of the University of North Carolina in the following category for a four-year term to commence July 1, 1997. [Check applicable box]

[ ] Minority race category
[ ] At-large category
[ ] Woman category

(2) Nominee's Name:
Nominee's Occupation:
Address:

Home Phone:
Work Phone:
Fax #:

(3) List (if any) all state or local offices, either elected or appointed, which the nominee currently holds:

(4) List (if any) all state or local offices, either elected or appointed, which the nominee's spouse currently holds:

(5) Is the nominee or the nominee's spouse an employee of a constituent university of the University of North Carolina?

(6) If elected, will the nominee serve?

(7) If elected will the nominee resign from any elected or appointed positions which conflict with service on the Board of Governors of the University of North Carolina? (Generally, local positions do not need to be resigned).

_____

Signature of Sponsor/Date

The above information is accurate, and I will serve if elected.

_____

Signature of Nominee/Date

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE RESOLUTION 88

Sponsors: Senators Lee and Winner.

Referred to: Education/Higher Education.

February 11, 1997

A SENATE RESOLUTION TO ESTABLISH THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Be it resolved by the Senate:

Section 1. The following procedures for nominating and electing members of the Board of Governors of The University of North Carolina are adopted:

I. COMMITTEE RESPONSIBILITIES.

1. It is the duty of the Senate Committee on Education/Higher Education (hereinafter referred to as the "Senate Committee") to choose nominees for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the Senate is to elect members.

2. The Senate Committee shall receive suggestions of proposed candidates for nomination for election to the University Board of Governors through February 18, 1997. A Senator may propose as a candidate for nomination as many persons in a category as there are positions to fill in a category. In 1997 the total number of positions is eight. In order for a person to have standing to be considered as a candidate for nomination by the Senate Committee, that person must be formally proposed as a candidate for nomination by a member of the Senate. Only a written nomination on a form provided by the cochairs of the Senate Committee for that purpose and received in the office of one of the cochairs of the Senate Committee by 5:00 p.m. on February 18, 1997, shall constitute formal proposal of a candidate. An individual cannot be a candidate for nomination or be nominated in more than one category.

3. A Senator may propose candidates for nomination only for the categories available for election by the Senate. In the 1997 Session, the Senate will elect:

(a) Two persons in the minority race category, for four-year terms;

(b) Two persons in the woman category, for four-year terms; and

(c) Four persons in the at-large category, for four-year terms.

4. On or after February 19, 1997, the Senate Committee shall list all proposed candidates for nomination by category. The Senate Committee shall screen the proposed candidates for nomination as to their qualifications and background and may interview each one to make sure that suitable persons are nominated for each category. The Senate Committee shall ascertain that each candidate for nomination is willing and able to serve and has no statutory disability. On completion of the screening process, the Senate Committee shall vote on each candidate proposed for nomination. If a sufficient number of nominees who are legally qualified are submitted in a category, then the slate of candidates shall list at least twice the number of candidates for the total seats open in a category. A candidate for nomination that receives the vote of a majority of those members of the Senate Committee present and voting shall become a nominee on the Senate ballot.

5. The cochairs of the Senate Committee shall ascertain whether the nominees for election by the Senate would serve if elected. Any nominee may withdraw without the approval of the sponsor.

6. Senate Committee nominees shall be placed before and recommended to the Senate for election.

II. ELECTIONS IN THE SENATE.

1. A ballot shall be prepared under the supervision of the cochairs of the Senate Committee for the use of the Senate.

2. The ballot shall list only the names of those nominees proposed by the Senate Committee who have consented to run and for whom the Senate is entitled to vote. Their names shall be arranged: (i) by category and (ii) within each category, alphabetically by surname.

3. The Senate shall hold its election no later than the beginning of the daily session on February 26, 1997. Before the voting begins, one of the cochairs of the Senate Committee shall explain the voting rules, which are:

(a) No nomination shall be received from the floor.

(b) In order to be chosen, a nominee must receive the votes of a majority of all members present and voting in the nominee's category.

(c) Each member present and voting shall vote for as many nominees as there are positions to be filled in each category, and any ballot not so marked shall be deemed void as to that category.

(d) When fewer than two nominees in the minority race or woman categories, or fewer than four nominees in the at-large category, receive the votes of a majority of all members present and voting for positions in those categories, a runoff to fill the open position

or positions shall be conducted among the nominees who were not elected but who received the highest number of votes cast in each category, and the number of nominees eligible to be voted on in the runoff shall be twice the number of positions to be filled.

(e) If there is a tie for the last position between two nominees who are eligible for the next runoff, both nominees shall be included in the next runoff balloting, even though there would be more than two nominees per available position, unless the deciding vote is cast in accordance with the North Carolina Constitution, Article II, Section 13.

(f) When more than two nominees in the minority race or woman category, or more than four nominees in the at-large category, receive the votes of a majority of all members present and voting for positions in those categories, then the two nominees in the minority race category, the two nominees in the woman category, and the four nominees in the at-large category, receiving the highest number of votes in the category shall be deemed to have been chosen.

4. The Senators shall proceed to mark their ballots for the following:

(a) Two persons in the minority race category, for four-year terms;

(b) Two persons in the woman category, for four-year terms; and

(c) Four persons in the at-large category, for four-year terms.

Every ballot shall be signed by the Senator casting it, and no unsigned ballots shall be counted.

5. The cochairs of the Senate Committee shall be responsible for canvassing the vote and declaring the results. All ballots shall be retained by the Principal Clerk as part of the permanent records of the Senate and shall be open for immediate public inspection.

6. When the cochairs of the Senate Committee have determined that the Senate has chosen two persons from the minority race category, two members from the woman category, and four persons from the at-large category to serve as members of the Board of Governors for terms of four years, the President of the Senate shall declare those eight persons to have been elected.

7. The results of the election in the Senate shall then be sent by Special Messenger to the House of Representatives.

III. NOTIFICATION OF ELECTION RESULTS.

When the election process is complete, the cochairs of the Senate Committee shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the Senate and the category and term for which each person was elected.

Section 2. This resolution is effective upon adoption.

North Carolina General Assembly
Legislative Services Agency

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(919) 733-7044

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February 12, 1997

MEMORANDUM

TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory Goldsmith, Committee Counsel KJG

RE: S88 - 1997 Board of Governors election in the Senate

Generally, there are thirty-two members of the Board of Governors of the University of North Carolina serving staggered four-year terms. Each long session, the Senate and the House separately elect eight of the sixteen members to be elected that year.

Each chamber prepares a resolution for a procedure to be followed to develop a slate of nominees. The chambers alternate electing members from among four categories: at-large, racial minority, political minority party, and female. In 1997, the Senate is to fill two racial minority seats, two female seats, and four at-large seats. See attached chart.

Current members of the Board of Governors may be re-elected to serve a maximum of twelve consecutive years. **No member of the General Assembly, State officer or employee, employee of a constituent university, nor any spouse of these persons may serve on the Board. Persons may hold no more than two appointive offices or one appointive and one elective office.**

S88 provides that nominations must be received in either Senator Lee's or Senator Winner's office by 5 p.m. on Tuesday, February the 18th. On or after February 19th, the Committee shall list all nominees by category, shall screen them as to their qualifications and backgrounds, and shall vote on the nominees. Nominees receiving a majority of the votes of those members present and voting will be listed on the Senate ballot. At least twice as many nominees as there are vacancies are named in each category, if enough qualified nominees are submitted for consideration.

The cochairs shall prepare the Senate ballot. The names of the nominees shall be arranged (i) by category, and (ii) within each category, alphabetically by surname. The Senate election shall be held no later than the beginning of the daily session on February 26, 1997. The resolution sets out the voting rules for the election.

Senate Resolution 88 is effective upon adoption.

BOG2.1

BOG Seats Available for 1997 Election
Senate

BOG Member	Seat	Eligible for Reelection 1997
G. Irvin Aldridge	AL	Yes
Lois G. Britt	W	Yes
Bert Collins	RM	Yes
Wallace N. Hyde	AL	Yes
Jack P. Jordan	AL	Yes
Helen Rhyne Marvin	W	Yes
D. Samuel Neill	AL	No
Maxine H. O'Kelley	RM	Yes

Seat designation:
AL = At large
RM = Racial minority
W = Woman

§ 116-6. Election and terms of members of Board of Governors.

(a) As the terms of members of the Board of Governors provided for in G.S. 116-5 expire, their successors shall be elected by the Senate and House of Representatives. Sixteen members shall be elected at the regular legislative session in 1993 and every two years thereafter. The Senate and the House of Representatives shall each elect one-half of the persons necessary to fill the vacancies on the Board of Governors. Of the 16 members elected every two years beginning in 1993, at least two shall be women, at least two other members shall be members of a minority race, and at least two other members shall be members of the political party to which the largest minority of the members of the General Assembly belongs.

(b) In 1993 and every four years thereafter the Senate shall elect at least two women and two members of a minority race, and the House of Representatives shall elect at least two members of the political party to which the largest minority of the members of the General Assembly belongs. In 1995 and every four years thereafter the Senate shall elect at least two members of the political party to which the largest minority of the members of the General Assembly belongs, and the House of Representatives shall elect at least two women and two members of a minority race.

(c) In electing members to the Board of Governors, the Senate and the House of Representatives shall select from a slate of candidates made in each house. The slate shall be prepared as provided by resolution of each house. If a sufficient number of nominees who are legally qualified are submitted in a category for which members of the Board of Governors are to be elected, then the slate of candidates shall list at least twice the number of candidates for the total seats open in a category. All qualified candidates in a category shall compete against all other qualified candidates in a category. In 1993 and biennially thereafter, each house shall hold their elections within 30 legislative days after appointments to their education committees are complete.

(d) All terms shall commence on July 1 of odd-numbered years and all members shall serve for four-year overlapping terms.

(e) No person may be elected to:

(1) More than three full four-year terms in succession;

(2) A four-year term if preceded immediately by election to two full eight-year terms in succession; or

(3) A four-year term if preceded immediately by election to an eight-year term and a four-year term in succession.

Resignation from a term of office does not constitute a break in service for the purpose of this subsection. Service prior to the beginning of those terms in 1989 shall be included in the limitations.

(f) Any person who has served at least one full term as chairman of the Board of Governors shall be a member emeritus of the Board of Governors for one four-year term beginning at the expiration of that member's regular elected term. Any person already serving as an emeritus member may serve an additional four-year term beginning July 1, 1991. Members emeriti have all the rights and privileges of membership except they do not have a vote.

(g) Effective July 1, 1991, and thereafter, any person who has served at least one term as a member of the Board of Governors after having served as Governor of North Carolina shall be a member emeritus of the Board of Governors, with all the rights and privileges of membership as in G.S. 116-6(f).

§ 116-7. General provisions concerning members of the Board of Governors.

(a) All members of the Board of Governors shall be selected for their interest in, and their ability to contribute to the fulfillment of, the purposes of the Board of Governors, and all members shall be deemed members-at-large, charged with the responsibility of serving the best interests of the whole State. In electing members, the objective shall be to obtain the services of the best qualified citizens of the State, taking into consideration the need for representation on the Board by the different races, sexes and political parties.

(b) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution or spouse of any such member, officer or employee may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from his membership on the Board of Governors.

(c) Whenever any vacancy shall occur in the elected membership of the Board of Governors, it shall be the duty of the Board to inform the Speaker of the House of Representatives and the President of the Senate of the vacancy. The chamber that originally elected the vacating member shall elect a person to fill the vacancy. The vacancy shall remain unfilled until the appropriate chamber of the General Assembly elects a person to fill the vacancy.

The vacancy shall be filled not later than the adjournment **sine die** of the next regular session of the General Assembly. The election shall be for the remainder of the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for four successive regular meetings of the Board, his place as a member shall be deemed vacant.

FORM 14

VISITOR REGISTRATION SHEET

Education/Higher Education — 2/12/97

Name of Committee — **Date**

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Greg Malhoit	NC Ed. Law Project
J Craig Lewis	Pitt Co. Mem Hosp
Cynthia Barnett	The N&O
Mary Carmilia	Mecklenburg County
John Sanders	Chapel Hill
K Wright	BODSNC
Nancy Bradley	NCCBD
Brain Wesley Jones	NCAE
Kim Bryan	OSBA
Jeff Davis	UNC-GA
John Davis	Public School Forum
Deborah Perry	Charlotte-Mecklenburg Schools

VISITOR REGISTRATION SHEET

Education / Higher Education — 2/12/97

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Harriet Dial	NCAE
BV Barbour	NCSBA
Debbie Shinbara	NCSBA
Jenny Owens	NCCCS
Lisa Belcher	SBE
Aaron Stewart	AFT/NC
Jan Crotts	NCASA
Kelly Shaw	Sen R. Shaw
David Brown	OSBM
Heather Stewart	General Assembly

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE

Wednesday, February 19, 1997

MINUTES

The Education/Higher Education Committee met at 10:00 a.m. on Wednesday, February 19, 1997, in Room 414. Sixteen members of the committee were present, including Senator Leslie Winner, who presided.

Senator Winner announced the first agenda item was to approve the University of North Carolina System Board of Governors ballot. A list of the nominees was handed out to the members (see Attachment A). She announced two problems for the Committee to consider:

- Mr. Jim Phillips' wife, Susan Phillips, is on the North Carolina Historical Commission. Ms. Phillips has said she would resign from the Historical Commission if her husband is elected to the Board of Governors.

- Mr. Jack Daly's nomination form was delivered to Senator Lee's office after 5:00 p.m. on Tuesday, February 18, 1997. Senate Resolution 88, which set out the procedure for nominations for the Board of Governors set a 5:00 p.m. February 18 deadline for nominations.

Senator Hoyle moved Mr. Jack Daly's name be stricken from the ballot due to his nomination not having been received on time. The motion carried unanimously.

Senator Lucas moved approval of the ballot with the exception of Mr. Jack Daly's name. The motion carried unanimously. The election is scheduled to be held Wednesday, February 26, 1997, during Session. Senator Cochrane requested student and Board of Trustee information for all candidates. Senator Winner said she would try to get that information for Senator Cochrane prior to the vote on February 26.

Senator Winner introduced Senator Hartsell to present Senate Bill 71, School Board Leases of School Buildings. Senator Conder moved adoption of a technical amendment to the bill on page 1, line 23, to add the words "of the General Statutes" after the word "115C". The motion carried. Senator Hartsell moved adoption of an amendment, mostly technical in nature, to remove the "taxing unit" provision. The motion carried. Senator Hoyle moved to give SB 71 a favorable report as amended and the amendments be incorporated into a committee substitute. The motion carried.

Senator Winner introduced Senator Lucas to present Senate Bill 70, Obsolete School Laws. Senator Lucas moved adoption of an amendment in Section 14, which takes out

all the references to additional years of instruction in early childhood programs that will not prohibit local boards of education from having early education programs, but will prohibit local boards from using state money for them. The motion carried. Senator Dannelly moved a favorable report for the bill as amended. The motion carried.

The meeting was adjourned at 11:00 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Dorothy Waugaman
Dorothy Waugaman, Acting Committee Clerk (from tapes)

ATTACHMENT A

SENATE
BOARD OF GOVERNORS NOMINEES
2/19/97

AT-LARGE CATEGORY
G. Irvin Aldridge
Ray S. Farris
Wallace N. Hyde
Jack P. Jordan
Jim Phillips
James Bradley Wilson

MINORITY RACE CATEGORY
Bert Collins
Jack Daly
Dennis Lowery
Maxine O'Kelly

WOMAN CATEGORY
Lois G. Britt
Helen Rhyne Marvin

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Winner, Co-Chair
Senator Lee, Co-Chair

Thursday, February 20, 1997

SENATOR WINNER,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

S.B. **70** Obsolete School Laws
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **71** Sch. Bd. Leases of Sch. Bldgs.
Draft Number: PCS7558
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 2

Committee Clerk Comment: Senator Winner will sign

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TO: Senator Lee and Senator Winner, Cochairs
FROM: Robin S. Johnson, Committee Counsel Robin
DATE: February 17, 1997
RE: **S 70: OBSOLETE SCHOOL LAWS**

BACKGROUND

In 1995, the General Assembly enacted Senate Bill 16, which directed the State Board of Education (Board) to examine and recommend changes in the public school system to improve student performance, increase local flexibility and control, and promote economy and efficiency. The result was the Board's recommendation of the ABC's Plan, which the General Assembly enacted in 1996. At the same time the Board made that recommendation, it also asked the General Assembly to establish a committee to review the public school laws. As a result, the General Assembly authorized the chairs of the Joint Legislative Education Oversight Committee (Ed Oversight) to establish a subcommittee to review these laws and to recommend changes to improve student performance, increase local flexibility and control, and promote economy and efficiency. At the subcommittee's first meeting, the Board presented a list of laws it considered to be obsolete. After much discussion, the subcommittee agreed with many of the suggestions and recommended **Senate Bill 70** to Ed Oversight, which recommended it to the General Assembly.

BILL ANALYSIS

Senate Bill 70 would repeal a number of laws considered to be obsolete or redundant, recodify the statutes that establish the three schools for the hearing-impaired and the Governor Morehead School for the Blind, streamline the reports that the Board is required to make to the General Assembly or Ed Oversight, and strengthen Ed Oversight's power to obtain information from State agencies. The full text of the affected and related laws is in the attached document entitled, "Statutes for Obsolete Laws". The laws are arranged by the section number in the bill.

SECTION 1 repeals G.S. 115C-15, which requires an annual report from the Board on the implementation of the School Improvement and Accountability Act of 1989 (aka, Senate Bill 2). The language in G.S. 115C-15(b) is moved to G.S. 115C-12 in Section 16(a) of the bill.

SECTION 2 repeals G.S. 115C-21.1, which requires the Department of Public Instruction (DPI) to report annually to the General Assembly on class size waivers the Board grants. G.S. 115C-105.26 (b) (see attached document) allows the Board to grant these waivers when the request is part of a school improvement plan developed at the building level. G.S. 115C-301(g) (see attached document) allows the Board to grant these waivers if needed (1) because of exceptional circumstances, emergencies, large changes in student population, organizational problems due to remote geographic location, or classes organized for a solitary curricular area, AND (2) the local board cannot organizationally correct the problem.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

SECTION 3 would repeal G.S. 115C-22, which establishes the Alcohol and Drug Defense Program. The Basic Education Program will continue to include drug and alcohol abuse prevention in the school health program. (See attached document - G.S. 115C-81(e1)(1)(b))

SECTION 4 would repeal G.S. 115C-83, which directs the State Superintendent to provide materials for the observance of special days, some of which are listed, to the public schools.

SECTION 5 would repeal G.S. 115C-102.8, which refers to a one-time appropriation for the 1993-94 fiscal year.

SECTION 6 would repeal the statutes that created the Regional Educational Training Centers, which never were established or funded. These were to be regional centers to provide assistance to public schools in their identification of and programs for exceptional children; they are not the same as the Technical Assistance Centers (aka TAC's), which the General Assembly abolished in 1995.

SECTION 7 would repeal G.S. 115C-144, which directs the Departments of Human Resources and Correction to provide their budget requests for programs of special education and related services to the Board before those agencies submit them to the Governor. Evidently, this has never been done. In the early 1970's, comprehensive legislation was enacted to place the oversight of ALL the State's programs for these children, including those offered by those two Departments, under the State Board of Education. The Board will continue to have statutory authority to supervise, set standards for, design, and approve these programs.

SECTION 8 would repeal the statutes that established the Project Genesis Program, which is a pilot program designed to give greater flexibility. Only one school currently participates in this program, and its flexibility can continue under current law.

SECTION 9 would repeal G.S. 115C-298, which allows colleges and universities to assist teachers in certification.

SECTION 10 would repeal the statutes, enacted in 1979, that created the Personnel Administration Commission to make recommendations to the Governor and the Board on personnel policies for public school personnel. This Commission has not met for a number of years.

SECTION 11 would repeal G.S. 115C-472, which was a 1984 requirement to establish the Prospective Teacher Scholarship Loan, which was done.

SECTION 12 would move the statutes establishing the State Schools for the Hearing Impaired from Chapter 115C (Public Schools) to Chapter 143B (Human Resources).

SECTION 13 would move and reorganize the statutes establishing the Governor Morehead School from Chapter 115C (Public Schools) to Chapter 143B (Human Resources).

SECTION 14 would amend G.S. 115C-74, which defines "school system". The changes would allow local boards to arrange the years of instruction as they consider appropriate. In addition, each board would be allowed to have a school system that includes "additional years of instruction". This Section also repeals G.S. 115C-75, which defines the way schools are organized, and amends G.S. 115C-5 (Chapter 115C's definitions section) to insert these definitions.

SECTION 15 would repeal the statutes that continued to 1987 the Central Orphanage, which the General Assembly chartered in the 1800's. Currently, the Orphanage is chartered as a nonprofit corporation and is not under the control of any State agency.

SECTION 16 would add a new subdivision (25) to G.S. 115C-12 (duties of the Board) to require the Board to examine and evaluate issues, programs, policies, and fiscal information, at the request of Ed Oversight. In addition, the required annual report on the implementation of the ABC's Plan is moved to this subdivision. **Section 16** also would eliminate the following reports the Board is required to make to Ed Oversight or the General Assembly: (i) Basic Education Program (annual report); (ii) salary schedule for State-allotted office support personnel, teacher

assistants, and custodial personnel (final report was due 3/31/96); (iii) extended services (final report was due 12/93); (iv) school technology plans (annual report); and (v) State Literary Fund. The following reports would be eliminated on July 1, 1999: (i) alternative programs evaluation (annual report); (ii) reading (annual report); and (iii) charter schools (annual report). Also, G.S. 115C-472.5(d) is amended to eliminate the annual reports to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the State Government Performance Audit Committee on loans made from the Computer Loan Revolving Fund; the Board would continue to make these reports to the Information Resource Management Commission. In addition, **Section 16** adds a new section to Chapter 120 to enumerate the authority of Ed Oversight to compel attendance, obtain documents and other evidence, and hold hearings. Other legislative oversight commissions have these enumerated powers.

Senate Bill 70 would take effect when it becomes law.

SB70SUMMARY1

STATUTES FOR OBSOLETE LAWS

SECTION 1

§ 115C-15. Report on the implementation of the School Improvement and Accountability Act.

The State Board of Education shall report annually on the first Friday in February on the implementation of the School Improvement and Accountability Act of 1989 [Session Laws 1989, c. 778], to the Joint Legislative Education Oversight Committee, the chairs of the Senate and House of Representatives committees on education, appropriations, and appropriations on education.

SECTION 2

§ 115C-21.1. Report on class size waivers.

(a) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 677, s. 2.

(b) The Department of Public Instruction shall monitor and provide a report to the General Assembly by May 1, 1991, and annually thereafter showing the school units that have been granted class size waivers pursuant to G.S. 115C-238.6(a), have reported class size exceptions, and have converted State-funded teacher positions to other positions, dollars, or other expenditures.

§ 115C-105.26. Waivers of State laws, rules, or policies.

(b) **When requested as part of a school improvement plan, the State Board of Education may grant waivers of:**

(1) **State laws pertaining to class size,** teacher certification, and the duty-free period for classroom teachers under G.S. 115C-301.1; and

(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and G.S. 115C-325, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System.

§ 115C-301(g)

(g) Waivers and Allotment Adjustments. -- Local boards of education shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request allotment adjustments or waivers from the standards set out above. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions or grant waivers for the excess class size or daily load.

(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and

(2) If the local board cannot organizationally correct the exception.

All allotment adjustments and waivers submitted under this provision shall be reported to the Director of the Budget and to the General Assembly by May 15 of each year.

SECTION 3

§115C-22. Alcohol and Drug Defense Program established.

There is established in the Department of Public Instruction the Alcohol and Drug Defense (ADD) Program. The Program shall be a new initiative to give the Superintendent of Public Instruction statewide responsibility to address systematically alcohol and drug problems of school aged youth.

The ADD Program shall:

(1) Provide planning, consultation, and direct services to local school boards, school personnel, parent-teacher-student organizations, community teams, and the divisions of the Department of Public Instruction that can affect substance abuse;
(2) Perform a complete comprehensive survey of existing prevention, intervention, treatment, and policy activities within the public schools;
(3) Identify, mobilize, and coordinate resources for immediate action throughout the State;
(4) Develop a model approach that is flexible enough to be tailored to community needs and resources;
(5) Coordinate alcohol- and drug-specific curriculum-development and implementation;
(6) Consult with local school boards on the development of school policies to reduce substance use and possession on school property and at school activities;
(7) Consult directly with school personnel regarding appropriate intervention and referral of students in trouble;
(8) Train health education coordinators, teachers, and others on the identification of substance use and steps to take with students;
(9) Coordinate with higher education, teacher organizations, and alcohol and drug professionals;
(10) Act as a liaison between the Department of Public Instruction and other agencies addressing the substance abuse problem;
(11) Perform other services as directed by the State Board of Education and the Superintendent of Public Instruction; and
(12) Report regularly to the Superintendent of Public Instruction, the State Board of Education, and the General Assembly on the status of substance abuse among school-aged children.

§ 115C-81. **Basic Education Program.**

(e1) School Health Education Program to Be Developed and Administered.

(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem":

a. Mental and emotional health;
b. Drug and alcohol abuse prevention;
c. Nutrition;
d. Dental health;
e. Environmental health;
f. Family living;
g. Consumer health;
h. Disease control;
i. Growth and development;
j. First aid and emergency care;
k. Preventing sexually transmitted diseases, including Acquired Immune Deficiency Syndrome (AIDS) virus infection, and other communicable diseases;
l. Abstinence until marriage education; and
m. Bicycle safety.

SECTION 4

§ 115C-83. Observance of special days.

The Superintendent of Public Instruction is hereby authorized and directed to provide suitable material for the appropriate observance in all the public schools of the State of all special days which are celebrated from year to year. All literature necessary for the proper observance of the days specified in this section shall be prepared by the Superintendent of Public Instruction and printed at the expense of the State. The Superintendent of Public Instruction may fix a later or an earlier date for the observance of any special day, the observance of which is required for a specific date, if it shall appear to him to be more convenient; and he may combine the programs so as to require the observance of any two or more of the special days at the same time.

The special days appropriate for observance in North Carolina are:

(1) North Carolina Day on October the twelfth.

(2) Temperance or Law and Order Day on the fourth Friday in January.

(3) Arbor Day on the Friday following the fifteenth day of March.

(4) The birthdays of George Washington, Robert Edward Lee, and Thomas Jonathan (Stonewall) Jackson.

(5) Veterans Day, Memorial Day, and such other days as may be deemed of educational and patriotic value to the children and citizens of the State.

SECTION 5

§ 115C-102.8. Expenditure of additional funds provided by the General Assembly.

Any funds that may be provided by the General Assembly for the 1993-95 fiscal biennium for learning and instructional management technology in addition to the funds provided in the Current Operations Appropriations Act of 1993 shall be spent only in accordance with subsequent legislation enacted by the General Assembly.

SECTION 6

Part 4. Regional Educational Training Center.

§ 115C-117. Creation.

There is hereby established within the Department of Public Instruction a system of Regional Educational Training Centers. Said centers shall be equitably distributed across the State as shall be determined by the Superintendent, but such centers shall be located in reasonable proximity to one of the developmental evaluation centers operated by the Department of Human Resources.

§ 115C-118. Functions.

The centers shall have the following functions:

(1) To provide in-service training to all special education teachers and other professionals as defined by the Superintendent.

(2) To develop in kindergarten and primary grade teachers the necessary skills to detect potential special education needs and the capability to plan special educational programs.

(2a) To provide in-service training for all teachers in the identification and education of learning disabled children.

(3) To provide in-service training and consultative services to a parent or guardian of a child with special needs and to appropriate public school administrative and management personnel.

(4) To work in concert with the various local human resources agencies to the end that multiple and duplicative services provided at various times and by various agencies of the State may be obviated.

(5) To conduct an in-depth evaluation of the impact of in-service training on the delivery of services to children with special needs within the public schools on an annual basis in compliance with such rules and regulations as the Superintendent may promulgate.

§115C-119. Organization of centers.

Employees of the centers shall be employees of the Department of Public Instruction appointed by the Superintendent subject to the approval of the State Board. Employees of those centers now in place and operational shall be employees of the Department, and those centers now in place and operational shall fulfill the functions set forth for new centers.

§115C-120. Rules and regulations.

The Superintendent shall develop and promulgate appropriate rules and regulations for the operation of the centers subject to the approval of the State Board. Such rules and regulations shall prescribe the precise operational responsibility of the centers and shall include a description of the operational relationship that shall exist with the various local human resources agencies.

SECTION 7

§115C-144. Departmental requests.

All budget requests for funding of new or existing or for the expansion of existing programs of special education and related services for children with special needs, aged birth through 21, to be furnished or provided by the Departments of Human Resources and Correction shall be annually submitted by those departments to the Board for review and comment prior to presentation by the respective department to the Governor and Advisory Budget Commission. The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.

SECTION 8

Part 6. Project Genesis Program.

§ 115C-238.22. Creation of program; purpose.

(a) The State Board of Education shall permit Gaston and Johnston County school administrative units to establish Project Genesis Pilot Programs.

(b) The purpose of the pilot program shall be to enable up to two schools in each participating local school administrative unit to experiment with a restructured school approach that would combine the concepts of flexibility, competitive bidding on the management of schools, and accountability. Participating local school administrative units shall have two years to (i) determine the feasibility of the project, (ii) secure private funding for any additional funds required for the project, (iii) lay the groundwork for the project, and (iv) if they decide to proceed with the project, begin experimentation in not more than two schools per local school administrative unit.

§ 115C-238.23. Implementation by local school boards.

If a school administrative unit decides to proceed with the project the following procedures shall be followed:

(a) The local board in a participating local school administrative unit shall select a school building that is under construction as its first school under the project.

(b) The local board shall issue a request for proposals for leadership teams to bid to operate the selected school. A team shall mean three or more individuals. To reflect the diversity required to implement the purpose of the project defined in G.S. 115C-238.22, the abilities and experience of team members may include: administrative and educational policy and planning skills; familiarity with technology for schools; management and classroom experience; and familiarity with the needs of

diverse and special populations. One member shall be designated as the principal or leader of the team. At least twenty-five percent (25%) of the team members shall be certificated in accordance with the regulations of the State Board of Education.

Team members awarded the contract shall, if not already, become employees of the local board and become subject to local personnel policies.

(c) The request for proposals shall include the following minimum requirements:

(1) A statement of principles that the local board wants the bidding teams to address;

(2) A specified amount of money available for the operation of the building, which amount shall be within the limits of funds available for the size of school being opened for bid;

(3) A framework for accountability plans by which the success of the project site can be measured, which accountability plans shall include the student performance indicators adopted by the State Board of Education pursuant to the School Improvement and Accountability Act of 1989, and shall include factors such as student, parent, and employee satisfaction, parental involvement, community service, and evidence of a focus on developing thinking and reasoning skills;

(4) The student population of a Genesis school shall be representative of its local school administrative unit, shall be racially balanced, and students shall be assigned on a geographic basis;

(5) The mission of the school shall not establish religion nor prohibit the free exercise thereof insofar as that is permitted in a public school by the North Carolina and United States Constitutions; and

(6) Bidding teams shall address how the criteria listed in G.S. 115C-81(b) will be met or varied by the Genesis program.

The local board may include other requirements in the request for proposals.

(d) The local board shall secure private funding for any additional non-State and nonlocal funds required for the project before awarding a contract to a team to operate the selected school.

(e) The local board shall appoint an advisory committee composed of educators, elected officials, parents of children enrolled in the local school administrative unit, and community leaders from within and without the local school administrative unit to screen proposals for the school building and to make recommendations to the local board of education on the proposals.

The local board shall consider the recommendations of the advisory committee and shall award the contract. All contract negotiations and the award of the contract shall be conducted in open session notwithstanding G.S. 143-318.11(a)(9). The contract shall be for a term not to exceed four years. It may be terminated by the local board at any time for any reason it deems sufficient; it may be terminated by the team for any reason it deems sufficient, but only at the end of a school year and only with 60 days' written notice to the local board of education.

(f) The team that receives the contract shall interview and select all personnel for the building. The team may select personnel from the current employees of the local board. All teachers employed in a Genesis school shall hold or be qualified to hold a certificate in accordance with the regulations of the State Board of Education or the School Improvement and Accountability Act of 1989. The local board shall hire those persons selected by the team so long as those positions are within State, local, and other funds approved for this project by the local board. In no event shall a local board dismiss or demote any employee pursuant to G.S. 115C-325(e)(1)l. as a result of a Genesis project.

Hiring shall take place no later than July 1, prior to the opening of the new building. The team shall begin conducting training and planning sessions as staff is hired.

The local board or the management team may employ noncertificated persons on a temporary basis or for special projects.

(g) The participating school building team shall initiate a comprehensive accountability program immediately. The results shall be published annually and compared to those of traditional schools.

(h) After the third and fourth years of the project, the local board shall review student achievement results of the existing project site. After the fourth year of the project the local board may decide whether to continue the project in the first school and whether an additional building within the school system shall be added to the project. If the board decides to expand the project to a second school the procedures outlined in this section shall be followed.

The second school chosen for the project shall be an existing school that is producing below average results in student achievement as compared to other schools in the unit. Criteria which may be considered to evaluate student achievement may include: test scores, the success of graduating students, attendance, graduation and dropout rates, the numbers of children enrolled in free lunch or Chapter 1 programs, the education level of the parents of children enrolled in the school, the teaching experience of the school staff, and whether the building has been successful in meeting the goals of the systemwide plan developed in accordance with the School Improvement and Accountability Act of 1989.

§ 115C-238.24. Grants of flexibility by the State Board.

In implementing local projects, local boards need broad decision-making authority so that local boards and participating school leadership teams can carry out the activities that meet the needs of students in that particular building. Each participating local school administrative unit may request from the State Board of Education, with specificity, those aspects of its project implementation that would be enhanced by flexibility with regard to statutes, policies, and regulations. Upon the recommendation of the State Superintendent, the State Board of Education may grant each local school administrative unit such flexibility with regard to Chapter 115C of the General Statutes, and its policies, and regulations, including the waivers allowed under G.S. 115C-238.6(a)(1) and (a)(2), as it finds necessary and appropriate to implement a local project so long as (i) the total amount of State funds expended for the project does not exceed the amount of State funds available for a school with that average daily membership; (ii) no health or safety standards relating to schools or school transportation are lowered; (iii) the State Board of Education does not find as a fact that the flexibility is being abused; (iv) the provisions of G.S. 115C-325 shall not be waived for any certificated teacher working in a Genesis school; and (v) the standard course of study is included in the education program offered to every child in the Genesis school.

Article 2A of Chapter 150B of the General Statutes shall not apply to actions by the State Board of Education when waiving its rules under this subsection.

The State Board of Education shall report annually on the first Friday in May on waivers granted with regard to statutes, policies, and regulations to the Joint Legislative Education Oversight Committee.

§ 115C-238.25. Reporting requirements; evaluation.

(a) Each participating local school administrative unit shall submit an annual report one year after the local school administrative unit has awarded a contract, and every year thereafter, to the General Assembly, the Joint Legislative Education Oversight Committee, the Superintendent of Public Instruction, and the State Board of Education. The report shall include a comprehensive financial accounting

itemizing the amount of and uses of all public and private funds expended for the Genesis school, and all services, equipment, and other resources donated to the school, a description of any accountability plans implemented pursuant to G.S. 115C-238.23(c)(3), and a description of the student achievement resulting from the implementation of those accountability plans.

(b) The State Board of Education shall conduct an independent evaluation of each Genesis school and the overall project. The State Board of Education shall report the results of the evaluation to the General Assembly and the Joint Legislative Education Oversight Committee as soon as possible but no later than January 15, 1998.

SECTION 9

§115C-298. Colleges may assist teachers in certification.

Each and every college or university of the State is hereby authorized to aid public school teachers or prospective teachers in securing, raising, or renewing their certificates, in accordance with the rules and regulations of the State Board of Education.

SECTION 10

§115C-327. Commission established; purpose.

There is hereby established a Personnel Administration Commission for Public School Employees which shall provide advice and recommendations to the Governor and the State Board of Education in regard to personnel administration practices and policies for public school employees.

§115C-328. Commission membership; meetings; compensation.

(a) The Personnel Administration Commission for Public School Employees shall consist of nine members to be appointed by the Governor on or before September 1, 1980. Of the nine members of the Commission, one shall be appointed from each of the eight educational districts of the State as established in G.S. 115C-65, and the chairman, who shall be designated by the Governor, shall be an at-large member. To assure continuity of membership, initial appointments to the Commission shall be made as follows: three members, including the chairman, for terms of three years; three members for terms of two years; and three members for terms of one year. All appointments after the initial appointments shall be for terms of three years. Vacancies on the Commission shall be filled by the Governor for the unexpired term.

(b) In making his appointments to the Commission, the Governor shall assure that the membership of the Commission consists of persons interested in education and persons possessing knowledge and skills in personnel administration. However, no person shall be eligible for appointment to the Commission if he is a member of the General Assembly, officer or employee of any organization or association of public school employees, or a person whose employment would be directly affected by recommendations of the Commission.

(c) Within 30 days after the appointment of the Commission, the chairman shall convene the Commission for an initial meeting. At this meeting, the Commission shall elect such officers, in addition to the chairman, as it deems necessary and establish a regular meeting schedule.

(d) Members of the Commission shall be entitled to receive per diem and reimbursement for travel and subsistence expenses incurred in the performance of their duties as specified in G.S. 138-5 or 138-6, whichever is applicable to the individual member. Funds for this purpose shall be made available to the State Board of Education from funds appropriated to implement Section 36 of Chapter 1137 of the 1980 Session Laws.

§115C-329. Responsibilities of the Commission.

(a) The primary function of the Commission shall be to review the classification of positions and to make written recommendations to the Governor and the State Board of Education concerning proper compensation, salary and benefits, and such other proper personnel matters as to encourage the development of employees with a high degree of necessary skills and to stimulate a high degree of employee morale. In addition, the Commission shall provide advice and make recommendations to the Governor and the State Board of Education in such other areas of personnel management as may be requested by either the Governor or the State Board.

(b) The State Board of Education is authorized and directed to receive periodic reports and recommendations from the Commission. The State Board of Education is not empowered to implement recommendations of the Commission without an appropriation from the General Assembly for this express purpose.

(c) The State Board of Education and the Superintendent of Public Instruction shall provide necessary staff services to the Commission in the performance of its responsibilities.

SECTION 11

§ 115C-472. State policy.

It is the policy of the State of North Carolina to encourage entry into the teaching profession by those who are prepared to teach in those areas where teachers are most needed. To this end, the State Board of Education shall recommend to the General Assembly by November 1, 1984, a method of providing loan and scholarship assistance to prospective teachers in areas of anticipated shortage.

This recommendation shall include, at least, the anticipated needs, the level of funding and a mechanism to evaluate the results of the program.

SECTION 12

Part 7. State Schools for Hearing-impaired Children.

§ 115C-123. Establishment; operations.

There are established, and there shall be maintained, the following schools for the deaf: the Eastern North Carolina School for the Deaf at Wilson (K-12); the Central North Carolina School for the Deaf at Greensboro (K-8), and the North Carolina School for the Deaf at Morganton (K-12). The Department of Human Resources shall be responsible for the operation and maintenance of the schools.

The Board of Directors of the North Carolina Schools for the Deaf shall advise the Department and shall adopt rules and regulations concerning the schools as provided in G.S. 115C-124 and 143B-173.

§115C-124. Pupils admitted; education.

The Department of Human Resources shall according to such reasonable regulations as the Board of Directors may prescribe, on application, receive into the schools for the purposes of education all deaf children resident of the State who are from age five through age 20 years: Provided, that the Department of Human Resources may admit students who are not within the age limits set forth above when in its judgment, such admission will be in the best interests of the applicant and the facilities of the school permit such admission. Only those who are bona fide citizens or residents of North Carolina shall be eligible to and entitled to receive free tuition and maintenance. The Department may fix charges and the Board of Directors may prescribe rules whereby nonresident deaf children may be admitted, but in no event shall the admission of nonresidents in any way prevent the attendance of any eligible deaf child, resident of North Carolina. The Department shall provide for the instruction of all pupils in the branches of study now prescribed by law for the public

schools of the State and in such other branches as may be of special benefit to the deaf.

The Department shall encourage the State to provide the classrooms with modern auditory training equipment, audiovisual media equipment, and any other special equipment to provide the best educational conditions for the deaf. The Department shall provide a teacher training program in the State. The Department shall provide for a comprehensive vocational and technical training program for boys and girls as may be useful to them in making themselves self-supporting.

§115C-125. Free textbooks and State purchase and rental system.

The Schools for the Deaf shall have the right and privilege of participating in the distribution of free textbooks and in the purchase and rental system operated by the State of North Carolina in the same manner as any other public school in the State.

§115C-126. Agreements with local governing authorities.

The Department is authorized to make such agreements with the governing authority of any municipality, or of any county, as may be mutually agreed upon, to promote convenience and economy for joint water supply, lighted areas, use of sewage facilities, or any other utilities or facilities that may be necessary and as may be agreed upon.

§ 115C-126.1. Fees for athletic programs; appeal.

The Secretary of Human Resources may establish by regulation fees not to exceed one hundred dollars ($100.00) per year to support the athletic program and after school student activities and an appeal process under Chapter 150B by which a student unable to pay may prove that he is unable to pay and be relieved of the fee.

SECTION 13

PART 8. State School for Sight-Impaired Children.

§115C-127. Incorporation, name and management.

The institution for the education of the blind, located in the City of Raleigh, shall be a corporation under the name and style of the Governor Morehead School, and shall be under the management of the Department of Human Resources and the director of the school.

§115C-128. Admission of pupils; how admission obtained.

The Department of Human Resources shall, on application, receive in the institution for the purpose of education all blind children who are residents of this State and who are from age five through age 20 years: Provided, that pupils who are not within the age limits above set forth may be admitted to said institution in cases in which the Department of Human Resources finds that the admission of such pupils will be beneficial to them and in cases in which there is sufficient space available for their admission in said institution: Provided, further, that the Department of Human Resources is authorized to make expenditures, out of any scholarship funds or other funds already available or appropriated, of sums of money for the use of out-of-state facilities for any student who, because of peculiar conditions or disability, cannot be properly educated at the school in Raleigh.**§ 115C-130. Admission of pupils from other states.**

The Department of Human Resources may, on such terms as it deems proper and upon the receipt of tuition and necessary expenses as prescribed by the Department of Human Resources, admit as pupils persons of like infirmity from any other state but such power shall not be exercised to the exclusion of any child of this State, and the persons so admitted shall not acquire the condition of a resident of the State by virtue of such pupilage.

§ 115C-131. Department of Human Resources may confer diplomas.

The Department of Human Resources may, upon the recommendation of the superintendent and faculty, confer such diplomas or marks of achievement upon its graduates as it may deem appropriate to encourage merit.

§ 115C-132. State Treasurer is ex officio treasurer of institution.

The State Treasurer shall be ex officio treasurer of the institution. He shall report to the Department of Human Resources at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand.

§ 115C-133. When clothing, etc., for pupils paid for by county.

Where it shall appear to the satisfaction of the director of social services and the chairman of the board of county commissioners of any county in this State that the parents of any blind child residing in such county are then unable to provide such child with clothing or traveling expenses or both to and from the Governor Morehead School, or where such child has no living parent, or any estate of his own, or any person, or persons, upon which he is legally dependent who are able to provide expenses for such transportation and clothing, then upon the demand of the institution which such child attends or has been accepted for attendance, the board of county commissioners of the county in which such child resides shall pay to the proper institution an amount sufficient to clothe and pay traveling expenses of said child.

Part 12A. Board of Directors of the Governor Morehead School.

§ 143B-176.1. Board of Directors of the Governor Morehead School -- creation, powers and duties.

(a) There is hereby created the Board of Directors of the Governor Morehead School of the Department of Human Resources with the power and duty to adopt rules and establish standards to be followed in the conduct of the Governor Morehead School including rules for the professional care of children admitted to the Governor Morehead School and rules to make the Governor Morehead School as nearly self-supporting as consistent with the purposes of its creation.

(b) The Board of Directors of the Governor Morehead School may adopt rules not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid that may be available to the State by the federal government. This subsection is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

§ 143B-176.2. Board of Directors of the Governor Morehead School -- members; selection; quorum; compensation.

(a) The Board of Directors of the Governor Morehead School of the Department of Human Resources shall consist of 11 members appointed by the Governor for terms of six years. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Board from office for misfeasance, malfeasance or nonfeasance according to the provisions of G.S. 143B-13.

(b) The Chairman of the Board shall be designated by the Governor from the Board members to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Board and shall serve for a term of two years or until the expiration of his regularly appointed term.

(c) The Board shall meet at least once in each quarter and may hold special meetings at any time and place at the call of the chairman or upon the written request of at least a majority of its members. A majority of the Board shall constitute a quorum.

(d) Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) The Secretary of the Department of Human Resources shall provide clerical and other assistance as needed.

SECTION 14

§115C-74. School system defined.

The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. The system may be organized in one or two ways as follows: The first eight grades shall be styled the elementary school and the remaining four grades, the high school; or if more practicable, a junior high school may be formed by combining the first year of high school with both the seventh and eighth grades or with the eighth grade alone, and a senior high school which shall comprise the last three years of high school work. For purposes of Title V of the National Defense Education Act of 1958 (Public Law 85-864) the term "secondary school" shall be applicable to grades seven through 12.

§115C-75. Recommended school classification.

The different types of public schools are classified and defined as follows:

(1) An "elementary school" is a school which embraces a part or all of the eight elementary grades and which may have a kindergarten or other early childhood program.

(2) A "high school" is a school which embraces a high school department above the elementary grades and which offers at least the minimum high school course of study prescribed by the State Board of Education.

(3) A "union school" is a school which embraces both elementary and high school grades.

(4) A "junior high school" is a school which embraces not more than the first year of high school with not more than the upper two elementary grades.

(5) A "senior high school" is a school which embraces the tenth, eleventh and twelfth grades.

SECTION 15

Part 9. Central Orphanage of North Carolina.

§ 115C-134. Creation; powers.

The corporation created by Chapter 47, Private Laws of 1887, is hereby continued as a body corporate for a period of 60 years from March 8, 1927, under the name and style of "The Central Orphanage of North Carolina." The said corporation shall have power to receive, purchase, and hold property, real and personal, not to exceed in value one million dollars ($1,000,000), to sue and be sued, to plead and be impleaded, to receive gifts, donations and appropriations, to contract, and to do all other acts usual and necessary in the conduct of such corporation, and to carry out the intent and purposes thereof under and as subscribed by the laws of North Carolina.

§ 115C-135. Directors; selection, self-perpetuation, management of corporation.

The board of directors of the Central Orphanage of North Carolina shall consist of 13 members which shall organize by the election of a president and secretary and shall make all necessary by-laws and regulations for the convenient and efficient management and control of the affairs of said corporation, including the method by which successors to the directors herein named shall be chosen.

§ 115C-136. Board of trustees; appropriations; treasurer; board of audit.

Five members of said board of directors shall also serve as a board of trustees of said Central Orphanage of North Carolina. The said board of trustees so appointed

shall serve for a term of four years and until their successors are chosen. All appropriations made by the General Assembly to the said Central Orphanage of North Carolina shall be under the control of the board of trustees, and said appropriations shall be expended under their supervision and direction. The board of trustees shall select one of their members as a treasurer of the fund appropriated to the institution by the General Assembly and also not more than two persons to act as a board to audit the expenditure of such appropriation. The treasurer shall receive a salary of one hundred dollars ($100.00) per year for his services and members of the board of audit a salary not to exceed one hundred fifty dollars ($150.00) per year. The treasurer shall give a bond payable to the State of North Carolina in a surety company in such sum as the board of trustees may require, the annual premium to be paid out of the funds of the said Orphanage.

§ 115C-137. Training of orphans.

The said corporation shall receive, train and care for such orphan children of the State of North Carolina as under the rules and regulations of said corporation may be deemed practical and expedient, and impart to them such mental, moral and industrial education as may fit them for usefulness in life.

§ 115C-138. Control over orphans.

The said corporation shall have power to secure the control of such orphans by the written consent of their nearest of kin of those having control of such orphans, and shall receive such others as may be committed to its care under the appropriate laws of the State; and it shall be unlawful for any person or persons to interfere in any way with said corporation in the management of such orphans after they shall have been entered and received by it. The board of directors shall make all necessary rules and regulations for the reception and discharge of children from said Orphanage.

SECTION 16(b)

§ 120-19. State officers, etc., upon request, to furnish data and information to legislative committees.

Except as provided in G.S. 105-259, all officers, agents, agencies and departments of the State are required to give to any committee of the General Assembly, upon request, all information and all data within their possession, or ascertainable from their records. This requirement is mandatory and shall include requests made by any individual member of the General Assembly or one of its committees or the chair of a committee.

§ 120-19.1. Hearings; examination of witnesses; counsel.

(a) Committees of either the House or Senate of the General Assembly of North Carolina may hold separate or joint hearings, call witnesses, and compel testimony relevant to any bill, resolution or other matter properly before the committee.

(b) Witnesses may be examined under oath.

(c) When any person is examined before a committee, any member wishing to ask a question must address it to the chairman or presiding officer, who repeats the question or directs the witness to answer the member's question. Staff members or counsel employed by the committee may propound questions to the chairman for a witness to answer.

(d) Objections to the propriety of a question are directed to the committee as a whole. The committee must determine whether the objection is to be sustained or overruled by majority vote of the committee.

(e) When any witness is examined under oath, the proceedings must be taken and transcribed verbatim. Upon request, a witness must be furnished a copy of the transcript of his appearance before the committee.

(f) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their rights.

§120-19.2. Invitations to witnesses; when hearings and examinations held; subpoenas.

(a) Committees of the General Assembly may invite witnesses to appear and testify concerning pending legislation or other matters properly before the committee and may require the attendance of witnesses by subpoena as hereinafter provided. The committee may submit questions in writing to the witness in advance of his appearance. Witnesses may be permitted, in the discretion of the committee, to submit written, sworn statements in addition to or in lieu of sworn oral testimony before the committee.

(b) Hearings and examinations of witnesses concerning pending legislation or other appropriate matter may be conducted during sessions of the General Assembly, during recesses, and in the interim period between sessions, at such times as committees are authorized to convene.

(c) A subpoena for the purpose of obtaining the testimony of a witness may be issued by the chairman of a committee, upon authorization of the Speaker of the House or the Speaker pro tempore of the House for House committees, and the President of the Senate or the President pro tempore of the Senate for Senate committees, and by majority vote of the committee. A subpoena for the purpose of obtaining the testimony of a witness before a joint committee of the House and Senate may be issued by the joint action of the cochairmen of the joint committee, upon authorization of one of the above officers from each house and by majority vote of the joint committee. The subpoena shall be signed by the committee chairman and either the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House and shall be directed to the witness, and state the name of the witness, and a description of any papers, documents, or records that he is required to bring with him; and the subpoena shall state the subject matter of the hearing before the committee, the name of the committee, and the name and address of the committee chairman; and the subpoena shall also clearly designate the date, time, and place at which the witness's presence is required.

(d) Any witness shall have five days' notice of hearing, unless waived by the witness, and subpoenas may be served by a member of the State Bureau of Investigation, the State Highway Patrol, or within their respective jurisdiction by any sheriff or deputy, or any municipal police officer or other law-enforcement officer. In addition, a subpoena may be served in the manner provided for service of subpoenas under the North Carolina Rules of Civil Procedure.

(e) The form of subpoena shall generally follow the practice in the General Court of Justice in North Carolina with such additional information or modification as shall be approved by the Legislative Services Commission.

(f) Return of the subpoena shall be to the Legislative Services Officer, where a permanent record shall be maintained for five years, and one copy of the subpoena shall be immediately filed with the committee chairman and one copy transmitted to the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House, as the case may be.

§120-19.3. Witness fees and expenses.

Witnesses subpoenaed to testify before a committee of either house of the General Assembly or a joint committee of the General Assembly shall be entitled to the same fees and expenses as are allowable for witnesses in criminal proceedings in the superior court division of the General Court of Justice.

§120-19.4. Failure to respond to subpoena or refusal to testify punishable as contempt.

(a) Any person who without good cause fails to obey a subpoena which was served upon him, or, fails or refuses to testify shall be deemed to be in contempt of the committee and shall be punished as in the case of a civil contempt under the procedures set out in subsection (b). Any person whose action in the immediate presence of the

committee directly tends to disrupt its proceedings may also be punished as in the case of a civil contempt under the procedures set out in subsection (b).

(b) If by a majority vote the committee deems that any person is in contempt under the provisions of subsection (a) the committee shall file a complaint signed by the chairman in the General Court of Justice, superior court division, requesting that the court issue an order directing that the person appear within a reasonable time and show good cause why he should not be held in contempt of the committee or its processes. If the person does not establish good cause the court shall punish the person in accordance with the provisions of G.S. 5A-12 or G.S. 5A-21, whichever is applicable.

SECTION 16(g) CHAPTER 716 OF 1995 SESSION LAWS (1996 REGULAR SESSION)

Sec. 8.5. (a) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 31, 1996, and annually thereafter on the comprehensive plan developed under Section 1 of this act. The first report shall include revisions made to the standard course of study, teacher certification standards, and teacher education programs. Subsequent reports shall address the effectiveness, based on factors including improved student performance in reading, of the implementation of the plan. The State Board may make recommendations to the General Assembly in any of its reports.

SECTION 16(h) CHAPTER 716 OF 1995 SESSION LAWS (1996 REGULAR SESSION)

Sec. 29. (b) Beginning October 15, 1997, and annually thereafter, the State Board of Education shall submit reports to the Joint Legislative Education Oversight Committee regarding the continued implementation of this act. Each report shall include information regarding the composition and activity of assistance teams, those schools that received incentive awards, those schools that were identified as low-performing, school improvement plans found to significantly improve student performance, personnel actions taken in low-performing schools, and recommendations for additional legislation to improve student performance and increase local flexibility.

SECTION 16(j)

§ 115C-238.33. Plan for effective use of fiscal resources; comprehensive plan to implement extended services programs.

(a) The State Board of Education shall develop model plans which show how to (i) deliver comprehensive extended services; (ii) effectively use all fiscal resources, including federal funds, and other resources under its control that support the goals of this Part; and (iii) maintain quality program evaluation. The model plans shall be communicated to local units and building-level committees.

(b) The State Board of Education shall report on the plans developed under this section no later than December 15, 1993, to the Joint Legislative Education Oversight Committee.

SECTION 16(l)

§115C-415. Report on operation of State Literary Fund.

The State Board of Education shall report to the General Assembly on the operation of the State Literary Fund.

obsolete laws 2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate bill 70

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S70-ARH-001

Date_____,1997

Comm. Sub. []
Amends Title []

Senator _____

moves to amend the bill on page 2, lines 40-41, by rewriting the lines to read:
"The State";

and on page 3, lines 7-8, by rewriting the lines to read:
"instruction or grade levels and that may have a kindergarten or other years of instruction or grade levels.";

and on page 3, lines 17-18, by rewriting the lines to read:
"levels and that may have a kindergarten.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Sen. Education - Higher Education 2-19-97

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Mcdowell	NCAICU
Gene Causby	Educa. Found. Inc.
Hal Miller	NCPACT
Alicia Hare	Public School Forum
Glenn Ayers	Public School Forum
Kay Dorney	Office of State Planning
Emery Dalesio	The Associated Press
Deborah Ferry	Charlotte-Mecklenburg Schools
Mary Carmichael	Mecklenburg County
Lois B. Britt	Mt. Olive, N.C.
Amy Van Coshum	PENC
John Crotts	NCASA

VISITOR REGISTRATION SHEET

Education / Higher Education — 2-19-97

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Derri Lassiter-Intern Sen. William Martin	
Anne Berlam	SBE
Harriet Dial	NCAE
Bill Wilson	NCAE
Bob Barlow	NCSBA
Alicia Gruenebaum Intern - Sen. Perdue	
Karen Stewart	AFT/NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 70*

Short Title: Obsolete School Laws. (Public)

Sponsors: Senators Lucas, Winner, Lee, Dannelly, Hartsell, Perdue; and Shaw of Cumberland.

Referred to: Education/Higher Education.

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE OR REDUNDANT SCHOOL LAWS, TO TRANSFER THE STATUTES THAT ESTABLISH THE STATE SCHOOLS FOR HEARING- AND SIGHT-IMPAIRED STUDENTS FROM CHAPTER 115C TO CHAPTER 143B OF THE GENERAL STATUTES, TO STREAMLINE THE REPORTS OF THE STATE BOARD OF EDUCATION TO THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SCHOOL IMPROVEMENT AND ACCOUNTABILITY REPORT.

Section 1. G.S. 115C-15 is repealed.

REPORT ON CLASS SIZE WAIVERS.

Section 2. G.S. 115C-21.1 is repealed.

ALCOHOL AND DRUG DEFENSE PROGRAM.

Section 3. G.S. 115C-22 is repealed.

OBSERVANCE OF SPECIAL DAYS.

Section 4. G.S. 115C-83 is repealed.

EXPENDITURE OF FUNDS.

Section 5. G.S. 115C-102.8 is repealed.

REGIONAL EDUCATIONAL TRAINING CENTERS.

Section 6. Part 4 of Article 9 of Chapter 115C of the General Statutes is repealed.

DEPARTMENTAL REQUESTS.

Section 7. G.S. 115C-144 is repealed.

PROJECT GENESIS PROGRAM.

Section 8. Part 6 of Article 16 of Chapter 115C of the General Statutes is repealed.

COLLEGES ASSIST TEACHERS IN CERTIFICATION.

Section 9. G.S. 115C-298 is repealed.

PERSONNEL ADMINISTRATION COMMISSION.

Section 10. Part 4 of Article 22 of Chapter 115C of the General Statutes is repealed.

STATE POLICY.

Section 11. G.S. 115C-472 is repealed.

STATE SCHOOLS OF HEARING-IMPAIRED CHILDREN.

Section 12. Part 7 of Article 9 of Chapter 115C of the General Statutes, G.S. 115C-123 through G.S. 115C-126.1, is recodified as Part 30 of Article 3 of Chapter 143B of the General Statutes, G.S. 143B-216.40 through G.S. 143B-216.44.

GOVERNOR MOREHEAD SCHOOL.

Section 13. (a) Part 8 of Article 9 of Chapter 115C of the General Statutes, G.S. 115C-127 through G.S. 115C-133, is recodified as Part 9A of Article 3 of Chapter 143B of the General Statutes, G.S. 143B-164.10 and G.S. 143B-164.13 through G.S. 143B-164.17.

(b) G.S. 143B-176.1 is recodified as G.S. 143B-164.11 in Part 9A of Article 3 of Chapter 143B of the General Statutes.

(c) G.S. 143B-176.2 is recodified as G.S. 143B-164.12 in Part 9A of Article 3 of Chapter 143B of the General Statutes.

(d) The remainder of Part 12A of Article 3 of Chapter 143B of the General Statutes is repealed.

SCHOOL SYSTEM DEFINED AND ORGANIZED.

Section 14. (a) G.S. 115C-74 reads as rewritten:

"**§115C-74. School system defined.**

The school system of each local school administrative unit shall consist of kindergarten and 12 years of ~~study or grades,~~ instruction or grade levels, and shall be graded on the basis of a school year of not less than nine months. ~~The system may be organized in one or two ways as follows: The first eight grades shall be styled the elementary school and the remaining four grades, the high school; or if more practicable, a junior high school may be formed by combining the first year of high school with both the seventh and eighth grades or with the eighth grade alone, and a senior high school which shall comprise the last three years of high school work. For purposes of Title V of the National Defense Education Act of 1958 (Public Law 85-864) the term "secondary school" shall be applicable to grades seven through 12.~~ In addition, the school system of each local school administrative unit may include an early childhood education program or additional years of instruction. The State Board of Education may make recommendations concerning the classification or organization of the years of instruction or grade levels; however, each local board of

education may organize schools comprised of whatever years of instruction or grade levels that it considers appropriate."

(b) G.S. 115C-75 is repealed.

(c) G.S. 115C-5 is amended by adding the following new subsections to read:

"(d1) 'Elementary school' means any school that has any of the first five years of instruction or grade levels and that may have a kindergarten, other early childhood education program, or other years of instruction or grade levels.

(d2) 'High school' or 'senior high school' means any school that has at least the last three years of instruction and that offers at least the minimum high school course of study prescribed by the State Board.

(f1) 'Middle school' or 'junior high school' means any school that has any combination of the sixth through ninth years of instruction or grade levels.

(g1) 'Secondary school' means any middle school, junior high school, high school, or senior high school.

(k) 'Union school' means any school that has 12 years of instruction or grade levels and that may have a kindergarten or other early childhood education program."

CENTRAL ORPHANAGE.

Section 15. Part 9 of Article 9 of Chapter 115C of the General Statutes is repealed. This repeal shall not impair the continuing existence of any corporation established under Chapter 47, Private Laws of 1887, and continued under Part 9 of Article 9 of Chapter 115C of the General Statutes.

STATE BOARD OF EDUCATION REPORTS

Section 16. (a) G.S. 115C-12 is amended by adding the following new subdivision to read:

"(25) Duty to Report to Joint Legislative Education Oversight Committee. -- Upon the request of the Joint Legislative Education Oversight Committee, the State Board shall examine and evaluate issues, programs, policies, and fiscal information, and shall make reports to that Committee. Furthermore, beginning October 15, 1997, and annually thereafter, the State Board shall submit reports to that Committee regarding the continued implementation of Chapter 716 of the 1995 Session Laws, 1996 Regular Session. Each report shall include information regarding the composition and activity of assistance teams, schools that received incentive awards, schools identified as low-performing, school improvement plans found to significantly improve student performance, personnel actions taken in low-performing schools, and recommendations for additional legislation to improve student performance and increase local flexibility."

(b) Article 12H of Chapter 120 of the General Statutes is amended by adding the following new section:

"**§ 120-70.83. Additional powers.**

The Joint Legislative Education Oversight Committee, while in discharge of official duties, shall have access to any paper or document, and may compel the attendance of any State official or employee before the Committee or secure any evidence under G.S. 120.19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly."

(c) G.S. 115C-12(9) reads as rewritten:

"(9) Miscellaneous Powers and Duties. -- All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

a. To certify and regulate the grade and salary of teachers and other school employees.

b. To adopt and supply textbooks.

c. To adopt rules requiring all local boards of education to implement the Basic Education Program on an incremental basis within funds appropriated for that purpose by the General Assembly and by units of local government. Beginning with the 1991-92 school year, the rules shall require each local school administrative unit to implement fully the standard course of study in every school in the State in accordance with the Basic Education Program so that every student in the State shall have equal access to the curriculum as provided in the Basic Education Program and the standard course of study.

The Board shall establish benchmarks by which to measure the progress that each local board of education has made in implementing the Basic Education Program. ~~The Board shall report to the Joint Legislative Education Oversight Committee and to the General Assembly by December 31, 1991, and by February 1 of each subsequent year on each local board's progress in implementing the Basic Education Program, including the use of State and local funds for the Basic Education Program.~~

The Board shall develop a State accreditation program that meets or exceeds the standards and requirements of the Basic Education Program. The Board shall require each local school administrative unit to comply with the State accreditation program to the extent that funds have been made available to the local school administrative unit for implementation of the Basic Education Program.

The Board shall use the State accreditation program to monitor the implementation of the Basic Education Program.

c1. To issue an annual 'report card' for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance.

c2. Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 1.

c3. To develop a system of school building improvement reports for each school building. The purpose of school building improvement reports is to measure improvement in the growth in student performance at each school building from year to year, not to compare school buildings. The Board shall include in the building reports any factors shown to affect student performance that the Board considers relevant to assess a school's efforts to improve student performance. Local school administrative units shall produce and make public their school building improvement reports by March 15, 1997, for the 1995-96 school year, by October 15, 1997, for the 1996-97 school year, and annually thereafter. Each report shall be based on building-level data for the prior school year.

c4. To develop guidelines, procedures, and rules to establish, implement, and enforce the School-Based Management and Accountability Program under Article 8B of this Chapter in order to improve student performance, increase local flexibility and control, and promote economy and efficiency.

d. To formulate rules and regulations for the enforcement of the compulsory attendance law.

e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters."

(d) G.S. 115C-12(16) reads as rewritten:

"(16) Power with Regard to Salary Schedules. -- The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of Education is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.

b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, teacher assistants, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.

By the end of the third payroll period of the 1995-96 fiscal year, local boards of education shall place State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board of Education so that the average salary paid is the State-allotted amount for the category. In placing employees on the salary schedule, the local board shall consider the education, training, and experience of each employee. It is the intent of the General Assembly that a local school administrative unit not fail to employ an employee who was employed for the prior school year in order to implement the provisions of this sub-subdivision. A local board of education is in compliance with this sub-subdivision if the average salary paid is at least ninety-five percent (95%) of the State-allotted amount for the category at the end of the third payroll period of the 1995-96 fiscal year, and at least ninety-eight percent (98%) of the State-allotted amount for the category at the end of the third payroll period of each subsequent fiscal year. The Department of Public Instruction shall provide technical assistance to local school administrative units regarding the implementation of this sub-subdivision.

~~The State Board of Education shall report to the General Assembly, prior to March 31, 1995, and March 31, 1996, on the implementation of this sub-subdivision.~~

c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of Education. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission. These schedules shall apply if the local board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations."

(e) Effective July 1, 1999, G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. ~~The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation.~~ "

(f) G.S. 115C-81(a) reads as rewritten:

"(a) The General Assembly believes that all children can learn. It is the intent of the General Assembly that the mission of the public school community is to challenge with high expectations each child to learn, to achieve, and to fulfill his or her potential. With that mission as its guide, the State Board of Education shall adopt a Basic Education Program for the public schools of the State. Before it adopts or revises the Basic Education Program, the State Board shall consult with an Advisory Committee, including at least eight members of local boards of education, that the State Board appoints from a list of nominees submitted by the North Carolina School Boards Association. ~~The State Board shall report annually to the General Assembly on any changes it has made in the program in the preceding 12 months and any changes it is considering for the next 12 months.~~

The State Board shall implement the Basic Education Program within funds appropriated for that purpose by the General Assembly and by units of local government. It is the intent of the General Assembly that until the Basic Education Program is fully funded, the implementation of the Basic Education Program shall be the focus of State educational funding. It is the goal of the General Assembly that the Basic Education Program be fully funded and completely operational in each local school administrative unit by July 1, 1995.

It is further a goal of the General Assembly to provide supplemental funds to low-wealth counties to allow those counties to enhance the instructional program and student achievement."

(g) Effective July 1, 1999, Section 8.5(a) of Chapter 716 of the 1995 Session Laws, 1996 Regular Session, is repealed.

(h) Section 29(b) of Chapter 716 of the 1995 Session Laws, 1996 Regular Session, is repealed.

(i) Effective July 1, 1999, G.S. 115C-238.29I reads as rewritten:

"**§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter School Advisory Committee.**

(a) The State Board of Education shall distribute information announcing the availability of the charter school process described in this Part to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

~~(b) The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations the following information:~~

~~(1) The current and projected impact of charter schools on the delivery of services by the public schools;~~

~~(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation; and~~

~~(3) Best practices resulting from charter school operations.~~

~~The State Board of Education shall base its report in part upon the annual reports submitted by the charter schools under G.S. 115C-238.29F(f)(3). To the extent possible, the State Board of Education shall present the information in disaggregated form relative to the race, gender, grade level, and economic condition of the students.~~

(c) The State Board of Education shall review the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are ~~located and, not later than January 1, 1999, shall report to the Joint Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. Analysis of the reports submitted under subsection (b) of this section shall be the predominant factor in determining whether the number of charter schools shall be increased and the conditions under which any increase or continued operation shall be allowed. If the analysis indicates~~

~~demonstrable, substantial success, the General Assembly shall consider expanding the number of charter schools that may be established.~~ located.

(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a contract, (v) make recommendations concerning grievances between a charter school and its chartering entity, (vi) assist with the review under subsection (c) of this section, and (vii) provide any other assistance as may be required by the State Board."

(j) G.S. 115C-238.33(b) is repealed.

(k) G.S. 115C-102.7 reads as rewritten:

"**§ 115C-102.7. Monitoring and evaluation of State and local school system technology plans; reports.**

(a) The Commission shall monitor and evaluate the development and implementation of the State and local school system technology plans. The evaluation shall consider the effects of technology on student learning, the effects of technology on students' workforce readiness, the effects of technology on teacher productivity, and the cost-effectiveness of the technology. ~~The Commission shall report in October of each year to the State Board of Education, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Education Oversight Committee on the development and the implementation of State and local school system technology plans.~~

~~(a1) The Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee may meet jointly to consider reports from the Commission on School Technology and they may appoint subcommittees to jointly consider the reports.~~

(b) The Commission shall provide notice of meetings, copies of minutes, and periodic briefings to the chair of the Information Resources Management Commission and the chair of the Technical Committee of the Information Resources Management Commission."

(l) G.S. 115C-415 is repealed.

(m) G.S. 115C-472.5(d) reads as rewritten:

"(d) The Department of Public Instruction shall report to the Information Resource Management ~~Commission, the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the State Government Performance Audit Committee~~ Commission on an annual basis on all loans made from the fund."

EFFECTIVE DATE.

Section 17. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Agency

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February 17, 1997

MEMORANDUM

TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory J. Goldsmith, Committee Counsel

RE: Summary: S71 - School Board Leases of School Buildings

Background: In the spring of 1996 and as part of the ABC Plan, the State Board of Education recommended that school boards be given more flexibility to lease property for use as school buildings. The Joint Legislative Education Oversight Committee included a leasing provision in the ABC bill, but it was removed during the legislative process because of concerns about its application. The School Law Revision Commission addressed the topic this Fall and recommended this bill to the Joint Legislative Education Oversight Committee.

Section 1 amends current law to allow school boards to enter into contracts for the repair of property not held in fee simple by the board.

Section 2 creates a new statute specifically allowing local boards of education to enter into operational leases for school buildings or school facilities. County commissioner approval would be required if the term of the lease was three years or longer, including any options to renew or extend. If the board of county commissioners approves a lease, they must appropriate sufficient funds to meet the obligation during the ensuing years. School boards would also be able to enter into contracts for the repair or renovation of leased property. Renovation contracts would be subject to county commissioner approval if: (1) the contract is for more than $100,000; or (2) if some portion of the work or payment would be made in the following fiscal year. The Local Government Commission would have to approve operational leases and contracts for repair or renovation if they are for 5 or more years and also exceed $500,000.

Section 3 makes a conforming change to the law that allows certain counties to enter into contracts on behalf of their local boards of education.

The act would be effective upon becoming law.

S71-SMRC-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 71

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S71-ARC-001 Page 1 of __

Date_____,1997

Comm. Sub. []
Amends Title [YES]
First Edition

Senator _____

moves to amend the bill on page 1,
by deleting lines 4-6 and and inserting the following phrase:
"BUILDINGS, FOR THE REVIEW AND APPROVAL OF CERTAIN LEASES BY BOARDS OF COUNTY COMMISSIONERS AND THE LOCAL GOVERNMENT COMMISSION, AND TO MAKE TECHNICAL CORRECTIONS REGARDNG THE REVIEW BY THE LOCAL GOVERNMENT COMMISSION OF CERTAIN LEASES, LEASE PURCHASE CONTRACTS, AND INSTALLMENT PURCHASE CONTRACTS.";

and on page 2, line 31, by adding after the phrase "159-149(a)(3)." the following sentence:
"For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply.";

and on page 2, between lines 37 and 38, by adding a new section to read:

"Section 5. G.S. 115C-528(f) reads as rewritten:

"(f) A contract entered into under this section is subject to Article 8 of Chapter 159 of the General Statutes, except for G.S. 159-148(a)(4) and (b)(2). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply.";



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 71

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S71-ARC-001

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 71*

Short Title: Sch. Bd. Leases of Sch. Bldgs. (Public)

Sponsors: Senators Hartsell, Winner, Lee, Dannelly, Lucas, Perdue; and Jordan.

Referred to: Education/Higher Education.

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW SCHOOL BOARDS TO ENTER INTO OPERATIONAL LEASES OF REAL AND PERSONAL PROPERTY FOR USE AS SCHOOL BUILDINGS AND FOR THE REVIEW AND APPROVAL OF CERTAIN LEASES BY BOARDS OF COUNTY COMMISSIONERS AND THE LOCAL GOVERNMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-521(d) reads as rewritten:

"(d) Local boards of education shall make no contract for the erection ~~or repair~~ of any school building unless the site upon which it is located is owned in fee simple by the board: Provided, that the board of education of a local school administrative unit, with the approval of the board of county commissioners, may appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of the boards, whereby children from the administrative unit making the appropriations shall be entitled to attend the school so established.

In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to the property shall be vested in the local board of education of the county embracing the former special charter district."

Section 2. Article 37 of Chapter 115C is amended by adding a new section to read:

"§ 115C-530. Operational leases of school buildings and school facilities.

(a) Local boards of education may enter into operational leases of real or personal property for use as school buildings or school facilities. Operational leases for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational leases for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted provided:

(1) The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation;

(2) An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year; and

(3) The leases are approved by a resolution adopted by the board of county commissioners. If an operational lease is approved by the board of county commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.

For purposes of this section, an operational lease is defined according to generally accepted accounting principles.

(b) Local boards of education may enter into contracts for the repair or renovation of leased property provided the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. Contracts for renovation that are subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing contracts for capital outlay must be approved by the local board of county commissioners.

(c) Operational leases and contracts entered into under this section are subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3)."

Section 3. G.S. 153A-158.1(d) reads as rewritten:

"(d) Board of Education May Contract for Construction. --Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection ~~or repair~~ of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located."

Section 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 71

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S71-ARC-001 Page 1 of __

Date_____,1997

Comm. Sub. []
Amends Title [YES]
First Edition

Senator_____

moves to amend the bill on page 1,
by deleting lines 4-6 and and inserting the following phrase:
"BUILDINGS, FOR THE REVIEW AND APPROVAL OF CERTAIN LEASES BY BOARDS OF COUNTY COMMISSIONERS AND THE LOCAL GOVERNMENT COMMISSION, AND TO MAKE TECHNICAL CORRECTIONS REGARDNG THE REVIEW BY THE LOCAL GOVERNMENT COMMISSION OF CERTAIN LEASES, LEASE PURCHASE CONTRACTS, AND INSTALLMENT PURCHASE CONTRACTS.";

and on page 2, line 31, by adding after the phrase "159-149(a)(3)." the following sentence:
"For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply.";

and on page 2, between lines 37 and 38, by adding a new section to read:

"Section 5. G.S. 115C-528(f) reads as rewritten:

"(f) A contract entered into under this section is subject to Article 8 of Chapter 159 of the General Statutes, except for G.S. 159-148(a)(4) and (b)(2). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply.";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 71

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S71-ARC-001

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

AGENDA

EDUCATION/HIGHER EDUCATION

MARCH 5TH, 1997

WELCOME	CHAIRMAN
EXPLANATION OF CURRENT CALENDAR LAWS	KORY GOLDSMITH
EXPLANATION OF COMMITTEE SUBSTITUTE SENATE BILL #6	SENATOR WINNER

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE

Wednesday, March 5, 1997

MINUTES

The Education/Higher Education Committee met at 10:00 a.m. on Wednesday, March 5, 1997, in Room 414. Sixteen members of the committee were present, including Senator Howard Lee, who presided.

Senate Bill 6, Revise School Calendar, introduced by Senator Leslie Winner, was considered. Senator Winner moved the adoption of a committee substitute. The motion carried unanimously. An additional amendment, technical in nature, was considered which changed the designation "LEAs" to "Local School Administrative Units" in three places in the bill. Senator Rucho moved adoption of the amendment to the committee substitute. The motion carried unanimously.

Senator Winner was introduced to explain the bill as amended. The committee substitute made changes to make the accounting system more workable. The bill is a complete rewrite of the calendar provisions of public school law.

Senator Winner introduced Kory Goldsmith, Research Division, to explain current law.

Senator Horton brought forth an amendment to extend the school year beyond the current 180 instructional days to at least 190 days a year and the school day from 5 ½ hours to 6 hours. Senator Lee asked that Senator Horton bring forth a separate bill to address this issue. Senator Horton agreed to withdraw his amendment and address the issues in it at a later time, including obtaining a fiscal note on the additional costs.

Senator Gulley moved a favorable report of the proposed committee substitute as amended and re-referral to the Committee on Pensions & Retirement/Insurance. Motion carried unanimously.

The meeting adjourned at 11:00 a.m.

Howard Lee
Senator Howard Lee, Co-Chair

Dorothy Waugaman
Dorothy Waugaman, Acting Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Howard N. Lee, Co-Chair
Senator Leslie Winner, Co-Chair

Wednesday, March 05, 1997

SENATOR HOWARD N. LEE,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

S.B.(CS ##1)**Senate Bill #6** Revise School Calendar
Sequential Referral: Pensions & Retirement Committee
Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 6

Short Title: Revise School Calendar. (Public)

Sponsors: Senators Winner; Albertson, Cochrane, Conder, Cooper, Dalton, Foxx, Gulley, Hoyle, Kinnaird, Lee, Lucas, Martin of Guilford, Miller, Perdue, Plyler, Rand, Soles, Warren, Weinstein, and Wellons.

Referred to: Education/Higher Education.

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAWS RELATED TO THE PUBLIC SCHOOL CALENDAR TO PROVIDE LOCAL BOARDS OF EDUCATION AND SCHOOLS GREATER FLEXIBILITY AND LOCAL CONTROL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-84 is repealed.

Section 2. G.S. 115C-84.1 is repealed.

Section 3. Part 2 of Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-84.2. School calendar.**

(a) School Calendar. -- Each local board of education shall adopt a school calendar consisting of 220 days all of which must fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional time

may count towards the required minimum. The school calendar should include a plan for making up days when schools are not opened due to inclement weather.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.

(4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.

(5) The remaining days shall be scheduled by each school's principal, in consultation with the school improvement team, for any of the purposes allowed under subdivision (4) of this subsection. A principal may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.

Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

(b) Limitations. -- The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays shall not exceed 200 days.

(2) Teachers may not be required to work during the month of July unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months.

(3) School shall not be held on Sundays.

(c) Emergency Conditions. -- During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. -- Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit."

Section 4. G.S. 115C-302 is repealed.

Section 5. Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-302.1. Salary.**

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

S6-CSRC-001
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 6
THIS IS A DRAFT 28-FEB-97 10:18:25
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Revise School Calendar. (Public)

Sponsors:

Referred to: Education/Higher Education.

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAWS RELATED TO THE PUBLIC SCHOOL CALENDAR TO PROVIDE LOCAL BOARDS OF EDUCATION AND SCHOOLS GREATER FLEXIBILITY AND LOCAL CONTROL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-84 is repealed.

Section 2. G.S. 115C-84.1 is repealed.

Section 3. Part 2 of Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-84.2. School calendar.

(a) School Calendar. -- Each local board of education shall adopt a school calendar consisting of 220 days all of which must fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of

instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum. The school calendar should include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.

(4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.

(5) The remaining days shall be scheduled by each individual school in any or all of the following methods: (i) by the school improvement team in consultation with the school's principal, (ii) in the school improvement plan, (iii) by an amendment to the school improvement plan, and (iv) by agreement between the individual teacher and the school's principal. Days may be scheduled for any of the purposes allowed under subdivision (4) of this subsection. Days may be scheduled for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel.

Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

(b) Limitations. -- The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays shall not exceed 200 days.

(2) Teachers may not be required to work during the month of July unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months.

(3) School shall not be held on Sundays.

(c) Emergency Conditions. -- During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. -- Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit."

Section 4. G.S. 115C-302 is repealed.

Section 5. Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-302.1. Salary.**

(a) Prompt Payment. -- Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

(b) Salary Payments. -- State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date may differ from the end of the month of service. The daily rate of pay for teachers shall equal one twenty-second of the monthly rate of pay.

Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who fails to attend scheduled workdays or who has not worked the number of days for which the teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall repay to the local board any salary payments received for days not yet worked. A teacher who has been prepaid and continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months may not receive their salaries in 12 installments.

(c) Vacation. -- Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use annual vacation leave on days that students are in attendance. Vocational and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous

travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled make up day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. On June 30 of each year, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave shall, at the teacher's option, have the excess accumulation converted to either sick leave or pay, so that only 30 days are carried forward to July 1 of the same year.

Upon separation from service due to resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 30 days. Upon separation from service due to service retirement, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave may, at the teacher's option, have some or all of the excess accumulation converted to sick leave for creditable service towards retirement. A retiring teacher's accumulated annual leave, including any excess accumulated annual leave that is not converted to sick leave, shall be paid in a lump sum. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person.

(d) Personal Leave. -- Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated to a maximum of five days. Personal leave may be used only upon the authorization of the teacher's immediate supervisor, but if the request is made at least five days in advance, the teacher cannot be required to provide a reason for the request. Unless approved

by the principal, a teacher may not take personal leave on the first day the teacher is required to report for the school year, on required teacher workdays, or on the day before or the day after holidays or scheduled vacation days. Teachers may transfer personal leave days between LEAs. The LEA shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. LEAs may not advance personal leave. Teachers using personal leave receive full salary less the required substitute deduction.

(e) Teachers in Year-Round Schools. -- Compensation for teachers employed in year-round schools shall be the same as teachers paid for a 10-month term, but those days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays, holidays, salary, and longevity for teachers who are employed at year-round schools shall be equivalent to those of other teachers employed for the same number of months, respectively. Teachers paid for a term of 10 months in year-round schools shall receive their salary in 12 equal installments.

(f) Overpayment. -- Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.

(g) Social Security. -- All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(h) Service in Armed Forces. -- The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals, and superintendents in the public schools of the State after having

been honorably discharged from the armed or auxiliary forces of the United States.

(i) Teachers Paid From Other Funds. -- Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system. If a local board of education does not adopt a local salary schedule, the State salary schedule shall apply. No teacher shall receive a salary higher than that provided in the salary schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

Whenever a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason. A board of education may authorize the superintendent to supplement the salaries of all teachers from local funds, and the minutes of the board shall show what increase is allowed each teacher.

(j) Longevity Pay. -- Longevity pay shall be based on the annual salary on the employee's anniversary date.

(k) Parental Leave. -- A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the teacher and local board of education agree otherwise."

Section 6. G.S. 115C-272(b)(1) reads as rewritten:

"(1) Each local board of education shall establish a set date on which monthly salary payments to superintendents shall be made. This set pay date may differ from the end of the calendar month of service. Superintendents shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees.

Included within the 12 months' employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

Section 7. G.S. 115C-285(b)(1) reads as rewritten:

"(1) Classified principals and State-allotted supervisors shall be employed for a term of 12 calendar months. Each local board of education shall establish a set date on which monthly salary payments to classified principals and State-allotted supervisors shall be made. This set pay date may differ from the end of the calendar month of service. Classified principals and State-allotted supervisors shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. The daily rate of pay shall equal the number of weekdays in the pay period. They shall earn annual vacation leave at the same rate provided for State employees. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of ~~his~~ the employee's annual vacation days or to make up the day at the time agreed upon by the employee and ~~his~~ the employees's immediate supervisor. They shall be provided by the board the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

Section 8. G.S. 115C-316(a)(1) reads as rewritten:

"(1) Employees Other than Superintendents, Supervisors and Classified Principals on an Annual Basis. -- Each local board of education shall establish a set date on which monthly salary payments to employees other than superintendents, supervisors, and classified principals employed on an annual basis, shall be made. This set pay date may differ from

the end of the calendar month of service. ~~These employees shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment.~~ Employees may be prepaid on the monthly pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of ~~his~~ the employee's annual vacation days or to make up the day at a time agreed upon by the employee and ~~his~~ the employee's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, an employee shall work on the scheduled make up day. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

Section 9. G.S. 115C-316(a)(2) reads as rewritten:

"(2) School Employees Paid on an Hourly or Other Basis. -- Salary payments to employees other than those

covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), ~~115C-302(a)(1) and (2),~~ 115C-302.1(b), and 115C-316(a)(1) shall be made at a time determined by each local board of education. Expenditures for the salary of these employees from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that school employees employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments: Provided further, that any individual school employee employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Employees may be prepaid on the set pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to

be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, the employee shall work on the scheduled make up day. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees."

Section 10. G.S. 115C-47(5) reads as rewritten:

"(5) To Fix Time of Opening and Closing Schools. -- The time of opening and closing the public schools shall be fixed ~~pursuant to the provisions of G.S. 115C-84(e).~~ under G.S. 115C-84.2."

Section 11. G.S. 115C-47(11) reads as rewritten:

"(11) To Determine the ~~Length of the School Day, the School Month and the School Term.~~ School Calendar. -- Local boards of education shall determine the school calendar under G.S. 115C-84.2. ~~length of the school day, the school month and the school term pursuant to the provisions of G.S. 115C-84(a) through (c).~~"

Section 12. G.S. 115C-47(21) reads as rewritten:

(21) It is the duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and of all current bills and other necessary operating expenses. All salaries and bills shall be paid as provided by law for disbursing State and local funds.

The local board shall determine salary schedules of employees pursuant to the

provisions of G.S. 115C-273, 115C-285(b), ~~115C-302(c),~~ 115C-302.1(i), and 115C-316(b). The authority for boards of education to issue salary vouchers to all school employees, whether paid from State or local funds, shall be a monthly payroll prepared on forms approved by the State Board of Education and containing all information required by the State Board of Education. This monthly payroll shall be signed by the principal of each school."

Section 13. By October 31, 1997, the State Board of Education shall review and revise its rules, policies, and guidelines to make them consistent with this act. The State Board may use its authority under G.S. 150B-21.1 regarding the adoption of temporary rules consistent with this act.

Section 14. This act becomes effective July 1, 1998 contingent upon the appropriation of funds to implement the act for the 1998-99 school year. Nothing in this act shall require the General Assembly to appropriate any funds to implement it. Local school administrative units may begin planning for the implementation of this act for the 1998-99 school year on or after the date this act becomes law.

Attachment 1

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: February 28, 1997
RE: Summary of Proposed Committee Substitute to SB 6 - Revise School Calendar

Background: In the Spring of 1996, the State Board of Education brought a number of recommendations to the Joint Legislative Education Oversight Committee (JLEOC) regarding the implementation of the ABC Plan. One of the recommendations suggested changes to G.S. 115C-84 to create more local control and flexibility in the school calendar. The ABC bill included some minor changes to 115C-84. During this Fall and Winter , the School Law Revision Commission, a subcommittee of the JLEOC, devoted time during several meetings to discussing the school calendar, but did not recommend any legislation.

Section 1 repeals G.S. 115C-84 (attached) which sets the required number of instructional days in the school year, addresses holidays, requires local boards set aside a certain number of days to make up instructional days missed due to inclement weather, and allow local boards and the State Board to forgive some days missed due to inclement weather.

Section 2 repeals G.S. 115C-84.1 (attached) which codifies several local bills adopted during the 1996 Short Session. Under G.S. 115C-84.1, 27 local boards may, subject to certain restrictions, extend the instructional day beyond the minimum 5.5 hours per day per student (as set by the State Board) and off-set the additional time against time missed due to inclement weather.

Section 3 creates G.S. 115C-84.2, a new section providing for the structure of the school calendar. Subsection (a) provides the following formula:

180 instructional days/1000 instructional hours (local board schedules)
10 days (minimum) annual vacation leave (local board schedules)
10-11 holidays (local board schedules)
10 days for staff development or other lawful purposes (local board schedules)
\+ **Remaining days** for staff development or other lawful purposes (school schedules)
220 days total in school calendar

This formula increases slightly the number of instructional hours required annually, but gives schools more flexibility in how to schedule the time. It eliminates the requirement of scheduling snow days into the calendar, but extends by one month the time during which instructional days, including make up days, may occur. It encourages local boards to develop a plan for making up days when school is closed due to inclement weather. Because the local board is not required to schedule more than 10 days for annual vacation leave, there are more days available to other

purposes, such as staff development or additional instructional days. Days that are scheduled by the school may be scheduled by the school improvement team in consultation with the principal, in the school improvement plan, by an amendment to the school improvement plan, or individually between the teacher and the principal. There are certain limitations in constructing the calendar. Teachers may not be required to work more than 200 days, or during the month of July unless the teacher is employed in a year-round school or employed for 11-12 months.

Section 4 repeals G.S. 115C-302 (attached) which provides for how teachers are paid, how they earn annual vacation leave, when they can use annual vacation leave, and other benefits related issues.

Section 5 creates G.S. 115C-302.1 which reorganizes and restates much of what is currently in G.S. 115C-302, but with certain changes to conform with the changes in the proposed 115C-84.2. First, teachers may be prepaid for days not yet worked, but must work on scheduled work days even if the days occur after the 10th month pay date. A teacher who fails to attend a scheduled work day and who has been prepaid for that day, must repay the money or may be subject to dismissal or other appropriate discipline. It also provides for teachers a standard daily rate of pay equaling 1/22nd of the monthly salary. Second, teachers (and other persons paid from the teacher salary schedule) who accumulate more than 30 annual vacation leave days by June 30 of each year may convert the excess to either sick leave or pay. Currently they may only convert the excess to sick leave. A similar provision allowing the conversion of excess annual vacation leave to pay or sick leave is added for teachers who retire during the year. Third, subsection (c) codifies certain State Board rules and policies regarding Personal Leave. Under current State Board rules, a teacher may earn up to 2 days of Personal Leave per year. Unlike annual vacation leave, this leave may be used on days when students are present, but the teacher must pay for part of the cost of a substitute.

Sections 6 and 7 create a standard daily rate of pay equal to the number of workdays in the month for superintendents, principals, and supervisors.

Sections 8 and 9 create a standard daily rate of pay equal to the number of workdays in the month for all other employees. Sections 8 and 9 also allow these employees to be prepaid, subject to the same restrictions described under Section 5 for teachers.

Sections 10-12 are conforming changes.

Section 13 directs the State Board to adopt, by October 31, 1997, rules, policies, and guidelines consistent with this act. It also authorizes the use of temporary rule making authority to meet the deadline.

Effective Date: The act is effective July 1, 1998 provided funds are appropriated to implement the act for the 1998-99 school year. The act does not obligate the General Assembly to appropriate any funds. Local school administrative units may begin planning for the implementation of the act on or after it becomes law.

§ 115C-84. Length of school day, month, and term; Veterans Day.

(a) School Day. -- The length of the school day shall be determined by the several local boards of education for all public schools in their respective local school administrative units, and the minimum time for which teachers shall be employed in the schoolroom or on the grounds supervising the activities of children shall not be less than six hours: Provided, the several local boards of education may adopt rules and regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the first, second, and third grades to attend school for a period less than six hours. The superintendent of the several local boards of education, in the event of an emergency, act of God, or any other conditions requiring the termination of classes before six hours have elapsed, may suspend the operation of any school for that particular day without loss of credit to the pupil or loss of pay to the teacher.

The General Assembly urges the local boards of education to expand the length of the school day so that it includes at least six hours of instructional time.

(b) School Month. -- A school month shall consist of 20 teaching days. School shall not be taught on Saturdays unless the needs of agriculture, or other conditions in the unit make it desirable that school be taught on such days. Whenever it is desirable to complete the school term of 180 days in a shorter term than nine calendar months, the board of education of any local school administrative unit may, in its discretion, require that school shall be taught on legal holidays, except Sundays, and in accordance with the custom and practice of such community.

(c) There shall be operated in every school in the State a uniform school term of 180 days for instructing pupils. The school calendar for each local school administrative unit shall include days that can be used to make up any of the 180 days of the school term on which school is closed due to hazardous weather conditions, natural disaster, or other emergency; the required number of such days for a local school administrative unit shall be the greater of (i) five days or (ii) the average number of days missed in five of the last six school years in which the least number of days were missed. If a local school administrative unit has made up at least the required number of such days and if the local school board finds that it is impracticable to make up additional days, the local school board may excuse students from attendance for three such days; on the days excused for students, the local board may require teachers to report for a workday or it may excuse teachers from attendance on such days. The days excused for teachers under this paragraph do not have to be made up by teachers and do not affect teachers' pay. Local boards of education shall report all days excused for students, whether the days were excused for teachers, and the reason they were excused to the State Board of Education. This report shall include total days missed and the reason therefor, by date, and the total number of days made up, as justification for the local board's action in the matter.

After the required number of days have been made up within the school calendar and after the local board has exercised its authority to suspend days as set forth in the preceding paragraph, the State Board of Education, at the request of the local board of education, may suspend school additional days in any local school administrative unit where it finds that conditions justify such suspension of school. The State Board of Education may also, at the request of the local board of education, suspend one or more days from the 180 day school term for an individual school, regardless of how many days have been made up within the school calendar for the school unit as a whole, if emergency conditions exist at that school that might be threatening to the health, safety, and welfare of students and staff. The days excused under this paragraph

do not have to be made up by teachers or students and the first 15 such days do not affect teachers' pay.

During any period of emergency, in any section of the State where the said emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Repealed by Session Laws 1995 (Reg. Sess., 1996), c. 716, s. 9.

(e) Fixing Time of Opening and Closing Schools. -- The time of opening and closing the public schools shall be fixed and determined by local boards of education in their respective administrative units. Different opening and closing dates may be fixed for schools in the same administrative unit but all schools using the same buses for transportation of pupils must open and close at the same time.

(f) Veterans Day. -- Veterans Day shall be a holiday for all children enrolled in the public schools, but shall be a work day for all school employees, unless designated as a holiday by the local board of education.

§ 115C-84.1. Longer school days as offset for lost days.

(a) A local board of education may schedule school days longer than the minimum required instructional hours so as to offset days lost due to inclement weather. For the purposes of computing the length of the school term and determining pay of school personnel, every additional hour scheduled may be used to offset one hour of a school day lost due to inclement weather.

(b) A local board of education may schedule longer school days under subsection (a) of this section only after all extra calendar days required under G.S. 115C-84(c) have been scheduled to be used as instructional days.

(c) This section applies only to the Alleghany, Avery, Buncombe, Cherokee, Clay, Craven, Duplin, Gaston, Graham, Haywood, Henderson, Jackson, Jones, Lenoir, Macon, Madison, McDowell, Mitchell, Pamlico, Polk, Rockingham, Stokes, Swain, Transylvania, Wake, Watauga, and Yancey County School Administrative Units. The local board of education in each of these counties shall evaluate the educational effectiveness of this type of scheduling and shall report the results of this evaluation to the State Board of Education for the first two years following the ratification of this section.

§ 115C-302. Salary and vacation.

(a) Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as state-allotted teachers are paid.

Teachers paid State funds shall be paid as follows:

(1) Academic Teachers. -- Regular state-allotted teachers shall be employed for a period of 10 calendar months. Each local board of education shall establish a set date on which monthly salary payments to regular State-allotted teachers shall be made. This set pay date may differ from the end of the calendar month of service. Teachers shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. Teachers employed for a period of 10 calendar months in year-round schools shall be paid in 12 equal installments. Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said local school administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months. Included within the 10 calendar months employment shall be annual vacation leave at the same rate provided for State employees, computed at one twelfth (1/12) of the annual rate for State employees for each calendar month of employment; which shall be provided by each local board of education at a time when students are not scheduled to be in regular attendance. However, vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. Included within the 10 calendar months employment each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the employee and the employee's immediate supervisor or principal. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule. If one or more scheduled teacher workdays are displaced due to hazardous weather conditions, a local board may select dates, including dates beyond the 10 calendar months during which teachers and their supervisors may agree to make up the displaced days provided the workdays fall within the fiscal year. Local boards may approve school improvement plans that include teacher workdays outside the 10 calendar months provided the workdays fall within the fiscal year. A teacher and the teacher's supervisor may agree to schedule workdays outside the 10 calendar months provided the workdays fall within the fiscal year. Teachers may be paid on the tenth calendar month pay date for workdays scheduled to occur after the tenth calendar month but before the end of the fiscal year. A teacher who resigns, is dismissed, or whose contract is not renewed and who fails to make up previously agreed upon

workdays scheduled after the 10 calendar months shall repay to the local board any salary payments owed due to the failure to make up the workdays. A teacher who continues to be employed by a local board but fails to make up previously agreed upon workdays scheduled after the 10 calendar months may be subject to dismissal under G.S. 115C-325. Within policy adopted by the State Board of Education, each local board of education shall develop rules designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of state-allotted teachers during said period, but in no event shall the total number of workdays exceed 200 days. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule.

(2) Vocational and Technical Education Teachers. -- State-allotted months of employment to local boards of education as provided by the State Board of Education shall be used for the employment of teachers of vocational and technical education for a term of employment as determined by the local boards of education. Each local board of education shall establish a set date on which monthly salary payments to these vocational and technical education teachers shall be made. This set pay date may differ from the end of the calendar month of service. These teachers shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. Local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter. Teachers employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments. Any individual teacher employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit. Included within their term of employment shall be the same rate of annual vacation leave and legal holidays provided under the same conditions as set out in subdivision (1) above, but in no event shall the total workdays for a 10-month employee exceed 200 days in a 10-month schedule and the workweek shall constitute five days for all vocational and technical teachers regardless of the employment period.

Vocational and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual leave days designated in the school calendar and take those annual leave days during the 11th or 12th month of employment.

No deductions shall be made from salaries of teachers of vocational agriculture and home economics whose salaries are paid in part from State and federal vocational funds while in attendance upon community, county and State meetings called for the specific purpose of promoting the agricultural interests of North Carolina, when such attendance is approved by the superintendent of the administrative unit and the State Director of Vocational and Technical Education.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual vacation leave earned by a teacher during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Teachers may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any teachers with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the teacher will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

(3a) Teachers employed on a 10- or 11-month basis at year-round schools shall be employed for the same total number of days as teachers employed for a period of 10 or 11 calendar months, respectively, but those days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays, holidays, salary, and longevity, for teachers who are employed on a 10- or 11-month basis at year-round schools, shall be equivalent to those of teachers employed for 10 or 11 calendar months, respectively.

(4) Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(6) The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals and superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

(b) Repealed by Session Laws 1985, c. 791, s. 5(c).

(c) Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force. No teacher shall receive a salary higher than that provided in the salary

schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

Whenever a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason for the same: Provided, that a board of education may authorize the superintendent to supplement the salaries of all teachers from local funds, and the minutes of the board shall show what increase is allowed each teacher.

(d) Longevity pay for 10-month employees is based on their annual salary and the longevity percentage may not be reduced by prorating the longevity pay for 10-month employees over a 12-month period.

(e) It is the policy of the State of North Carolina to enhance the teaching profession by providing teachers with career opportunities that do not remove them from the classroom; to encourage the development and implementation of a professional salary schedule that complements the system of differentiation; to have salaries of professional educators in elementary and secondary schools based upon performance, degree attained, differentiation and the needs of the local school administrative unit; and to begin, in the school year beginning in 1986, a differential salary system based upon performance, differentiation, local availability of classroom teachers, geographical location of the employing local school administrative unit and such other factors as the local board of education shall deem necessary.

Performance shall be measured by standardized evaluations which are routinely administered pursuant to G.S. 115C-326 by competent and trained administrators who have themselves demonstrated meritorious performance in the classroom. Differentiation shall be based upon superior performance over a period of time plus other responsibilities. Needs of the local school administrative unit over and above the standard course of study shall be defined by the local board of education exclusively funded from revenues provided at the discretion of the board of county commissioners or from other local funds under the control of the local board of education.

Each salary may include a local variable component, determined locally and based upon the needs and condition of the local school administrative unit. This local variable component shall be paid from local revenue.

(f) A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the the teacher and local board of education agree otherwise.

Sec. 4. In the general election of 1994 and quadrennially thereafter, a member shall be elected from each of Districts 1, 2, and 5, and one member shall be elected at large. In the general election of 1996 and quadrennially thereafter, a member shall be elected from each of Districts 3 and 4, and one member shall be elected at large.

Sec. 5. All members of the Board of Commissioners of Cleveland County are elected for four-year terms.

Sec. 6. This act is effective only if it, and the apportionment plan adopted by the Board of Commissioners of Cleveland County under Section 2(a) of this act, are approved under Section 5 of the Voting Rights Act of 1965 prior to the opening of candidate filing in 1994 under G.S. 163-106(c). Otherwise, the existing election structure, and the size of the board at five members, shall remain as they are now unless changed by the General Assembly or in accordance with Part 4 of Article 4 of Chapter 153A of the General Statutes.

Sec. 7. Chapter 749, Public-Local Acts of 1915, and Chapter 482, Session Laws of 1959, along with any changes made to those acts under former G.S. 153-5.2, are repealed.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of June, 1993.

CHAPTER 90
SENATE BILL 795

AN ACT TO MAKE ELECTION DAY A HOLIDAY FOR ALL CHILDREN ENROLLED IN THE BURKE COUNTY SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. **115C-84** is amended by adding a new subsection to read:

"(g) Election Day. — The Tuesday after the first Monday in November of even-numbered years shall be a holiday for all children enrolled in the public schools, but shall be a workday for all school employees, unless designated as a holiday by the local board of education.

This section shall not be construed to affect the total number of (i) days children are required to attend school, (ii) workdays for all school employees, or (iii) holidays, in the school calendar."

Sec. 2. This act applies only to the Burke County School Administrative Unit.

Sec. 3. This act becomes effective December 1, 1993.

In the General Assembly read three times and ratified this the 1st day of June, 1993.

CHAPTER 91
SENATE BILL 982

AN ACT TO MODIFY THE PRISON POPULATION CAP.

The General Assembly of North Carolina enacts:

Section 1. Effective June 1, 1993, G.S. **148-4.1(d)** reads as rewritten:

"(d) If the number of prisoners housed in facilities owned or operated by the State of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of ~~20,900~~ 21,200 for 15 consecutive days, the Secretary of Correction shall notify the

Attachment 2

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
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300 N. Salisbury St.
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Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
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Donald W. Fulford, Director
Information Systems Division
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(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: February 28, 1997
RE: Calendar Highlights/Current Law

I. **STUDENTS.**

A. General Assembly shall provide a general and uniform system of free public schools, which shall be maintained at least **nine months** in every year. NC Constitution, Article IX, Sec. 2.

B. There shall be operated in every school in the State a uniform school term of **180 days** for instructing pupils. G.S. 115C-84(c). **6 hours** is the minimum time for teachers to be employed in the schoolroom or on the grounds supervising the activities of children. G.S. 115C-84(a).

C. School systems throughout North Carolina will require a minimum of 5.5 hours of instructional time per student, per day. State Board of Education Policy #04A101.

II. **TEACHERS.**

A. Term of Employment - Regular state-allotted teachers shall be employed for a period of **ten calendar months. In no event shall the total number of workdays exceed 200 days.** G.S. 115C-302(a)(1)

Exceptions: teachers in year-round schools
workdays displaced due to hazardous weather
school improvement plans for teacher workdays
teacher and supervisor may agree to workdays outside term

B. Holidays - Included within the 10 calendar months of employment each local board shall designate the same or an **equivalent** number of legal holidays occurring within the period of employment as those designated for State employees. Results in **10 or 11 holidays per year, depending upon when Christmas falls.** Local boards have flexibility to schedule the holidays at any time within the 10 calendar months. G.S. 115C-302(a)(1).

C. Annual Leave - The ten calendar months must include annual vacation leave at the same rate provided for State employees, computed at 1/12th the annual rate for State employees for each calendar month of employment. G.S. 115c-302(a)(1).
First and second year teachers earn 10 days of annual leave per year. The maximum that can be earned is 21.5 for teachers with 20 or more years of experience.
The first 10 days of annual vacation leave earned by a teacher during any fiscal year shall be scheduled to be used in the school calendar.
    1. Instructional personnel who require a substitute may not take annual leave on a day when students are in attendance.
    2. Teachers may use vacation day when school closed to students due to hazardous weather.
    3. Teachers may accumulate annual vacation leave, but as of June 30 of each year, any accumulated amount over 30 days is automatically converted into sick leave.
    4. Teachers are paid in a lump sum for accumulated annual leave not to exceed 240 hours upon resignation, dismissal, reduction in force, death, or retirement. G.S. 115C-302(a)(3).

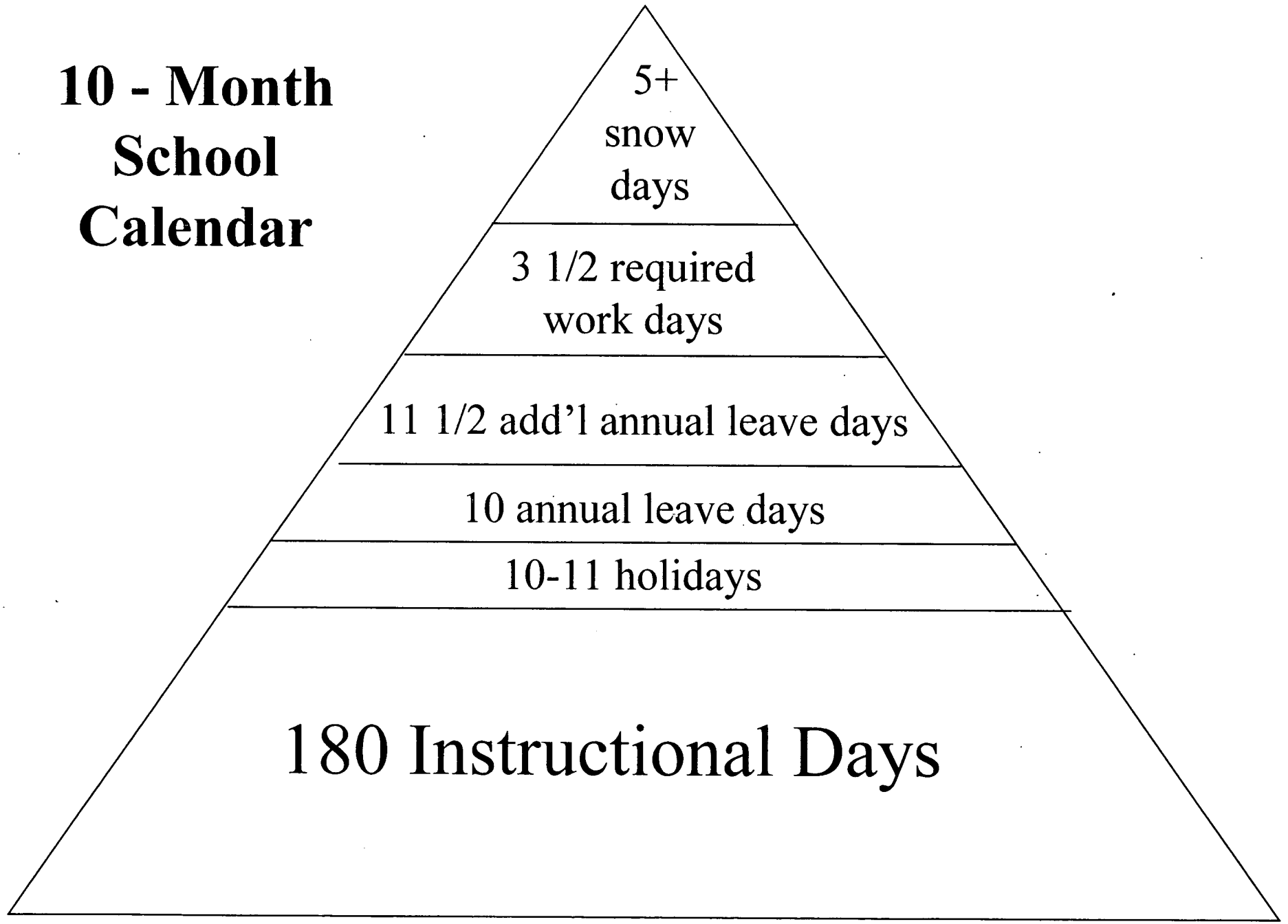
D. Snowdays - School calendar shall include days that can be used to make up any of the 180 instructional days missed due to hazardous weather. Calendar must include either 5 days or the average days missed in 5 of the last 6 years, which ever is greater. 27 local boards may increase the length of the instructional day to off-set days lost due to hazardous weather. G.S. 115C-84(c).

E. Required Teacher Workdays - after calculating for 180 instructional days, 10 to 11 holidays, and 21 annual leave days, local boards shall schedule days before, during and after the school term that are required teacher workdays.

F. Sick Leave - Employees who earn vacation leave earn sick leave at the rate of one day per month of employment. Sick leave may be advanced. Instructional personnel who have exhausted regular sick leave are allowed up to 20 days of extended sick leave, but must pay $50 per day towards the cost of a substitute.

G. Personal Leave - Teachers earn 2 days of personal leave per year. May accumulate up to 5 days. May be used on days when students are in attendance. Teachers must pay $50 per day towards the cost of a substitute.

10 - Month School Calendar



Calculating Annual Leave

Years of Service	**Days/Month of Employment**
< 2 years	1.00 (10 days/year)
2 but < 5 years	1.15 (11.5 days/year)
5 but < 10 years	1.40 (14 days/year)
10 but < 15 years	1.65 (16.5 days/year)
15 but < 20 years	1.90 (19 days/year)
20 or more years	2.15 (21.5 days/year)

What Makes Up the 10 Month School Calendar?

200 Instruction/Work Days

20 to 21 Other Paid Days

At Least 180 Days

Required at least a 5 1/2 hour **Instructional Days**

3 Days can be waived by local boards due to emergency conditions. Additional days can be waived by the State Board if the local boards request.

5 Days or

average missed days over the last 6 years.

Hazardous Weather or Other Emergency

11 1/2 Days

Addl.. Annual Leave

Optional teacher work days.

Example Breakdown of 20 Work Days

LEAs have 20 days that can be used for adverse weather, work days, or optional teacher workdays. For example, an LEA can designate 8.5 required work days and include the 5 adverse weather days in the 11.5 optional work days.

3 1/2 Days

Required Teacher Work Days

not established as optional teacher work days.

10 Days

Annual Leave

The calendar must include enough days to allow teachers to take off the number of vacation days earned per year.

10 to 11 Days

Holidays

Veteran's Day must be a holiday for students if it falls on a Monday through Friday.

Attachment 3

What Makes Up the 10 Month School Calendar?

At Least 180 Instructional Days

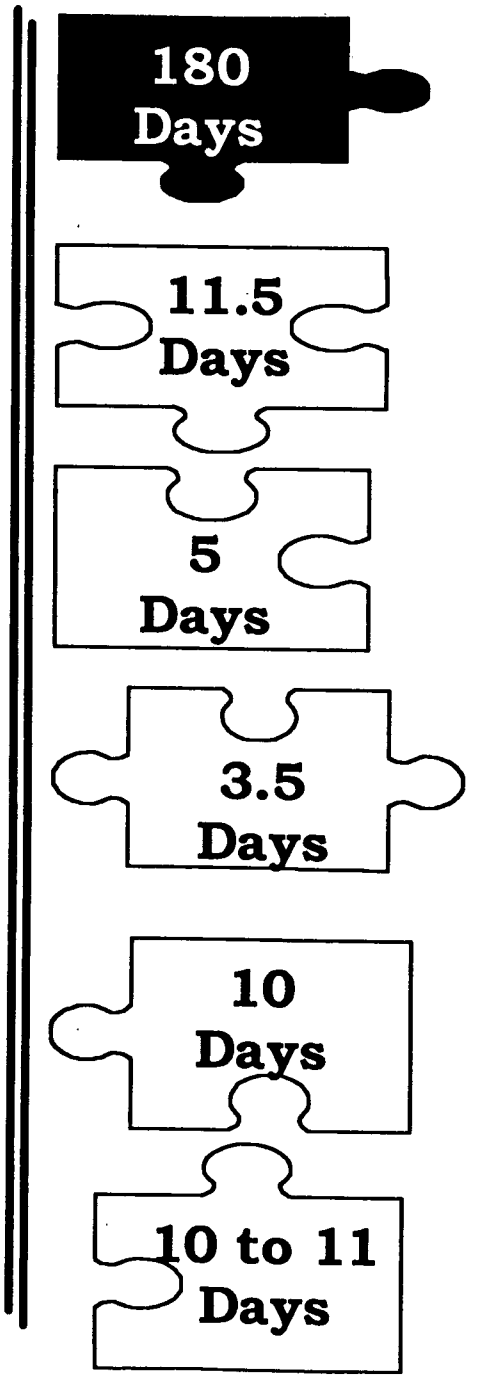
Article IX, Sec. 2 of North Carolina's Constitution:

Uniform system of schools.

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, **which shall be maintained at least nine months in every year**, and wherein equal opportunities shall be provided for all students.

115C-84(c) of the General Statutes of North Carolina:

There shall be operated in every school in the State a uniform school term of 180 days for instructing pupils.



Definition of an Instructional Day

115C-84(a) of the General Statutes of North Carolina:

School Day. -- The length of the school day shall be determined by the several local boards of education for all public schools in their respective local school administrative units, and the minimum time for which teachers shall be employed in the schoolroom or on the grounds supervising the activities of children shall not be less than **six hours**. ...

The General Assembly urges the local boards of education to expand the length of the school day so that it includes at least **six hours of instructional time.**

State Board of Education Policy

04A101 - Instructional Time - School systems throughout North Carolina will require a minimum of **5.5 hours of instructional time** per student, per day. ... the minimum instructional day for each child shall be **5.5 hours**, except in those situations where a local board of education deems such an instructional day inappropriate for a child.

... Although the instructional day will last a minimum of **5.5 hours** throughout the state, the length of the school day, which includes additional activities, can be expected to vary from school district, from school to school, and even from student to student.

What Makes Up the 10 Month School Calendar?

10 to 11 Legal Holidays

115C-302(a)(1) of the General Statutes of North Carolina:
Academic Teachers. -- ... Included within the 10 calendar months of employment each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees ...

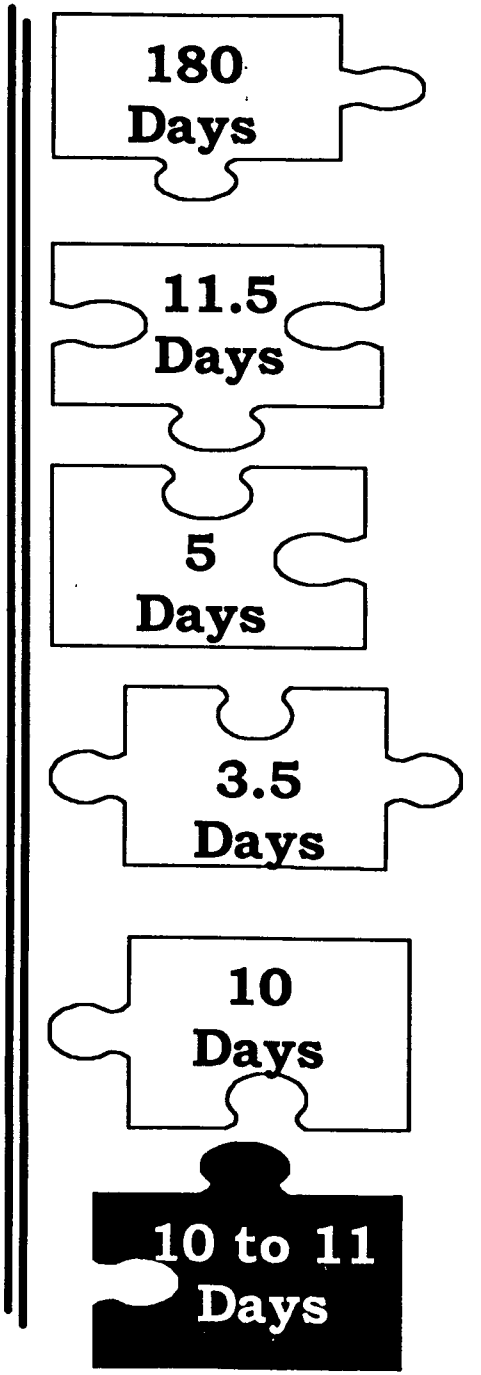
115C-302(a)(3a) of the General Statutes of North Carolina:
... Annual leave, sick leave, workdays, holidays, salary, and longevity, for teachers who are employed on a 10 or 11-month basis at year-round schools, shall be equivalent to those of teachers employed for 10 or 11 calendar months, respectively.

Legal Holidays:

New Year's Day
Martin Luther King Jr's Birthday
Good Friday
Memorial Day
Independence Day
Labor Day
Veteran's Day *
Thanksgiving (2 days)
Christmas (2 or 3 days)

LEAs can combine holidays to take in blocks; for example, several holidays can be combined and a system will take 5 days off for Christmas.

* 115C-84 (f) Veterans Day shall be a holiday for all children enrolled in the public schools, but shall be a work day for all school employees, unless designated as a holiday by the local board of education.



What Makes Up the 10 Month School Calendar?

11.5 Optional Teacher Work Days and 10 Annual Leave Days

115C-302(a)(1) of the General Statutes of North Carolina:

Academic Teachers. -- Regular state-allotted teachers shall be employed for a period of 10 calendar months. ... Included within the 10 calendar months employment shall be annual vacation leave at the same rate provided for State employees, computed at one twelfth of the annual rate for State employees for each calendar month of employment; which shall be provided by each local board of education at a time when students are not scheduled to be in regular attendance.

115C-302(a)(3) of the General Statutes of North Carolina:

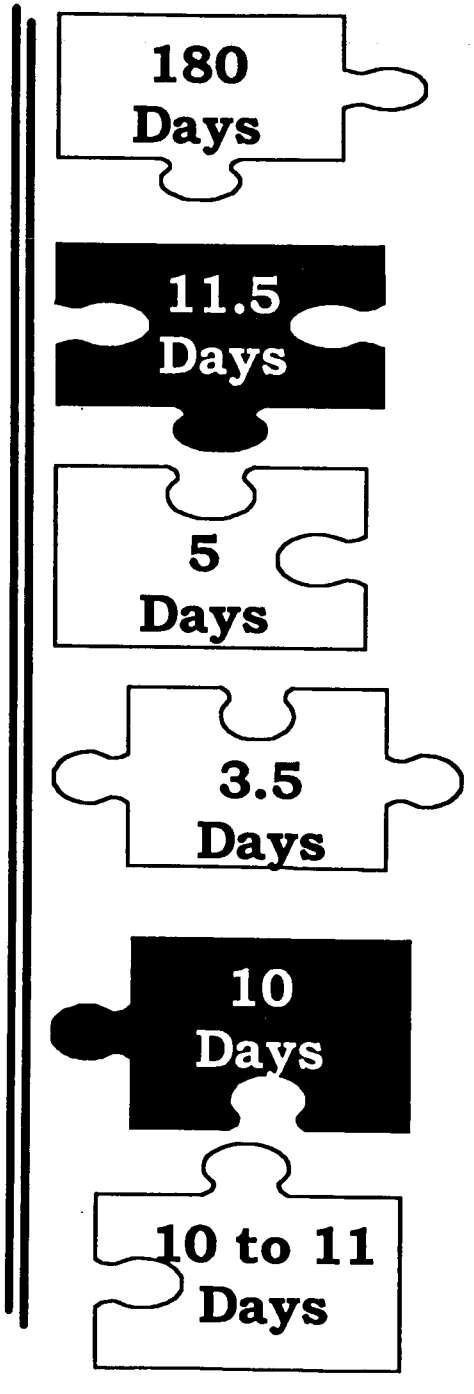
... The first 10 days of annual vacation leave earned by a teacher during any fiscal year period shall be scheduled to be used in the school calendar.

State Board Policy 08I105 (j):

... LEAs may designate specific scheduled workdays for required attendance as long as employees have an opportunity to take annual leave earned during the school year (max. of 21.5 days). 115C-302(a)(1) requiring that ... "in no event shall the total number of workdays exceed 200 days" could impact an LEAs ability to allow teachers to take all days earned if excessive adverse weather impacts the calendar.

Vacation Leave Earned:

Years of Service	Earned Days per Month
less than 2 years	1.00 (10 per year)
from 2 to 5 years	1.15 (11.5)
from 5 to 10 years	1.40 (14)
from 10 to 15 years	1.65 (16.5)
from 15 to 20 years	1.90 (19)
greater than 20 years	2.15 (21.5)



What Makes Up the 10 Month School Calendar?

Adverse and Hazardous Weather

115C-84(c) of the General Statutes of North Carolina:

There shall be operated in every school in the State a uniform school term of 180 days for instructing pupils. The school calendar ... shall include days that can be used to make up any of the 180 days ... the required number of such days ... shall be the greater of

(i) five days or

(ii) the average number of days missed in five of the last six school years in which the least number of days were missed.

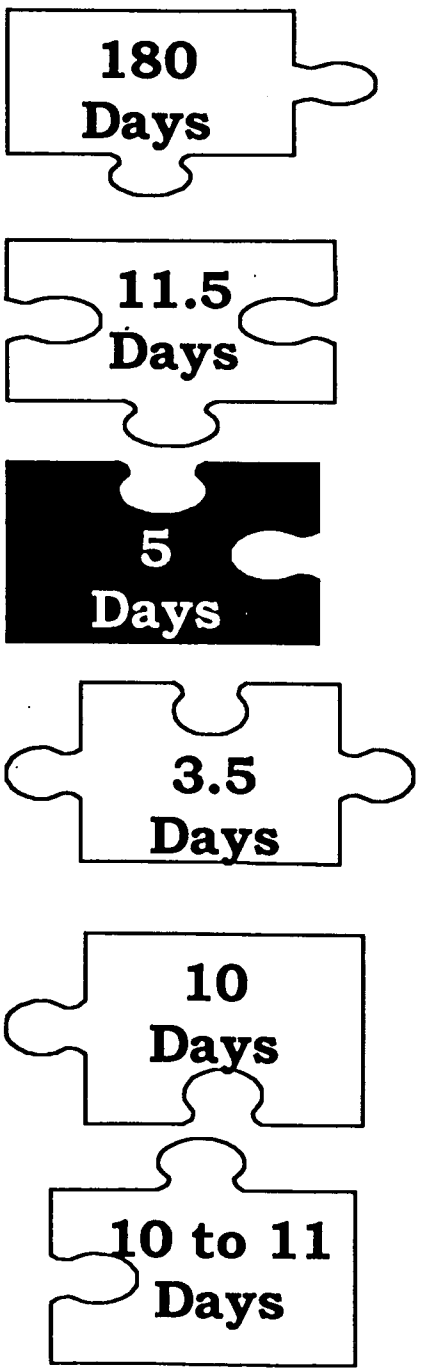
If a (LEA) has made up at least the required number of such days and if the local school board finds that it is impracticable to make up additional days, the local school board may excuse students from attendance for three such days; ...

After the required number of days have been made up within the school calendar and after the local board (excuses 3 days), the State Board of Education may also, at the request of the local board of education, suspend one or more days from the 180 day school term ...

SB 1139 modified 115C-302(a)(1) to include:

If one or more scheduled teacher workdays are displaced due to hazardous weather conditions, a local board may select dates, including dates beyond the 10 calendar months during which teachers and their supervisors may agree to make up the displaced days provided the workdays fall within the fiscal year.

If an LEA is required to include more than 5 days in the calendar for Hazardous weather conditions, the LEA will reduce the 11.5 optional teacher work day portion of the calendar; therefore, the total number of school calendar days will not exceed 200. In these systems, teachers earning 21.5 vacation days a year might not be able to take off all the days earned.

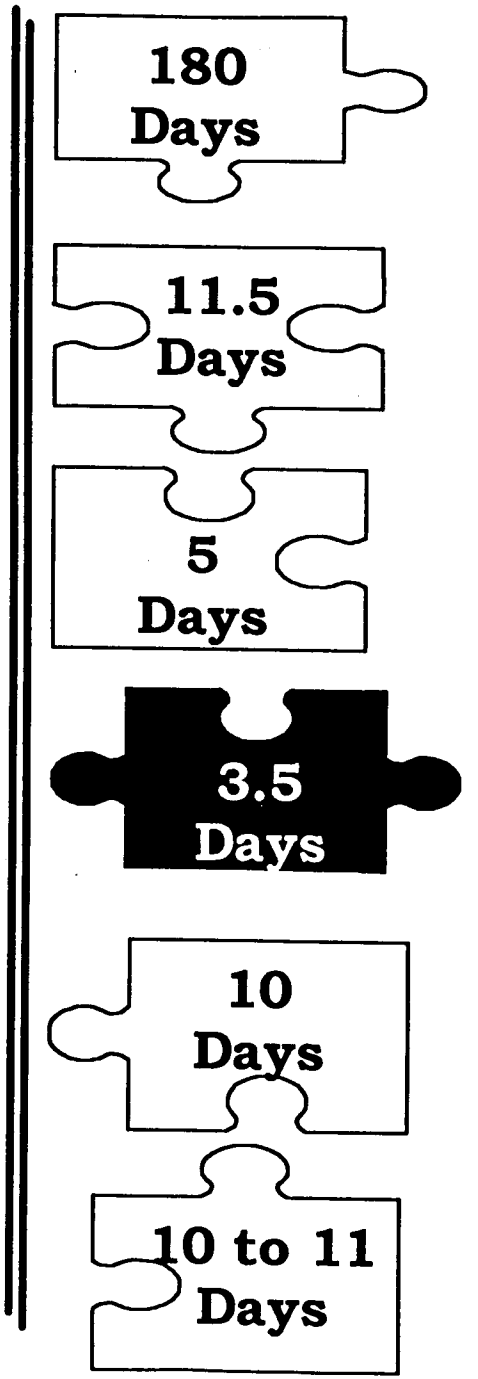


What Makes Up the 10 Month School Calendar?

3.5 Required Work Days

115C-302(a)(1) of the General Statutes of North Carolina:

Academic Teachers. -- ... Within policy adopted by the State Board of Education, each local board of education shall develop rules designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of state-allotted teachers during said period, **but in no event shall the total number of workdays exceed 200 days.**



Other School Calendar Issues

- 115C-302 (a)(1) ... Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule.
- SB 1173, House Bill 1187, and House Bill 1208 authorize several local counties to increase the instructional day to off set days lost due to adverse/hazordous weather conditions. The 27 LEAs impacted by this policy:

Alleghany	Haywood	Pamlico
Avery	Henderson	Polk
Buncombe	Jackson	Rockingham
Cherokee	Jones	Stokes
Clay	Lenoir	Swain
Craven	Macon	Transylvania
Duplin	Madison	Wake
Gaston	McDowell	Watauga
Graham	Mitchell	Yancey

VISITOR REGISTRATION SHEET

Education/Higher Education — 3/5/97

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann Belam	SBE
Lou Thompson	DPI
Harriet Dial	NCAE
John L Wilson	NCAE
Stanley Moore	Leg. Staff
Gene Causby	Educ. Everybody's Bus.
Brian Washington	NCAE
Alicia Gruenebaum	Intern - Sen. Perdue
Kelly Linker	intern - Sen. (R) Shaw
Sarah Stewart	AFT/NC
Janet Pelletier	OSBM

VISITOR REGISTRATION SHEET

Education/Higher Education — 3/5/97

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Karen Garr	Gov's Office
Leanne Winner	EGCHC
Jan Coats	NCASA
Amy Mellott	N.C. Ed. Law Project
Hal Miller	NCACCT
Kay Owen	OSPL

EDUCATION/HIGHER EDUCATION

AGENDA

MARCH 12, 1997

HB 113	Add Trustees/College of the Albemarle
SB 265	UNC Flexibility Procedures
SB 319	New Community College Authorized
SB 297	Amend Charter Schools

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, March 12, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, March 12, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Five of the members of the Committee attended the meeting, including the Co-Chair, Senator Leslie Winner, who presided.

Senator Winner introduced Senator Aaron Plyler, who spoke on SB319, Short Title: New Community College Authorized. Senator Richard Conder agreed with Senator Plyler's explanation of the bill and moved for a favorable report on SB319.

Senator Winner stated she wanted to hold off on a vote until the other Committee members had a chance to ask questions or speak on the bill.

Senator Winner acknowledged Senator Betsy Cochrane, who also agreed with Senator Plyler on SB319 and moved for a favorable report. Senator Conder seconded the motion and the bill passed favorably.

Senator Winner introduced Senator Lee to speak on SB265, Short Title: UNC Flexibility Procedures. At this time, Senator Lee asked to send forth an amendment by Senator Dalton on SB265. Senator Lee explained the amendment to the Committee. The Committee voted in favor of the amendment and Senator Lee explained the bill. There were questions from Senator Cochrane, Senator Gulley, and Senator Rucho. Mr. Hillman, from the State Auditor's office, spoke to address the questions. There were also comments from Mr. D.G. Martin, UNC-Chapel Hill. A vote on the bill was unfavorable as to the original bill, but favorable as to a Committee Substitute.

Senator Winner introduced Senator Wib Gulley to speak on SB297, Short Title: Amend Charter Schools. A Committee Substitute was submitted on SB297. The Committee adopted the Committee Substitute. Discussion of the bill followed, but no vote was taken.

The Committee was adjourned at 11:00 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Wednesday, March 12, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **319** New Community College Authorized.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: Sen. Winner to sign

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 319

Short Title: New Community College Authorized. (Public)

Sponsors: Senators Plyler and Conder.

Referred to: Education/Higher Education.

March 6, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A NEW MULTICAMPUS COMMUNITY COLLEGE THAT WILL SERVE ANSON AND UNION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. (a) On February 21, 1997, the State Board of Community Colleges recommended the establishment of a multicampus college whose administrative and service delivery area will be Anson County and Union County. Under the recommendation of the State Board, the structure of the Board of Trustees shall ensure equal representation to both Anson County and Union County and the new Board of Trustees shall select the name of the new college; therefore, Anson and Union Counties shall act pursuant to G.S. 115D-59 to jointly propose and submit to the State Board of Community Colleges such a contract for the establishment of the new institution to serve the multiple-county administrative area of Anson and Union Counties.

(b) Effective the later of July 1, 1997, and the date the State Board of Community Colleges approves the terms of the contract: (i) the new institution to serve the multiple-county administrative area of Anson and Union Counties is established and (ii) Anson Community College is abolished.

(c) The State Board of Community Colleges shall provide special oversight during the transition period to the new college structure.

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

S297-PCSRH-002A
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 297
THIS IS A DRAFT 12-MAR-97 09:12:47
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Amend Charter Sch. Laws. (Public)

Sponsors:

Referred to: Education/Higher Education.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"**§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter school on behalf of a private nonprofit ~~corporation.~~ corporation or through creation of a charter school authority. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the process to be followed by the school to ensure parental involvement. If the applicant seeks to establish a charter school through creation of a charter school authority, this information shall include the names of the proposed initial members of the authority, the terms of office of those members if less than the proposed duration of the charter school authority's existence as set forth in subdivision (9) of this subsection, and the proposed method for filling vacancies in the membership of the authority.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the ~~contract.~~ contract or, in the case of a charter school operated by a charter school authority, the duration of the charter school authority's existence.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) ~~A description of whether the school will operate independently of the local board of education or whether it agrees to be subject to some supervision and control of its administrative operations by the local board of education. In the event the charter school elects to operate independently of the local board of education,~~ A statement of whether the school will be operated by a nonprofit, tax-exempt corporation or by a charter school authority. In the event a nonprofit, tax-exempt corporation will operate the charter school, the application must specify which employee benefits will be offered to its employees and how the benefits will be funded.

(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity for a charter school to be operated by a nonprofit, tax-exempt corporation may be:

(1) The local board of education of the local school administrative unit in which the charter school will be located;

(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or

(3) The State Board of Education.

Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school.

Only the State Board of Education may approve an application for a charter school that will be operated by a charter school authority.

(c1) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board by November 10. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board."

Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"**§ 115C-238.29C1. Criminal history checks.**

(a) As used in this section:

(1) 'Criminal history' means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as the operator of a charter school. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses

Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) 'School personnel' means any:

a. **Member of the board of directors of a charter school operated by a nonprofit, tax-exempt corporation and any member of a charter school authority,**

b. Employee of a charter school, or

c. Independent contractor or employee of independent contractor of a charter school if the independent contractor carries out duties customarily performed by school personnel,

whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of a charter school.

(b) The State Board of Education shall adopt a policy on whether and under what circumstances school personnel shall be required to be checked for a criminal history. **The policy shall not require school personnel to be checked for a criminal history check before preliminary approval is granted under G.S. 115C-238.29B.** The Board shall apply its policy uniformly in requiring school personnel to be checked for a criminal history. The Board may grant conditional approval of an application while the Board is checking a person's criminal history and making a decision based on the results of the check.

The State Board shall not require school personnel to pay for the criminal history check authorized under this section.

(c) The Department of Justice shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the Board requires a criminal history check. The Board of

Education shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the local board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The State Board shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D.

The State Board shall not require school personnel to pay for being fingerprinted as authorized under this section.

(d) The State Board shall review the criminal history it receives on an individual. The State Board shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval under G.S. 115C-238.29D. The State Board shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D.

(e) All the information received by the State Board of Education through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the State Board of Education and, in the case of information concerning employees or independent contractors of charter schools, the members of the appropriate board of directors of charter schools operated by nonprofit, tax-exempt corporations and members of the appropriate charter school authority. The State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of the State Board of Education, or its employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived

under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

Section 3. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant a charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Nonrenewal of a charter to a charter school authority shall constitute revocation of the resolution creating the authority."

Section 4. G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. It shall be accountable to the ~~local board of education~~ State Board of Education for purposes of ensuring compliance with applicable laws and the provisions of its charter.

(b) A charter school shall be operated ~~by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.~~ in one of the following ways:

(1) By a private nonprofit corporation that receives federal tax-exempt status no later than 24 months after final approval of the application.

(2) By a charter school authority created by resolution of the State Board of Education. The resolution creating the charter school authority shall incorporate at a minimum the information provided in the application, as modified during the charter approval process, and any other terms and conditions imposed on the charter school by the State Board. A charter school authority shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part as well as the obligations and duties imposed on it by the State Board's creating resolution.

(c) A charter school that is operated by a nonprofit, tax-exempt corporation shall operate under a written contract signed by the ~~local board of education~~ State Board of Education and the applicant. The contract shall incorporate at a minimum the information provided in the application, as modified during the

charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education.

~~If the local board of education does not sign the contract, the State Board may sign on behalf of the local board.~~

(d) The board of directors of ~~the~~ a charter school operated by a nonprofit, tax-exempt corporation or the charter school authority, as applicable, shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) ~~A charter school shall be located in the local school administrative unit with which it signed the contract. Its~~ A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education, from a public or private nonsectarian organization, or as is otherwise lawful in the local school administrative unit in which the charter school is located. At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available space to the charter school unless the board demonstrates that the lease is not economically or practically feasible.

(f) Except as provided in this Part and pursuant to the provisions of its ~~contract,~~ contract or creating resolution, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

Section 5. G.S. 115C-238.29F reads as rewritten:

"**§ 115C-238.29F. General requirements.**

(a) Health and Safety Standards. -- A charter school shall meet the same health and safety requirements required of a local school administrative unit.

(b) School Nonsectarian. -- A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. --

(1) The board of directors of a charter school operated by a nonprofit, tax-exempt corporation or the charter school authority may sue and be sued. The board of directors or charter school authority shall obtain at least the amount of and types of insurance required by the ~~contract.~~ contract or creating resolution.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. ~~In the event a charter school has not elected total independence from the local board of education under subsection (e) of this section,~~ In the case of a charter school operated by a charter school authority, the immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(d) Instructional Program. --

(1) The school shall provide instruction each year for at least 180 days.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the contract ~~with the local board of education.~~ or creating resolution.

(3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education.

(4) The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General ~~Statutes;~~ Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its ~~contract.~~ contract or creating resolution.

(e) Employees. --

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter

school's board of directors or the charter school authority, as applicable, shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. The board or authority also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board or authority may discharge teachers and noncertificated employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. The local school administrative unit shall grant a leave for any number of years requested by the teacher, shall extend the leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request. The local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving an extended leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

~~(4) In the event a charter school, in its application, elects total independence from the local board of education, its employees shall not be deemed to be employees of the local school administrative unit and shall not be entitled to any State-funded employee benefits, including membership in the North Carolina Teachers' and State Employees' Retirement System or the Teachers' and State Employees' Comprehensive Major Medical Plan. In the event a charter school, in its application, agrees to be subject to some supervision and control of its administrative operations by the local board of education, the employees of the charter school will be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan. The Board of Trustees of the Teachers' and State Employees' Retirement System, in consultation with the State Board of Education, shall determine the degree of supervision and control necessary to qualify the employees of the applicant for membership in the Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.~~

(5) Employees of a charter school operated by a charter school authority created by resolution of the State Board are public employees and are 'teachers' within the meaning of G.S. 135-1(25) to the same extent as if they were employees of a local school administrative unit. The charter school shall remit all retirement contributions required by G.S. 135-8 with the retirement contributions of the local school administrative unit in which the school is located, and the employees of the school shall be reported for purposes of the Teachers' and State Employees' Retirement System of North Carolina only, as employees of that local school administrative unit. Employees of a charter school operated by a nonprofit, tax-exempt corporation are

not public employees and are not 'teachers' within the meaning of G.S. 135-1(25).

(f) Accountability. --

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board.

(g) Admission Requirements. --

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) **Admission to a charter school shall not be determined according to the local school administrative unit in which a student** ~~**resides, except that the provisions of G.S. 115C-366(d) shall apply to a student who wishes to attend a charter school in a county other than the county in which the student resides.**~~ **resides.**

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the ~~contract,~~ contract or creating resolution, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability,

disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(h) Transportation. -- The charter school ~~shall provide transportation for students enrolled at the school who reside in the local school administrative unit in which the school is located. The charter school~~ may provide transportation for students enrolled at the ~~school who reside in different local school administrative units.~~ school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. The local board of the local school administrative unit in which the charter school is located shall contract with the charter school for the provision of transportation if the board operates a school bus transportation system. However, the local board may refuse to provide transportation if it demonstrates there is no available space or it would not be practically feasible.

(i) Assets. -- Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school shall be deemed the property of the local school administrative unit in which the charter school is located."

Section 6. G.S. 115C-238.29G reads as rewritten:

"**§ 115C-238.29G. Causes for nonrenewal or ~~termination.~~ termination; disputes.**

(a) The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, may terminate or not renew a contract or may revoke or not renew a resolution creating a charter school authority upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the ~~contract;~~ contract or creating resolution;

(2) Failure to meet generally accepted standards of fiscal management;

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the ~~contract;~~ contract or creating resolution;

(5) Two-thirds of the faculty and instructional support personnel at the school request that the contract be terminated or not renewed or that the creating resolution be revoked or not renewed; or

(6) Other good cause identified.

Only the State Board may revoke a resolution creating a charter school authority.

(b) The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and its chartering ~~entity~~ entity, the local board of education, or the State Board during the time of its charter."

Section 7. G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school (i) an amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with special needs and (ii) an additional amount for each child attending the charter school who is a child with special needs.

Funds allocated by the State Board of Education ~~shall not be used to purchase land or buildings.~~ may be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. However, funds allocated by the State Board of Education shall not be used to obtain any other interest in real property or mobile classroom units. As used in this subsection, the term 'operational leases'

is defined according to generally accepted accounting principles. The school may own land and buildings it ~~obtained~~ obtains through non-State sources."

Section 8. G.S. 115C-238.29I(d) reads as rewritten:

"(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a ~~contract,~~ contract or revoke or not renew a creating resolution, (v) make recommendations concerning grievances between a charter school and its chartering entity, (vi) assist with the review under subsection (c) of this section, and (vii) provide any other assistance as may be required by the State Board."

Section 9. G.S. 115C-238.29I is amended by adding the following new subsection to read:

"(e) Notwithstanding the dates set forth in this Part, the State Board of Education may establish an alternative timeline for the submission of applications, preliminary approvals, criminal record checks, appeals, and final approvals so long as the Board grants final approval by March 15 of each calendar year."

Section 10. G.S. 115C-238.29J(a) reads as rewritten:

"(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative ~~units and to contract with those charter schools to provide student transportation.~~ units."

Section 11. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel
DATE: March 12, 1997
RE: **Proposed Committee Substitute for SB 297: AMEND CHARTER SCH. LAWS. (S297-PCSRH-002A)**

The Proposed Committee Substitute for Senate Bill 297 makes the following changes to the laws governing charter schools:

1. Under current law, charter schools are to be operated by private, nonprofit corporations. However, if they want their teachers to be eligible for participation in the State Teachers' and State Employees' Retirement System, then the application for a charter must include a description of whether the school agrees to be subject to some supervision and control of its administrative operations by the local board. For federal tax purposes, participants in qualified retirement plans must be public employees. There is concern that a "private, nonprofit corporation" cannot be made into a public entity, and, therefore, no charter school will be able to have its employees eligible for participation.

The committee substitute changes the application procedure for applicants that want their teachers to be eligible for participation in the State Retirement System. These applicants will be required to apply directly to the State Board, rather than to any of the other chartering entities, and to seek to establish a charter school through creation of a "charter school authority". The application must include the names of the proposed initial members of the authority, the terms of office for those members, and the proposed method for filling vacancies. The State Board will be required to adopt a resolution that creates the charter school authority. If this is done, then the employees of a charter school operated by a charter school authority will be public employees and will be "teachers" as they are defined under the State Retirement System.

2. The committee substitute provides that the local board of education of the local school administrative unit in which the charter school is proposed to be located may offer any information or comment concerning an application for a charter. The board must deliver the information to the chartering entity by January 1 following the date applications must be submitted for preliminary approval (November 1). The bill provides specifically that the applicant is not required to obtain or deliver this information. Currently, the State Board's policy is that applicants must include an "impact statement" from the local board as part of their applications.

3. Section 2 creates a new G.S. 115C-238.29C1 to direct the State Board to adopt a uniform policy on whether and under what circumstances it will require members of the board of directors or charter school authority, as applicable, and charter school employees and independent contractors who have significant access to students or who have responsibility for

the fiscal management of the schools to be subject to a criminal history check. The criminal history check must occur after preliminary approval is given. The Board cannot require any of these persons to pay for the criminal history check or to be fingerprinted. This section is virtually identical to G.S. 115C-332 (see attached), which directs local boards to adopt a similar policy for their school personnel.

4. Section 4 amends G.S. 115C-238.29E(a) to provide that charter schools are to be accountable to the State Board for purposes of ensuring compliance with applicable laws and their respective charters. Currently, a charter school is to be accountable to the local board of the local school administrative unit in which the school is to be located. This change also removes the requirement that the State Board may sign on behalf of the local board the contract under which the school is to be operated.

5. Section 4 also amends G.S. 115C-238.29E(e) to require local boards to lease available space to the charter school, upon its request, unless it is not "economically or practically feasible."

6. Section 5 amends G.S. 115C-238.29F(h) to direct the charter school to develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The school is not required to provide transportation to any student who lives within 1-1/2 miles of the school. The bill also requires the local board of the unit in which the school is located to contract with the school for the provision of transportation. The local board may refuse to provide the transportation if it demonstrates there is no available space or it would not be practically feasible.

Currently, charter schools receive the State funds for transportation for each student. In addition, the charter schools are required to provide transportation for students who reside in the local school administrative unit in which the school is located. Also, local boards are not required to provide transportation for students who live within 1-1/2 miles of the public school to which they are assigned.

7. Section 5 also removes the requirement that students who reside in a local school administrative unit other than the one where the charter school is located must have the approval of both local boards. This requirement also allowed the local board of the unit in which the school is located to charge the student tuition.

8. In addition, Section 5 amends G.S. 115C-238.29F(i) to limit the assets to "net assets" that are considered property of the local school administrative unit upon dissolution of the school or upon nonrenewal of the charter. Net assets are obtained by subtracting the liabilities from the total assets.

9. Section 6 amends G.S. 115C-238.29G, which currently directs the State Board to develop and implement a process to resolve grievances between a charter school and its chartering entity. The amendment requires the process also to address disputes between charter schools and local boards or the State Board.

10. Section 7 amends G.S. 115C-238.29H(a) to allow funds allocated by the State Board to be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. This law currently prohibits using these funds "to purchase land or buildings". Legally, the word "purchase" means any type of acquisition of property, which includes leasing. Using State funds to obtain any other interest in real property will still be prohibited.

11. Section 9 allows the State Board to establish an alternative timeline for the application, approval, and appeals process. Currently, the law gives specific dates for specific steps in the process. The Board's alternative timeline must still provide for final approval by March 15 of each calendar year.

VISITOR REGISTRATION SHEET

Education/Higher Education — 3/12/97

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Greg Walhoff	N.C. Ed & Law Project
Amy VanDostrum	PENC
Emery Dalesio	The Associated Press
Ann Bellamy	SBE
Harriet Dial	NCAE
Bill Wilson	NCAE
Clifton B. Metcalf	UNC
DG Martin	UNC
BN Berlon	NCSBA
Kay Brown	OSPL
Brian Washington	NCAE
Hal Miller	NCACCT
Elsie Childres	NCACCT

VISITOR REGISTRATION SHEET

Education/Higher Education — 3/12/97

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Heather Faid	OSA
Rob Hellman	OSA
John Leaston	DoA P&C
Gene Causby	E-EBC
[illegible]	NCAICU
[illegible]	Public Sch Town of NC
[illegible]	NCAC
Karen Gaul	Gov's Office
Ed Boyd	PITT Comm College
Charles Rundell	Pitt Comm College
Glen Peterson	DOA

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

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Trudie Troop	Gov.'s office
Hope Williams	NCPTA
John Adams	Self
Julie Rehder	NC Child Advocacy Institute
Paula A Hoef	Covenant with NC's Children
Pam Seamans	United Way of NC/ Covenant w/ NC's Children
M. Rumquist	NCPTA
[illegible]	CDF

VISITOR REGISTRATION SHEET

Name of Committee | Date

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NAME	FIRM OR AGENCY AND ADDRESS
Brooke Murray	DPI Licensure
Donna F. Smith	DPI Teacher Education
Gene Causby	E-EBC
Alicia Hare	Public School Forum
JB Buxton	Public School Forum
J Crotts	NCASA
Carole C Smith	Camden County Schools Camden, NC 27921
RANDALL HENION	Supt. PERQUIMANS Co. SCHOOLS HERTFORD, NC 27944
David Hoyle	DPI School Personnel Support
Joyce Peters	EEB
J. Wardi	
Curt Williams	Office of Governor

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

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NAME	FIRM OR AGENCY AND ADDRESS
Harriet Dial	NCAE
Greg Mathis	NCEd. Law Project
Jim Barlow	DPI
Sue Thompson	DPI
Jane Blue	AFT/NC
Ann McCoy	NCSBA
Tom Stern	NCAE
David Brown	OSBM
David Pittard	OSBM
Sheri Adams	"
Kim Ames	OSPL
Lynda McCulloch	Gov's Office

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
MARCH 19, 1997

The Senate Committee on Education/Higher Education met on March 19, 1997 in Room 1027 of the Legislative Building. Senator Lee presided.

Before the Committee was the following:

SB 272 EXCELLENT SCHOOLS ACT. Senator Basnight made a statement in support of the bill. Senator Bill Martin moved adoption of the Proposed Committee Substitute (PCS8579) which was before the Committee for consideration. Motion carried. Senator Winner explained the PCS. Superintendent of Public Instruction Mike Ward spoke on the merits of the proposal. It was agreed by the members, that discussion on the PCS for S. 272 would be continued on March 20 in Room 544 of the Legislative Office Building.

Senator Howard Lee
Committee Chairman

Transcribed for the record
by Judy Britt

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: March 10, 1997
RE: Summary SB 319 - New Community College Authorized

Background: Currently, both Anson Community College and Stanly Community College share the Union County service area and operate a satellite facility in Union County. Under the procedure proposed by this bill, Anson Community College would be dissolved and replaced by a multiple-county community college shared by Anson County and Union County. The new college would initially use the facilities currently located in Anson and Union counties, as well as the current Anson Community College faculty and staff.

Section 1(a) references the State Board of Community Colleges' (SBCC) recent recommendation that a multicampus college be established which would have an administrative and service delivery area of Anson and Union Counties. Under the SBCC's recommendation, each county would have equal representation on the Board of Trustees. The Board of Trustees would select the name for the new college. Finally, Anson and Union Counties are directed to jointly propose and submit to the SBCC a contrat for the estabilshment of a new college with a multiple-county administrative area of Anson and Union Counties. A copy of G.S. 115D-59, which provides the mechanism for establishing a multiple-county administrative area, is attached.

Section 1(b) provides that two things will happen as of the later of either July 1, 1997, or the date the SBCC approves the terms of the contract: (1) the new community college will be established; and (2) the existing Anson Community College will be abolished.

Section 1(c) directs the SBCC to provide special oversight to the new college during the transition period.

S319-SMRC-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 115D-59. Multiple-county administrative areas.

If two or more counties determine to form an administrative area for the purpose of establishing and supporting an institution, the boards of commissioners of all such counties shall jointly propose a contract to be submitted to the State Board of Community Colleges as part of the request for establishment of an institution. The contract shall provide, in terms consistent with this Chapter, for financial support of the institution, selection of trustees, termination of the contract and the administrative area, and any other necessary provisions. The State Board of Community Colleges shall have authority to approve the terms of the contract as a prerequisite for granting approval of the establishment of the institution and the administrative area.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 265

Short Title: UNC Flexibility Procedures. (Public)

Sponsors: Senator Lee.

Referred to: Education/Higher Education.

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES ON SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM TO CLARIFY THE ROLE OF THE OFFICE OF THE STATE AUDITOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-30.1 reads as rewritten:

"**§ 116-30.1. Special responsibility constituent institutions.**

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant ~~exceptions or audit~~ findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial

audit reports or any other ~~special~~ special, electronic data processing, or performance audit reports or management letters issued by the State Auditors Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where ~~such audit exceptions~~ significant findings are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that ~~such exceptions must be resolved to the satisfaction of the State Auditor and~~ the institution must make satisfactory progress in resolving the findings, as determined by the President of The ~~University~~ University, after consultation with the State Auditor, within a three-month period ~~commencing with the date of receipt~~ of the published financial audit ~~report.~~ report, any other audit report, or management letter. If ~~the exceptions are not satisfactorily resolved~~ satisfactory progress is not made within a three-month period, the President of The University shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of ~~the State Auditor and~~ the President of The University of North ~~Carolina.~~ Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

The rules established under this section shall include review by the President, after ~~and~~ consultation with the State Auditor, the Director of the Office of State Personnel, and the Director of the Division of State Purchasing and Contracts in ascertaining whether or not a constituent institution has the management staff and internal financial controls to administer the additional authorities authorized under G.S. 116-30.2, 116-30.4, and 143-53.1. Such review and consultation must take place no less frequently than once each biennium."

Section 2. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: March 10, 1997
RE: Summary SB 265 - UNC Flexibility Procedures

Background: The Board of Governors may designate a constituent institution as a special responsibility institution if it has the management staff and internal financial management to administer additional management discretion. All of the 16 constituent institutions are currently special responsibility institutions. Among other areas of financial discretion, special responsibility institutions have the authority to transfer funds between categories. For example, a special responsibility institution may transfer funds from lapsed salaries to purchase library books. Special responsibility institutions also have additional flexibility under State purchase and contract law.

Section 1 amends G.S. 116-30.1 regarding special responsibility constituent institutions in two substantive ways. First, it expands the scope of information that the President of the University may review to determine whether a special responsibility institution needs to revise its financial management. The proposed change would allow the President to review special reports, electronic data processing reports, and management letters in addition to annual financial audit reports and performance audit reports. If any of these documents indicate a weakness in the internal control structure, deficiencies in the accounting records, or noncompliance with rules and regulations, the President must take immediate action. Second, it clarifies that the President of the University, rather than the State Auditor, is responsible for determining whether an institution is making satisfactory progress towards resolving issues related to any significant findings. This change resolves a number of issues. It removes the State Auditor from making management recommendations to entities that he must later audit. It also removes the requirement that the State Auditor conduct a second audit within 3 months which is the only way the State Auditor can determine whether the financial exceptions have been resolved.

The act is effective upon becoming law.

S265-SMRC-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 265

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S265-ARC-001

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]
First Edition

Senator_____

moves to amend the bill on page 2, by rewriting lines 1-2 to read:
"audit ~~reports or any other~~ reports, special reports, electronic data processing reports, ~~or~~ performance ~~reports~~ reports, management letters, or any other report issued by the State ~~Auditors~~ Auditor's Office for each".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 297*

Short Title: Amend Charter Sch. Laws. (Public)

Sponsors: Senator Gulley.

Referred to: Education/Higher Education.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"**§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter school on behalf of a private nonprofit ~~corporation.~~ corporation or through creation of a charter school authority. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the process to be followed by the school to ensure parental involvement. If the applicant seeks to establish a charter school through creation of a

charter school authority, this information shall include the names of the proposed initial members of the authority, the terms of office of those members if less than the proposed duration of the charter school authority's existence as set forth in subdivision (9) of this subsection, and the proposed method for filling vacancies in the membership of the authority.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the ~~contract.~~ contract or, in the case of a charter school operated by a charter school authority, the duration of the charter school authority's existence.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) ~~A description of whether the school will operate independently of the local board of education or whether it agrees to be subject to some supervision and control of its administrative operations by the local board of education. In the event the charter school elects to operate independently of the local board of education,~~ A statement of whether the school will be operated by a nonprofit,

tax-exempt corporation or by a charter school authority. In the event a nonprofit, tax-exempt corporation will operate the charter school, the application must specify which employee benefits will be offered to its employees and how the benefits will be funded.

(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity for a charter school to be operated by a nonprofit, tax-exempt corporation may be:

(1) The local board of education of the local school administrative unit in which the charter school will be located;

(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or

(3) The State Board of Education.

Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school.

Only the State Board of Education may approve an application for a charter school that will be operated by a charter school authority.

(c1) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board by November 10. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board."

Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"**§ 115C-238.29C1. Criminal history checks.**

(a) As used in this section:

(1) 'Criminal history' means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as the operator of a charter school. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson

and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) 'School personnel' means any:

a. Operator of a charter school,

b. Employee of a charter school, or

c. Independent contractor or employee of independent contractor of a charter school if the independent contractor carries out duties customarily performed by school personnel,

whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of a charter school.

(b) The State Board of Education shall adopt a policy on whether and under what circumstances school personnel shall be required to be checked for a criminal history after preliminary approval has been granted but before the Board grants final approval of an application under G.S. 115C-238.29D. The Board shall apply its policy uniformly in requiring school personnel to be checked for a criminal history. The Board may grant conditional approval of an application while the Board is checking a person's criminal history and making a decision based on the results of the check.

The State Board shall not require school personnel to pay for the criminal history check authorized under this section.

(c) The Department of Justice shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the Board requires a criminal history check. The Board of Education shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the local board, or to the local

sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The State Board shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D.

The State Board shall not require school personnel to pay for being fingerprinted as authorized under this section.

(d) The State Board shall review the criminal history it receives on an individual. The State Board shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval under G.S. 115C-238.29D. The State Board shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D.

(e) All the information received by the State Board of Education through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the State Board of Education. The State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of the State Board of Education, or its employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

Section 3. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant a charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Nonrenewal of a charter to a charter school authority shall constitute revocation of the resolution creating the authority."

Section 4. G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. It shall be accountable to the ~~local board of education~~ State Board of Education for purposes of ensuring compliance with applicable laws and the provisions of its charter.

(b) A charter school shall be operated ~~by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.~~ in one of the following ways:

(1) By a private nonprofit corporation that receives federal tax-exempt status no later than 24 months after final approval of the application.

(2) By a charter school authority created by resolution of the State Board of Education. The resolution creating the charter school authority shall incorporate at a minimum the information provided in the application, as modified during the charter approval process, and any other terms and conditions imposed on the charter school by the State Board. A charter school authority shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part as well as the obligations and duties imposed on it by the State Board's creating resolution.

(c) A charter school that is operated by a nonprofit, tax-exempt corporation shall operate under a written contract signed by the ~~local board of education~~ State Board of Education and the applicant. The contract shall incorporate at a minimum the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education.

~~If the local board of education does not sign the contract, the State Board may sign on behalf of the local board.~~

(d) The board of directors of ~~the~~ a charter school operated by a nonprofit, tax-exempt corporation or the charter school authority, as applicable, shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) ~~A charter school shall be located in the local school administrative unit with which it signed the contract. Its~~ A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education, from a public or private nonsectarian organization, or as is otherwise lawful in the local school administrative unit in which the charter school is located. At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available space to the charter school unless the board demonstrates that the lease is not economically or practically feasible.

(f) Except as provided in this Part and pursuant to the provisions of its ~~contract,~~ contract or creating resolution, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

Section 5. G.S. 115C-238.29F reads as rewritten:

"**§ 115C-238.29F. General requirements.**

(a) Health and Safety Standards. -- A charter school shall meet the same health and safety requirements required of a local school administrative unit.

(b) School Nonsectarian. -- A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. --

(1) The board of directors of a charter school operated by a nonprofit, tax-exempt corporation or the charter school authority may sue and be sued. The board of directors or charter school authority shall obtain at least the amount of and types of insurance required by the ~~contract.~~ contract or creating resolution.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. ~~In the event a charter school has not elected total independence from the local board of education under subsection (c) of this section,~~ In the case of a charter school operated by a charter school authority, the immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(d) Instructional Program. --

(1) The school shall provide instruction each year for at least 180 days.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the contract ~~with the local board of education.~~ or creating resolution.

(3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education.

(4) The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General ~~Statutes;~~ Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its ~~contract.~~ contract or creating resolution.

(e) Employees. --

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors or the charter school authority, as applicable, shall employ and contract with necessary

teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. The board or authority also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board or authority may discharge teachers and noncertificated employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. The local school administrative unit shall grant a leave for any number of years requested by the teacher, shall extend the leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request. The local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving an extended leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

~~(4) In the event a charter school, in its application, elects total independence from the local board of education, its employees shall not be deemed to be employees of the local school administrative unit and shall not be entitled to any State-funded employee benefits, including membership in the North Carolina Teachers' and State Employees' Retirement System or the Teachers' and State Employees' Comprehensive Major Medical Plan. In the event a charter school, in its application, agrees to be subject to some supervision and control of its administrative operations by the local board of education, the employees of the charter school will be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and~~

~~State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan. The Board of Trustees of the Teachers' and State Employees' Retirement System, in consultation with the State Board of Education, shall determine the degree of supervision and control necessary to qualify the employees of the applicant for membership in the Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.~~

(5) Employees of a charter school operated by a charter school authority created by resolution of the State Board are public employees and are 'teachers' within the meaning of G.S. 135-5(25) to the same extent as if they were employees of a local school administrative unit. The charter school shall remit all retirement contributions required by G.S. 135-8 with the retirement contributions of the local school administrative unit in which the school is located, and the employees of the school shall be reported for purposes of the Teachers' and State Employees' Retirement System of North Carolina only, as employees of that local school administrative unit. Employees of a charter school operated by a nonprofit, tax-exempt corporation are not public employees and are not 'teachers' within the meaning of G.S. 135-5(25).

(f) Accountability. --

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board.

(g) Admission Requirements. --

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to

students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides, except that the provisions of G.S. 115C-366(d) shall apply to a student who wishes to attend a charter school in a county other than the county in which the student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the ~~contract,~~ contract or creating resolution, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(h) Transportation. -- The charter school ~~shall provide transportation for students enrolled at the school who reside in the local school administrative unit in which the school is located. The charter school~~ may provide transportation for students enrolled at the ~~school who reside in different local school administrative units.~~ school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. The local board of the local school administrative unit in which the charter school is located shall contract with the charter school for the provision of transportation if the board operates a school bus transportation system. However, the local board may refuse to provide transportation if it demonstrates there is no available space or it would not be practically feasible.

(i) Assets. -- Upon dissolution of the charter school or upon the nonrenewal of the charter, all assets of the charter school shall be deemed the property of the local school administrative unit in which the charter school is located."

Section 6. G.S. 115C-238.29G reads as rewritten:

"**§ 115C-238.29G. Causes for nonrenewal or termination.**

The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, may terminate or not renew a contract or may revoke or not renew a resolution creating a charter school authority upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the ~~contract;~~ contract or creating resolution;

(2) Failure to meet generally accepted standards of fiscal management;

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the ~~contract;~~ contract or creating resolution;

(5) Two-thirds of the faculty and instructional support personnel at the school request that the contract be terminated or not renewed or that the creating resolution be revoked or not renewed; or

(6) Other good cause identified.

The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and its chartering entity during the time of its charter. Only the State Board may revoke a resolution creating a charter school authority."

Section 7. G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school (i) an amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with special needs and (ii) an additional amount for each child attending the charter school who is a child with special needs.

Funds allocated by the State Board of Education ~~shall not be used to purchase land or buildings.~~ may be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. However, funds allocated by the State Board of Education shall not be used to obtain any other interest in real property or mobile classroom units. As used in this subsection, the term 'operational leases' is defined according to generally accepted accounting principles. The school may own land and buildings it ~~obtained~~ obtains through non-State sources."

Section 8. G.S. 115C-238.29I(d) reads as rewritten:

"(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for

charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a ~~contract,~~ contract or revoke or not renew a creating resolution, (v) make recommendations concerning grievances between a charter school and its chartering entity, (vi) assist with the review under subsection (c) of this section, and (vii) provide any other assistance as may be required by the State Board."

Section 9. This act is effective when it becomes law.

Senate Education/Higher Education Committee
Thursday, March 20, 1997
12:00 noon
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 12:00 noon on Thursday, March 20, 1997, in Room 544 of the Legislative Office Building. Twenty-two members of the committee were present. Senator Howard Lee presided.

Dr. Hope Williams of the North Carolina Association of Independent Colleges and Universities was introduced to comment on teacher education programs in private colleges and universities and some public-private teacher education partnerships.

Dr. Jay Robinson, Chair of the State Board of Education, commented on teacher education programs which now require higher standards for teachers in their subject matter area.

Senator Leslie Winner, Cochair of the Committee, was introduced to continue discussion of a committee substitute for Senate Bill 272, Excellent Schools Act (see Attachment 1 for a copy of the substitute that was adopted at the committee meeting on Wednesday, March 19, 1997).

Senator Winner addressed two of the main parts of the bill: improving the quality of teaching and increasing pay (see Attachment 2 for a summary of the bill). Senator Lee then introduced Ms. Karen Garr, Governor Hunt's Teacher Advisor, who presented an integrated approach showing how higher standards would lead to higher salaries for teachers (see Attachment 3).

After questions from members on the above, and discussion of the provisions of the bill dealing with dismissing tenured teachers, Senator Gulley sent forth an amendment (see Attachment 4) and moved adoption of the amendment. The motion carried unanimously. Senator Hartsell sent forth an amendment for some technical changes (see Attachment 5) and moved adoption of the amendment. The motion carried unanimously. Senator Gulley sent forth an amendment to clarify the timing of observation of a pre-tenure teacher by a tenured teacher (see Attachment 6) and moved adoption of the amendment. The motion carried unanimously.

Senator Hoyle moved an unfavorable report of the original bill, but favorable report of the committee substitute as amended and that the committee substitute as amended be rolled into a new committee substitute. The motion carried unanimously.

The meeting adjourned at 1:20 p.m.

Howard Lee
Senator Howard Lee, Chair

Dorothy Waugaman
Dorothy Waugaman, Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Howard Lee, Co-Chair
Senator Leslie Winner, Co-Chair

Monday, March 24, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **272** Excellent Schools Act

Draft Number:	PCS2618
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Lee to sign.

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 272*
Proposed Committee Substitute S272-PCS8579

Short Title: Excellent Schools Act. (Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT THE EXCELLENT SCHOOLS ACT.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Excellent Schools Act".

*****

An outline of the provisions of the act follows this section. The outline shows the heading "**CONTENTS/INDEX**", and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act. This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.

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I. EFFORTS TO RAISE STUDENT PERFORMANCE STANDARDS

Section 2. The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to September 15, 1997, and prior to February 15, 1998, on its comprehensive plan to raise student performance standards in reading, writing, and mathematics. The reports shall include comparisons of current standards and the State Board's plan with the student performance expectations outlined in the ABC's initiative, the standard course of study, the work of the North Carolina Education Standards and Accountability Commission and the work of the National Assessment of Educational Progress (NAEP).

II. RIGOROUS STANDARDS FOR ENTERING THE TEACHING PROFESSION

A. ENHANCED STANDARDS FOR TEACHER PREPARATION PROGRAMS

Section 3. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the ~~State Board of Education shall submit to the General Assembly not later than November 1, 1994, a plan to promote this policy. The~~ State Board of

Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The State Board of Education, as lead agency in coordination and cooperation with The University Board of Governors, the Board of Community Colleges, and such other public and private agencies as are necessary, and in consultation with the North Carolina Professional Teaching Standards Commission, shall also continue to raise the standard for entry into institutions of teacher education and lengthen and enhance the internship period required of students in institutions of teacher education.

The standards for approval of institutions of teacher education shall require that teacher education programs for students who do not major in special education include courses in the identification and education of children with learning disabilities. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards."

B. ENHANCED INITIAL CERTIFICATION REQUIREMENTS

Section 4. G.S. 115C-296(a) reads as rewritten:

"(a) The State Board of Education shall have entire control of certifying all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial ~~certificate or~~ bachelors degree certificate or graduate degree certificate to demonstrate his academic and professional preparation by achieving a prescribed minimum score ~~at least equivalent to that required by the Board on November 30, 1972,~~ on a standard examination appropriate and adequate for that ~~purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972: Provided, further, that the State Board of Education shall not decrease the certification standards for physical education teachers or health education teachers below the standards in effect on June 1, 1988.~~ purpose. The General Assembly urges the State Board of Education, in consultation with the North Carolina Professional Teaching Standards Commission, to continue to make the standard examination more rigorous and to raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach."

C. REPORT ON ENHANCEMENT OF STANDARDS

Section 5. The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on plans and actions taken pursuant to Sections 3 and 4 of this act to enhance standards for entering the teaching profession and for receiving State Board certification.

III. RIGOROUS STANDARDS FOR CONTINUING CERTIFICATION

A. AWARD OF CONTINUING CERTIFICATION DELAYED ONE YEAR

Section 6. (a) G.S. 115C-296(b), as rewritten by Section 3 of this act, reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter. The State Board of Education, as lead agency in coordination and cooperation with The University Board of Governors, the Board of Community Colleges, and such other public and private agencies as are necessary, and in consultation with the North Carolina Professional Teaching Standards Commission, shall also continue to raise the standard for entry into institutions of teacher education and lengthen and enhance the internship period required of students in institutions of teacher education.

The standards for approval of institutions of teacher education shall require that teacher education programs for students who do not major in special education include courses in the identification and education of children with learning disabilities. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards."

(b) This section applies to teachers who have not received continuing certification prior to January 1, 1999.

B. ENHANCED STANDARDS FOR CONTINUING CERTIFICATION

Section 7. The State Board of Education, in consultation with the North Carolina Professional Teaching Standards Commission, local boards of education, and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for continuing certification. The State Board shall

consider modifications to the continuing certification process to align it with State education goals and to make it a performance-based system in which portfolios, videos, and evaluations by National Board Certified or other excellent teachers are considered. The State Board shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on the results of this study and on any actions taken to make renewal of teacher certificates more rigorous.

IV. RIGOROUS STANDARDS, EVALUATION, AND SUPPORT BEFORE CAREER STATUS IS CONSIDERED

A. MENTORS PROVIDED FOR ALL BEGINNING TEACHERS

Section 8. The State Board of Education shall develop a mentor program that will recognize the achievements of excellent, experienced teachers and will provide each initially certified teacher with a qualified and well-trained mentor. The State Board shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on its progress in developing this program.

B. RIGOROUS AND MORE FREQUENT EVALUATIONS BY WELL-TRAINED EVALUATORS BEFORE CAREER STATUS IS CONSIDERED

Section 9. G.S. 115C-326(a) reads as rewritten:

"(a) The State Board of Education, in consultation with the North Carolina Standards Board for Public School Administration, the North Carolina Professional Teaching Standards Commission, and local boards of education, shall develop uniform performance standards and criteria to be used in evaluating professional public school employees. The State Board of Education shall take into consideration standards developed by the National Board for Professional Teaching Standards when developing the criteria to be used in evaluating professional public school employees. It shall develop rules to recommend the use of these standards and criteria in the employee evaluation process. The performance standards and criteria may be modified ~~in~~ at the discretion of the State Board.

The State Board of Education, in collaboration with the Board of Governors of The University of North Carolina and in consultation with the North Carolina Standards Board for Public School Administration, the North Carolina Professional Teaching Standards Commission, and local boards of education shall also develop programs to train administrators and others to improve the evaluation and supervision of professional public school employees.

Local boards of education shall adopt rules to provide for the evaluation of all professional employees defined as teachers in G.S. 115C-325(a)(6). All teachers who have not attained career status shall be observed at least three times annually by a qualified administrator or a designee and at least once by a teacher. All other teachers shall be evaluated annually unless a local board adopts rules that allow specified categories of teachers with career status to be evaluated less frequently. Local boards may also adopt rules requiring the annual evaluation of other school employees not specifically covered in this section. Local boards may develop and use

alternative evaluation approaches for teachers provided the evaluations are properly validated. Local boards that do not develop alternative evaluations shall utilize the performance standards and criteria adopted by the State Board of Education, but are not limited to those standards and criteria."

C. CAREER STATUS DECISION TO BE MADE ONE YEAR AFTER CONTINUING CERTIFICATION AWARDED

Section 10. (a) G.S. 115C-325(c) reads as rewritten:

"(c) (1) Election of a Teacher to Career Status. -- Except as otherwise provided in subdivision (3) of this subsection, when a teacher will have been employed by a North Carolina public school system for ~~three~~ four consecutive years, the board, near the end of the ~~third~~ fourth year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision by June 1 of his ~~third~~ fourth year of employment. If a majority of the board votes to reemploy the teacher, and if it has notified him of the decision, it may not rescind that action but must proceed under the provisions of this section for the demotion or dismissal of a teacher if it decides to terminate his employment. If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the ~~fourth~~ fifth year of employment.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 workdays performed as a full-time, permanent teacher in a normal school year.

(2) Employment of a Career Teacher. -- A teacher who has obtained career status in any North Carolina public school system need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately as a career teacher. In any event, if the teacher is reemployed for a third consecutive school year, he shall automatically become a career teacher. A teacher with career status who resigns and within five years is reemployed by the same local school administrative unit need not serve another probationary period of more than one school year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is reemployed for a second consecutive school year, he shall automatically become a career teacher.

(3) Ineligible for Career Status. -- No employee of a local board of education except a teacher as defined by G.S. 115C-325(a)(6) is eligible to obtain career status or continue in a career status if he no longer performs the responsibilities of a teacher as defined in

G.S. 115C-325(a)(6). No person who is working in a principal or supervisor position who did not acquire career status as a school administrator by June 30, 1997, shall have career status as an administrator. Further, no director or assistant principal is eligible to obtain career status as a school administrator unless he or she has already been conferred that status by the local board of education.

(4) Leave of Absence. -- A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave."

(b) This section applies to teachers, as defined in G.S. 115C-325(a)(6), who have not attained career status pursuant to G.S. 115C-325(c) prior to July 1, 1999.

V. ADDITIONAL PROFESSIONAL DEVELOPMENT OPPORTUNITIES AND TOUGHER STANDARDS FOR TEACHERS WITH CAREER STATUS

A. MEANINGFUL AND CONTINUED PROFESSIONAL DEVELOPMENT FOR TEACHERS

Section 11. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Professional Teaching Standards Commission, shall study methods for providing meaningful professional development opportunities, which are aligned with State education goals, for each teacher. The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

B. TENURE STREAMLINED TO PROVIDE A FAIR AND EFFICIENT PROCESS FOR REMOVING POOR TEACHERS FROM THE CLASSROOM

Section 12. (a) G.S. 115C-325, as rewritten by Section 10(a) of this act, reads as rewritten:

"**§ 115C-325. System of employment for public school teachers.**

"(a) Definition of Terms. -- As used in this section unless the context requires otherwise:

(1a) 'Career employee' as used in this section means:

a. An employee who has obtained career status with that local board as a teacher as provided in G.S. 115C-325(c);

b. An employee who has obtained career status with that local board in an administrative position as provided in G.S. 115C-325(d)(2);

c. A probationary teacher during the term of the contract as provided in G.S. 115C-325(m); and

d. A school administrator during the term of a school administrator contract as provided in G.S. 115C-287.1(c).

(1b) 'Career school administrator' means a school administrator who has obtained career status in an administrative position as provided in G.S. 115C-325(d)(2).

~~(1)~~

(1c) 'Career teacher' means a teacher who has obtained career status as provided in G.S. 115C-325(c).

~~(2) 'Committee' means the Professional Review Committee created under G.S. 115C-325(g).~~

(3) 'Day' means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(4) 'Demote' means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom ~~teacher,~~ teacher or as a school administrator. ~~or to transfer him to a new position carrying a lower salary, or to suspend him without pay to a maximum of 60 days; provided, however, that a suspension without pay pursuant to the provisions of G.S. 115C-325(f) shall not be considered a demotion.~~ The word 'demote' does not ~~include a reduction in compensation that results from the elimination of a special duty, such as the duty of an athletic coach, assistant principal, or a choral director.~~ include: (i) a suspension without pay pursuant to G.S. 115C-325(f)(1); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

(4a) 'Disciplinary suspension' means a final decision to suspend a teacher or school administrator without pay up to a maximum of 60 days pursuant to G.S. 115C-325(f)(2).

(5) 'Probationary teacher' means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.

(6) 'Teacher' means a person who holds at least a current, not expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the Department of Public Instruction; whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position.

(7) 'Year' for purposes of computing time as a probationary teacher shall be not less than 120 workdays performed as a teacher in a full-time permanent position in a school year.

(b) Personnel Files. -- The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from his personnel file that he deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before his employment by the board may be kept in a file separate from his personnel file and need not be made available to him. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except such data may be used to substantiate G.S. 115C-325(e)(1)g. or o. as grounds for dismissal or demotion.

(c) (1) Election of a Teacher to Career Status. -- Except as otherwise provided in subdivision (3) of this subsection, when a teacher will have been employed by a North Carolina public school system for four consecutive years, the board, near the end of the fourth year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision by June 1 of his fourth year of employment. If a majority of the board votes to reemploy the teacher, and if it has notified him of the decision, it may not rescind that action but must proceed under the provisions of this section for the demotion or dismissal of a teacher if it decides to terminate his employment. If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the fifth consecutive year of employment.

~~A year, for purposes of computing time as a probationary teacher, shall be not less than 120 workdays performed as a full-time, permanent teacher in a normal school year.~~

(2) Employment of a Career Teacher. -- A teacher who has obtained career status in any North Carolina public school system need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately or after one year as a career teacher. In any event, if the teacher is reemployed for a third consecutive school year, he shall automatically become a career teacher. ~~A teacher with career status who resigns and within five years is reemployed by the same local school administrative unit need not serve another probationary period of more than one school year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is reemployed for a second consecutive school year, he shall automatically become a career teacher.~~

(3) Ineligible for Career Status. -- No employee of a local board of education except a teacher as defined by G.S. 115C-325(a)(6) is eligible to obtain career status or continue in a career status as a teacher if he no longer performs the responsibilities of a teacher as defined in G.S. 115C-325(a)(6). No person who is ~~working in a principal or supervisor position~~ employed as a school administrator as defined in G.S. 115C-287.1(a) who did not acquire career status as a school administrator by June 30, 1997, shall have career status as an administrator. Further, no director or assistant principal is eligible to obtain career status as a school administrator unless he or she has already been conferred that status by the local board of education.

(4) Leave of Absence. -- A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave.

(d) Career Teachers and Career Administrators.

(1) A career teacher or administrator shall not be subjected to the requirement of annual appointment nor shall he be dismissed, demoted, or employed on a part-time basis without his consent except as provided in subsection (e).

(2) a. The provisions of this subdivision do not apply to a person who is ineligible for career status as provided by G.S. 115C-325(c)(3).

b. Transfer of career administrators. -- ~~Whether or not he has previously attained career status as a teacher, a person who has performed the duties of a principal in the school system for three consecutive years or has performed the duties of a supervisor in the school system for three consecutive years shall not be transferred from that position to a lower paying administrative position or to a lower paying nonadministrative position without his consent except for~~

~~the reasons given in G.S. 115C-325(e)(1) and in accordance with the provisions for the dismissal of a career teacher set out in this section. Transfer of a principal or a supervisor is not a transfer to a lower paying position if the principal's or supervisor's salary is maintained at the previous salary amount.~~ A school administrator who acquired career status in an administrative position on or before June 30, 1997, may be transferred from that position to any nonadministrative position so long as the administrator's salary is maintained at the previous salary amount.

c. Granting of career status in administrative positions. -- Subject to G.S. 115C-287.1, when ~~When~~ a teacher has performed the duties of supervisor or principal for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision by June 1 of his third year of employment as a supervisor or principal. If a majority of the board votes to reemploy the teacher as a principal or supervisor, and it has notified him of that decision, it may not rescind that action but must proceed under the provisions of this section. If a majority of the board votes not to reemploy the teacher as a principal or supervisor, he shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal. A supervisor or principal who has not held that position for three years and whose contract will not be renewed for the next school year shall be notified by June 1 and shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal.

A year, for purposes of computing time as a probationary principal or supervisor, shall not be less than 145 workdays performed as a full-time, permanent principal or supervisor in a contract year.

A principal or supervisor who has obtained career status in that position in any North Carolina public school system may be required by the board of education in another school system to serve an additional three-year probationary period in that position before being eligible for career status. However, he may, at the option of the board of education, be granted career status immediately or after serving a probationary period of one or two additional years. A principal or supervisor with career status who resigns and within five years is reemployed by the same school system

need not serve another probationary period in that position of more than two years and may, at the option of the board, be reemployed immediately as a career principal or supervisor or be given career status after only one year. In any event, if he is reemployed for a third consecutive year, he shall automatically become a career principal or supervisor.

(e) Grounds for Dismissal or Demotion of a Career ~~Teacher~~ Employee.

(1) Grounds. -- No career ~~teacher~~ employee shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:

a. Inadequate performance.
b. Immorality.
c. Insubordination.
d. Neglect of duty.
e. Physical or mental incapacity.
f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
g. Conviction of a felony or a crime involving moral turpitude.
h. Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
i. Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.
j. Failure to comply with such reasonable requirements as the board may prescribe.
k. Any cause which constitutes grounds for the revocation of ~~such~~ the career teacher's teaching ~~certificate.~~ certificate or the career school administrator's administrator certificate.
l. A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding, provided that there is compliance with subdivision (2).
m. Failure to maintain his certificate in a current status.
n. Failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 of the General Statutes.
o. Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(2) Reduction in Force. -- Before recommending to a board the dismissal or demotion of the career ~~teacher~~ employee pursuant to

G.S. 115C-325(e)(1)l., the superintendent shall give written notice to the career ~~teacher~~ employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes such dismissal or demotion is justified. The notice shall include a statement to the effect that if the ~~teacher~~ career employee within 15 days after receipt of the notice requests a review, he shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career ~~teacher~~ employee may file with the superintendent a written request for a hearing before the board within 10 days. If the ~~teacher~~ career employee requests a hearing before the board, the hearing procedures provided in ~~G.S. 115C-325(j)~~ G.S. 115C-325(j2) shall be followed. If no request is made within the 15-day period, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit ~~appointment of, and investigation and review by, a panel of the Professional Review Committee~~ a hearing by a case manager shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)l.

When a career ~~teacher~~ employee is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his name shall be placed on a list of available ~~teachers~~ career employees to be maintained by the board. Career ~~teachers~~ employees whose names are placed on such a list shall have a priority on all positions in which they acquired career status and for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed ~~teacher~~ career employee a position for which he is certified and he refuses it, his name shall be removed from the priority list.

(3) Inadequate Performance. -- In determining whether the professional performance of a career ~~teacher~~ employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career ~~teacher~~ employee of an

inadequacy in his performance shall be conclusive evidence of satisfactory performance.

(4) Three-Year Limitation on Basis of Dismissal or Demotions. -- Dismissal or demotion under subdivision (1) above, except ~~paragraph g~~ paragraphs g. and o. thereof, shall not be based on conduct or actions which occurred more than three years before the written notice of the superintendent's intention to recommend dismissal or demotion is mailed to the ~~teacher~~ career employee. The three-year limitation shall not apply to dismissals or demotions pursuant to subdivision (1)b. above when the charge of immorality is based upon a ~~teacher's~~ career employee's sexual misconduct toward or sexual harassment of students or staff.

(f) (1) Suspension without Pay. -- If a superintendent believes that cause exists for dismissing a ~~probationary or~~ career ~~teacher~~ employee for any reason specified in G.S. 115C-325(e)(1)~~a. through 115C-325(e)(1)j.~~ and that immediate suspension of the ~~teacher~~ career employee is necessary, the superintendent may suspend him without pay. Before suspending a ~~teacher~~ career employee without pay, the superintendent shall meet with the ~~teacher~~ career employee and give him written notice of the charges against him, an explanation of the bases for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a ~~dismissal~~ dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for ~~dismissal~~ dismissal, demotion, or disciplinary suspension without pay exist, the ~~teacher~~ career employee shall be reinstated ~~immediately and~~ immediately, shall be paid for the period of suspension, and all records of the suspension with pay shall be removed from the career employee's personnel file.

(2) Disciplinary Suspension Without Pay. -- A ~~teacher~~ career employee recommended for suspension without pay pursuant to G.S. ~~115C-325(a)(4)~~ 115C-325(a)(4a) may request a hearing before the board. ~~If the teacher requests a hearing before the board, the procedures provided in G.S. 115C-325(j) shall be followed.~~ If no request is made within 15 days, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension. ~~Provisions of this section which permit appointment of, and investigation and review by, a panel of~~

~~the Professional Review Committee shall not apply to a suspension without pay pursuant to G.S. 115C-325(a)(4).~~

a. Board hearing for disciplinary suspensions for greater than 10 days or for certain types of intentional misconduct. -- The procedures for a board hearing under G.S. 115C-325(j3) shall apply if any of the following circumstances exist:

1. The recommended disciplinary suspension without pay is for greater than 10 days; or
2. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance, as defined in Article 5 of Chapter 90 of the General Statutes, any cause which constitutes grounds for the revocation of the teacher's license, or providing false information.

b. Board hearing for disciplinary suspensions of up to 10 days. -- The procedures provided in G.S. 115C-325(j2) shall be followed for all disciplinary suspensions up to 10 days that are not for intentional misconduct as specified in G.S. 115C-325(f)(2)a.2. In addition, the superintendent shall provide the career employee with any documentary evidence the superintendent intends to use to support his recommendation seven days before the hearing, and the career employee shall provide the superintendent with any documentary evidence to rebut the superintendent's recommendation three days before the hearing.

(f1) Suspension with Pay. -- If a superintendent believes that cause may exist for dismissing or demoting a ~~probationary or~~ career ~~teacher~~ employee for any reasons specified in G.S. 115C-325(e)(1)~~b through 115C-325(e)(1)j~~, but that additional investigation of the facts is necessary and circumstances are such that the ~~teacher~~ career employee should be removed immediately from his duties, the superintendent may suspend the ~~teacher~~ career employee with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall ~~immediately~~ notify the board of education within two days of his action and shall notify the career employee within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the ~~teacher~~ career employee within the 90-day period, the ~~teacher~~ career employee shall be reinstated to his duties immediately and all records of the suspension with pay shall be removed from the ~~teacher's~~ career employee's personnel file at his ~~request.~~ request: provided, however, if the superintendent and the employee have agreed to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the career employee at any time during the period of the extension.

(g) ~~Professional Review Committee; Qualifications; Terms; Vacancy; Training.~~

~~(1) There is hereby created a Professional Review Committee which shall consist of 132 citizens, 11 from each of the State's congressional districts, five of whom shall be lay persons and six of whom shall have been actively and continuously engaged in teaching or in supervision or administration of schools in this State for the five years preceding their appointment and who are broadly representative of the profession, to be appointed by the Superintendent of Public Instruction with the advice and consent of the State Board of Education. Each member shall be appointed for a term of three years. The initial terms of office of the persons appointed from the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1995. The Superintendent of Public Instruction, with the advice and consent of the State Board of Education, shall fill any vacancy which may occur in the Committee. The person appointed to fill the vacancy shall serve for the unexpired portion of the term of the member of the Committee whom he is appointed to replace.~~

~~(2) The Superintendent of Public Instruction shall provide for the Committee such training as he considers necessary or desirable for the purpose of enabling the members of the Committee to perform the functions required of them.~~

~~(3) The compensation of committee members while serving as a member of a hearing panel shall be as for State boards and commissions pursuant to G.S. 138-5. The compensation shall be paid by the State Board of Education.~~

(h) Procedure for Dismissal or Demotion of Career ~~Teacher~~ Employee.

(1) A career ~~teacher~~ employee may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.

(2) Before recommending to a board the dismissal or demotion of the career ~~teacher~~ employee, the superintendent shall give written notice to the career ~~teacher~~ employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes such dismissal or demotion is justified. The superintendent also shall meet with the career employee and give him written notice of the charges against him, an explanation of the basis for the charges, and an opportunity to respond if he has not done so pursuant to G.S. 115C-325(f)(1). The notice shall include a statement to the effect that if the ~~teacher~~ career employee within 15 days after the date of receipt of the notice requests a review, he shall be entitled to have the grounds for the proposed recommendations of the superintendent reviewed by a ~~panel of the Committee~~ case manager. A copy of G.S. 115C-325 and a current

list of ~~the members of the Professional Review Committee~~ case managers shall also be sent to the career ~~teacher~~ employee. If the ~~teacher~~ career employee does not request a ~~panel~~ hearing with a case manager within the 15 days provided, the superintendent may submit his recommendation to the board.

(3) Within the 15-day period after receipt of the notice, the career ~~teacher~~ employee may file with the superintendent a written request for either (i) ~~a review of the~~ a hearing on the grounds for the superintendent's proposed recommendation by a ~~panel of the Professional Review Committee~~ case manager or (ii) a hearing within 10 days before the board on the superintendent's recommendation. ~~within 10 days.~~ If the ~~teacher~~ career employee requests an immediate hearing before the board, he forfeits his right to a hearing by ~~a panel of the Professional Review Committee. A hearing conducted by the board pursuant to this subdivision shall be conducted pursuant to G.S. 115C-325(j) and (l)~~ a case manager. If no request is made within that period, the superintendent may file his recommendation with the board. The board, if it sees fit, may by resolution ~~dismiss such teacher.~~ (i) reject the superintendent's recommendation or (ii) accept or modify it and dismiss, demote, reinstate, or suspend the employee without pay. ~~such teacher.~~ If a request for review is made, the superintendent shall not file his recommendation for dismissal with the board until a report of ~~a panel of the Committee~~ the case manager is filed with the superintendent.

(4) ~~If a request for review is made, the superintendent, within five days of filing such request for review, shall notify the Superintendent of Public Instruction who, within seven days from the time of receipt of such notice, shall designate a panel of five members of the Committee, at least two of whom shall be lay persons, who shall not be employed in or be residents of the county in which the request for review is made, to review the proposed recommendations of the superintendent for the purpose of determining whether in its opinion the grounds for the recommendation are true and substantiated. The teacher or principal making the request for review shall have the right to require that at least two members of the panel shall be members of his professional peer group.~~

(5) If the career employee elects to request a hearing by a case manager, the career employee and superintendent shall each have the right to eliminate up to one-third of the names on the approved list of case managers. The career employee shall specify to the Superintendent of Public Instruction those case managers who are not acceptable in his request for a review of the

superintendent's proposed recommendation provided for in G.S. 115C-325(h)(3). The superintendent and career employee may jointly select a person to serve as case manager. Such person need not be on the master list of case managers maintained by the Superintendent of Public Instruction.

(6) If a career employee requests a review by a case manager, the superintendent shall notify the Superintendent of Public Instruction within three days of receipt of such request. The notice shall contain a list of those case managers eliminated from the master list by the career employee and the superintendent and the name of a person, if any, jointly selected. Failure to exercise the right to eliminate names from the master list shall constitute a waiver of that right.

(7) The Superintendent of Public Instruction shall select a case manager within three days of notice from the superintendent. The Superintendent of Public Instruction shall designate the person jointly selected by the parties to serve as case manager provided such person agrees to serve as case manager and can meet the requirements for time frames for the hearing and report as provided in G.S. 115C-325(i1)(1). If a case manager was not jointly selected or if the case manager is not available, the Superintendent of Public Instruction shall select a case manager from the master list. No person eliminated by the career employee or superintendent shall be designated case manager.

(8) The superintendent and career employee shall provide each other with copies of all documents submitted to the Superintendent of Public Instruction or to the designated case manager.

(h1) Case Managers; Qualifications; Training; Compensation.

(1) Each year the Superintendent of Public Instruction shall select and maintain a master list of no more than 42 qualified case managers.

(2) Case managers shall be selected from persons who are certified as North Carolina Superior Court mediators, as an arbitrator by the American Arbitration Association, or comparable certification in alternative dispute resolution, and who have completed a special training course for case managers approved by the State Board of Education.

(3) The compensation for a case manager shall be comparable to that paid for certified North Carolina Superior Court mediators. The compensation and reimbursement for expenses shall be paid by the State Board of Education.

(i) ~~Hearing by Panel of Professional Review Committee; Report; Action of Superintendent; Review by Board.~~

~~(1) The career teacher and superintendent will each have the right to designate not more than 33 of the 132 members of the Professional~~

~~Review Committee as not acceptable to the teacher or superintendent respectively. No person so designated shall be appointed to the panel. The career teacher shall specify to the superintendent those Committee members who are not acceptable in his request for a review of the superintendent's proposed recommendations provided for in subdivision (h)(3) above. The superintendent's notice to the Superintendent of Public Instruction provided for in subdivision (h)(4) above shall contain a list of those members of the Committee not acceptable to the superintendent and the teacher respectively. Failure to designate nonacceptable members in accordance with this subsection shall constitute a waiver of that right.~~

~~(2) As soon as possible after the time of its designation, the panel shall elect a chairman and shall conduct a hearing in accordance with G.S. 115C-325(j) for the purpose of determining whether the grounds for the recommendation are true and substantiated. The panel shall be furnished assistance reasonably required to conduct its hearing and shall be empowered to subpoena and swear witnesses and to require them to give testimony and to produce books and papers relevant to its investigation.~~

~~(3) The career teacher and superintendent involved shall each have the right to meet with the panel accompanied by counsel or other person of his choice and to present any evidence and arguments which he considers pertinent to the considerations of the panel and to cross-examine witnesses.~~

~~(4) When the panel has completed its hearing, it shall prepare a written report and send it to the superintendent and teacher. The report shall contain its findings as to whether or not the grounds for the recommendation are true and substantiated by a preponderance of the evidence, and a statement of the reasons for its findings. The panel shall complete its hearing and prepare the report within 20 days from the time of its designation, except in cases in which the panel finds that justice requires that a greater time be spent in connection with the investigation and the preparation of such report, and reports that finding to the superintendent and the teacher: Provided, that such extension does not exceed 10 days.~~

~~(5) Within five days after the superintendent receives the report of the panel, the superintendent shall decide whether or not to submit a written recommendation for dismissal to the board or to drop the charges against the teacher and shall notify the teacher, in writing, of the decision. Within five days after receiving the superintendent's notice of his intent to recommend the teacher's dismissal to the board, the teacher shall decide whether to request~~

~~a hearing before the board and shall notify the superintendent, in writing, of the decision. If the teacher requests a hearing before the board, the superintendent shall submit his written recommendation to the board with a copy to the teacher within five days after receiving the teacher's request. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the report of the panel of the Committee.~~

~~(6) Within seven days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and notify the teacher by certified mail of the date, time and place of the hearing. The time specified shall not be less than seven nor more than 20 days after the board has notified the teacher. If the teacher did not request a hearing, the board may, by resolution, dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited.~~

(i1) Report of Case Manager; Superintendent's Recommendation.

(1) The case manager shall complete the hearing held in accordance with G.S. 115C-325(j) and prepare the report within 20 days from the time of the designation, except in cases in which the case manager finds that justice requires that a greater time be spent in connection with the investigation and the preparation of such report, and reports that finding to the superintendent and the career employee: Provided, that such extension does not exceed 10 days.

(2) The case manager shall make all necessary findings of fact, based upon the preponderance of the evidence, on all issues related to each and every ground for dismissal and on all relevant matters related to the question of whether the superintendent's recommendation is justified. The case manager also shall make a recommendation as to whether the findings of fact substantiate the superintendent's grounds for dismissal. The case manager shall deliver copies of the report to the superintendent and the career employee.

(3) Within three days after the superintendent receives the report of the case manager, the superintendent shall decide whether or not to submit a written recommendation for dismissal, demotion, or disciplinary suspension without pay to the board or to drop the charges against the career employee and shall notify the career employee, in writing, of the decision.

(4) If the Superintendent contends that the case manager's report fails to address a critical factual issue, he shall, within seven days of his receipt of the case manager's report, request in writing with a copy

to the career employee that the case manager prepare a supplement to his report. The superintendent shall specify what critical factual issue he contends the case manager failed to address. If the case manager determines that he failed to address a critical factual issue, he may prepare a supplement to his report to address such issue and cause the supplement to be delivered to both parties prior to the board hearing. The failure of the case manager to address a critical factual issue shall not constitute a basis for appeal.

(j) Hearing ~~Procedure~~ by a Case Manager. -- The following provisions shall be applicable to ~~any~~ a hearing conducted ~~pursuant to G.S. 115C-325(k) or (l) or to any hearing conducted by a board pursuant to G.S. 115C-325(h)(3)~~ by the case manager.

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with ~~such reasonable rules and regulations as the board may adopt consistent with G.S. 115C-325, or if no rules have been adopted, in accordance with~~ reasonable rules and regulations adopted by the State Board of Education to govern such hearings.

(3) At the hearing the ~~teacher~~ career employee and the superintendent shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.

(4) Rules of evidence shall not apply to a hearing conducted pursuant to this act and ~~boards and panels of the Professional Review Committee~~ the case manager may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least ~~five~~ 10 days before the hearing, the superintendent shall provide to the ~~teacher~~ career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence he intends to present. At least ~~three~~ six days before the hearing, the ~~teacher~~ career employee shall provide to the superintendent a list of witnesses the ~~teacher~~ career employee intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence he intends to present. Additional witnesses or documentary evidence may not be presented except ~~upon consent of both parties or upon a majority vote of the board or panel.~~ upon a finding by the case manager that the new evidence is critical to the matter at issue and the person making the request could not, with reasonable

diligence, have discovered and produced the evidence according to the schedule provided in this subdivision.

(6) The case manager shall be empowered to subpoena and swear witnesses and to require them to give testimony and to produce records and documents relevant to the grounds for dismissal.

(7) The case manager shall decide all procedural issues necessary for a fair and efficient hearing, including limiting cumulative evidence.

(8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates a hearing before the board or on appeal of the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings.

(j1) Board Determination.

(1) Within three days after receiving the superintendent's notice of his intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee requests a hearing before the board, the superintendent shall submit his written recommendation to the board with a copy to the career employee within two days after receiving the career employee's request. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the report of the case manager.

(2) If the career employee contends that the case manager's report fails to address a critical factual issue, he shall, at the same time he notifies the superintendent of his request for a board hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the superintendent that the case manager prepare a supplement to his report. The career employee shall specify what critical factual issue he contends the case manager failed to address. If the case manager determines that he failed to address a critical factual issue, he may prepare a supplement to his report to address such issue and cause the supplement to be delivered to both parties prior to the board hearing. The failure of the case manager to address a critical factual issue shall not constitute a basis for appeal.

(3) Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and notify the career employee by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than seven nor more than 20 days after the board has notified the career employee. If the career employee did not request a hearing, the

board may, by resolution, reject the superintendent's decision, or accept or modify the decision and dismiss, demote, reinstate, or suspend the career employee without pay. If the career employee can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited.

(4) If requested, a hearing shall be conducted in accordance with G.S. 115C-325(j2).

(5) The board shall make a determination and may (i) reject the superintendent's recommendation or (ii) accept or modify the recommendation and dismiss, demote, reinstate, or suspend the employee without pay.

(6) Within five days following the hearing, the board shall send a written copy of its findings and determination to the career employee and superintendent.

(j2) Board Hearing. -- The following procedures shall be applicable to a hearing conducted by the board:

(1) The hearing shall be private.

(2) The board shall receive the following:

a. The whole record from any hearing held by the case manager, including a transcript of the hearing, as well as any other records, exhibits, and documentary evidence submitted to the case manager at the hearing.

b. If a hearing was held, the case manager's findings of fact.

c. If a hearing was held, the case manager's recommendation as to whether grounds in G.S. 115C-325(e) submitted by the superintendent are substantiated.

d. If the career employee did not request a hearing before a case manager, the evidence before the board shall consist of any documentary evidence the superintendent intends to use to support his recommendation and any documentary evidence the career employee intends to use to rebut the superintendent's recommendation. The superintendent shall provide the documentary evidence to the career employee seven days before the hearing. The career employee shall provide the superintendent with the documentary evidence three days before the hearing. The board shall also receive evidence provided under sub-subdivisions e. and f. of this subdivision.

e. The superintendent's recommendation and the grounds for the recommendation.

f. The superintendent and career employee also may submit a written statement not less than three days prior to the hearing.

(3) The superintendent and career employee shall be permitted to make oral arguments to the board based on the record before the board.

(4) No new evidence may be presented at the review except upon a finding by the board that the new evidence is critical to the matter at issue and the person making the request could not, with reasonable diligence, have discovered and produced the evidence at the hearing before the case manager.

(5) The board shall accept the case manager's findings of fact unless a majority of the board determines that the findings of fact are not supported by substantial evidence when reviewing the record as a whole. In such an event, the board shall make alternative findings of fact. If a majority of the board determines that the case manager did not address a critical factual issue, the board may remand the findings of fact to the case manager to complete the report to the board. If the case manager does not submit the report within seven days upon receipt of the board's request, the board may establish its own findings of fact on the critical factual issues not addressed by the case manager based upon a preponderence of the evidence.

(6) The board need not provide a transcript of the hearing. If the board elects to make a transcript and if the career employee contemplates an appeal to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings. Nothing in this provision shall prevent the career employee from having the hearing transcribed by a court reporter at the employee's cost.

(j3) Board Hearing for Disciplinary Suspensions for Greater Than 10 Days or for Certain Types of Intentional Misconduct. -- The following procedures shall apply for a board hearing under G.S. 115C-325(f)(2)a:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing the career employee and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds for a disciplinary suspension without pay under G.S. 115C-325(f)(2)a. exist.

(4) Rules of evidence shall not apply to a hearing under this subsection and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least 10 days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence he intends to present. At least six days before the hearing, the career employee shall provide the superintendent a list of witnesses the career employee intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence he intends to present. No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the person making the request could not, with reasonable diligence, have discovered and produced according to the schedule provided in this subdivision.

(6) The board shall be empowered to subpoena and swear witnesses and to require them to give testimony and to produce records and documents relevant to the grounds for suspension without pay.

(7) The board shall decide all procedural issues necessary for a fair and efficient hearing, including limiting cumulative evidence.

(8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates an appeal of the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings.

~~(k) Panel Finds Grounds for Superintendent's Recommendation True and Substantiated.~~

~~(1) If the panel found that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall consider the recommendation of the superintendent, the report of the panel, including any minority report, and any evidence which the teacher or the superintendent may wish to present with respect to the question of whether the grounds for the recommendation are true and substantiated. The hearing may be conducted in an informal manner.~~

~~(2) If, after considering the recommendation of the superintendent, the report of the panel and the evidence adduced at the hearing, the board concludes that the grounds for the recommendation are true and substantiated, by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal.~~

~~(l) Panel Does Not Find That the Grounds for Superintendent's Recommendation Are True and Substantiated.~~

~~(1) If the panel does not find that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall determine whether the grounds for the~~

~~recommendation of the superintendent are true and substantiated upon the basis of competent evidence adduced at the hearing by witnesses who shall testify under oath or affirmation to be administered by any board member or the secretary of the board.~~

~~(2) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant competent evidence to be received therein. The report of the panel of the committee shall be deemed to be competent evidence. A full record shall be kept of all evidence taken or offered at such hearing. Both counsel for the local school administrative unit and the career teacher or his counsel shall have the right to cross-examine witnesses.~~

~~(3) At the request of either the superintendent or the teacher, the board shall issue subpoenas requiring the production of papers or records or the attendance of persons residing within the State before the board. Subpoenas for witnesses to testify at the hearing in support of the recommendation of the superintendent or on behalf of the career teacher shall, as requested, be issued in blank by the board over the signature of its chairman or secretary. The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the teacher, except that it shall not pay for any witness who resides within the county in which the dismissal originates or who is an employee of the board. However, no employee of the board shall suffer any loss of compensation because he has been subpoenaed to testify at the hearing. These payments shall be as provided for witnesses in G.S. 7A-314.~~

~~(4) At the conclusion of the hearing provided in this section, the board shall render its decision on the evidence submitted at such hearing and not otherwise. The board's decision shall be based on a preponderance of the evidence.~~

~~(5) Within five days following the hearing, the board shall send a written copy of its findings and order to the teacher and superintendent. The board shall provide for making a transcript of its hearing. If the teacher contemplates an appeal to a court of law, he may request and shall receive at no charge a transcript of the proceedings.~~

(m) Probationary Teacher.

(1) The board of any local school administrative unit may not discharge a probationary teacher during the school year except for the reasons for and by the procedures by which a career teacher may be dismissed as set forth in subsections ~~(e)~~ (e), (f), (f1), and (h) to ~~(l)~~ (j2) above.

(2) The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to

reemploy any teacher who is not under contract for any cause it deems sufficient: Provided, however, that the cause may not be arbitrary, capricious, discriminatory or for personal or political reasons.

(n) **(See note)** Appeal. -- Any ~~teacher~~ career employee who has been dismissed or demoted ~~pursuant to~~ under G.S. 115C-325(e)(2), or ~~pursuant to subsections (h), (k) or (l)~~ under subsection (j2) of this section, or who has been suspended without pay ~~pursuant to G.S. 115C-325(a)(4),~~ under subdivision (a)(4a) of this section, or any school administrator whose contract is not renewed in accordance with G.S. 115C-287.1, or any probationary teacher whose contract is not renewed under subdivision (m)(2) of this section shall have the right to appeal from the decision of the board to the superior court for the superior court district or set of districts as defined in G.S. 7A-41.1 in which the ~~teacher or school administrator~~ career employee is employed. This appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be borne by the board. A ~~teacher~~ career employee who has been demoted or dismissed, or a school administrator whose contract is not renewed, who has not requested a hearing before the board of education pursuant to this section shall not be entitled to judicial review of the board's action.

(o) Resignation; Nonrenewal of Contract. -- A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact by June 1.

(p) Section Applicable to Certain Institutions. -- Notwithstanding any law or regulation to the contrary, this section shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Human Resources and Correction regardless of the age of the students.

(q) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Schools.

(1) Notwithstanding any other provision of this section or any other law, the State Board:

a. Shall suspend with pay a principal who has been assigned to a school for more than two years before the State Board identifies that school as low-performing and assigns an assistance team to that school under Article 8B of this Chapter; and

b. May suspend with pay a principal who has been assigned to a school for no more than two years before the State Board identifies that school as low-performing and assigns an

assistance team to that school under Article 8B of this Chapter.

These principals shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed. The panel shall order the dismissal of the principal, at which time the period of suspension with pay shall expire, unless the panel makes a public determination that the principal has established that the factors that led to the identification of the school as low-performing were not due to the inadequate performance of the principal. The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this subsection. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

a. The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

b. That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career teacher.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record

to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

(3) The State Board of Education or a local board may terminate the contract of a school administrator dismissed under this subsection. Nothing in this subsection shall prevent a local board from refusing to renew the contract of any person employed in a school identified as low-performing under G.S. 115C-105.37.

(4) Neither party to a school administrator contract is entitled to damages under this subsection.

(5) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this subsection."

(b) This section applies to proceedings initiated after January 1, 1998.

C. STUDIES ON MAKING RENEWAL OF TEACHER CERTIFICATES MORE RIGOROUS

Section 13. The State Board of Education, in consultation with the North Carolina Professional Teaching Standards Commission, local boards of education, and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal process to align the process with State education goals and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall report the results of this study and any actions taken to make renewal of teacher certificates more rigorous to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

Section 14. The North Carolina Standards Board for Public School Administration, in consultation with the State Board of Education, local boards of education, and the Board of Governors of The University of North Carolina, shall recommend ways to modify the administrator recertification process to ensure that all schools have well-qualified administrators. The Standards Board shall report the results of this study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

VI. A PLAN TO ATTRACT AND RETAIN HIGH QUALITY TEACHERS -- HIGHER STARTING SALARY, SIGNIFICANT BUMPS IN THE SALARY SCHEDULE AT YEARS 3, 4, AND 8, DEFERRED BONUS SET ASIDE AT YEAR 8 AND PAID AT YEAR 13, FEWER STEPS IN SALARY SCHEDULE, ENHANCED LONGEVITY PAY

Section 15. (a) It is the goal of the General Assembly to increase teacher salaries over the next four years so as to attract and retain excellent teachers in the public schools; therefore, it is the goal of the General Assembly to implement, over the upcoming four fiscal years, a plan for increasing the starting salary for teachers by nearly twenty percent (20%). This would bring the starting salary to at least twenty-

five thousand dollars ($25,000) by the year 2000. Under this plan, the salary schedule would also contain significant "bumps" at the third step, which is the point at which teachers have attained continuing certification; at the fourth step, which is the point at which teachers have received career status; and at the eighth step, which is the point at which teachers have attained certificate renewal.

It is further the intent of the General Assembly that local school administrative units will not use these State-funded salary increments to supplant local salary supplements.

As a first step in implementing this plan, it is the goal of the General Assembly to fund a salary schedule plan for the 1997-98 school year for teachers with "A" certificates similar to the following:

1997-98 Salary Schedule Plan
"A" Teachers

Years of Experience	10-Month Salary
0	$22,150
1	22,570
2	23,000
3	24,360
4	24,950
5	25,430
6	25,920
7	26,410
8	27,140
9	27,640
10	28,160
11	28,690
12	29,230
13	29,780
14	30,340
15	30,910
16	31,490
17	32,090
18	32,700
19	33,330
20	33,960
21	34,600
22	35,250
23	35,920
24	36,610
25	37,310
26	38,020
27	38,750
28	39,490

For subsequent fiscal years, it is the goal of the General Assembly to fund salary schedule plans similar to the following:

1998-99 Salary Schedule Plan
"A" Teachers

Years of Experience	10-Month Salary
0	$23,100
1	23,520
2	23,950
3	25,910
4	26,650
5	27,130
6	27,620
7	28,110
8	29,140
9	29,640
10	30,160
11	30,690
12	31,230
13	31,780
14	32,340
15	32,910
16	33,490
17	34,090
18	34,700
19	35,330
20	35,960
21	36,600
22	37,250
23	37,920
24	38,610
25	39,310
26	40,020
27+	40,750

1999-2000 Salary Schedule Plan
"A" Teachers

Years of Experience	10-Month Salary
0	$24,050
1	24,470
2	24,900
3	27,580
4	28,500

5	28,980
6	29,470
7	29,960
8	31,350
9	31,850
10	32,370
11	32,900
12	33,440
13	33,990
14	34,550
15	35,120
16	35,700
17	36,300
18	36,910
19	37,540
20	38,170
21	38,810
22	39,460
23	40,130
24	40,820
25	41,520
26+	42,230

2000-2001 School Year Plan
"A" Teachers

Years of Experience	10-Month Salary
0	$25,000
1	25,420
2	25,850
3	29,050
4	30,100
5	30,580
6	31,070
7	31,560
8	33,210
9	33,710
10	34,230
11	34,760
12	35,300
13	35,850
14	36,410
15	36,980
16	37,560

17	38,160
18	38,770
19	39,400
20	40,030
21	40,670
22	41,320
23	41,990
24	42,680
25+	43,380

(b) To further implement this plan, it is the goal of the General Assembly to increase longevity pay for teachers with 25 or more years of State service to four and one-half percent (4.5%) of base salary, the same level as for State employees.

(c) To further implement this plan, it is the goal of the General Assembly to set aside a deferred bonus of two thousand five hundred dollars ($2,500) for teachers in their eighth year of teaching. The teachers can earn this deferred bonus by continuing to teach through their thirteenth year of teaching and renewing their licenses during that five-year period.

In order to phase in this bonus for the 1997-98 school year, deferred bonuses of lesser amounts would be set aside for teachers in their ninth through their twelfth year of teaching during the 1997-98 school year, in accordance with the following chart:

Years of Service, During the 1997-98 School Year	Amount of Bonus
8 years	$2,500
9 years	2,000
10 years	1,500
11 years	1,000
12 years	500

At the end of the thirteenth year of teaching, the teacher could either receive the bonus plus interest in a lump sum or have the funds placed in a tax-deferred retirement account.

VII. PAY FOR EXEMPLARY PERFORMANCE/SPECIAL ASSIGNMENTS

A. DEFINITION OF "MASTERS/ADVANCED COMPETENCIES" BY THE STATE BOARD OF EDUCATION

Section 16. (a) The State Board of Education, after consultation with the Board of Governors of The University of North Carolina and the North Carolina Professional Teaching Standards Commission, shall develop a new category of teacher certificate known as the "Masters/Advanced Competencies" certificate. To

receive this certificate, an applicant shall successfully complete a masters degree program that includes rigorous academic preparation in the skills and knowledge expected of a master teacher or otherwise demonstrate to the satisfaction of the State Board that the candidate has acquired the skills and knowledge expected of a master teacher.

(b) Persons who qualify for a "G" certificate prior to September 1, 2000, shall be awarded a Masters/Advanced Competencies Certificate without meeting additional requirements. On and after September 1, 2000, no additional "G" certificates shall be awarded.

(c) The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to January 15, 1998, on its progress in implementing subsection (a) of this section.

B. BONUS PLAN FOR "MASTERS/ADVANCED COMPETENCIES" AND FOR NBPTS CERTIFICATION

Section 17. It is the goal of the General Assembly to increase significantly the salaries of teachers who attain a "Masters/Advanced Competencies" certificate and teachers who are certified by the National Board for Professional Teaching Standards so as to provide an incentive for good teachers to become excellent teachers. In order to do so, it is further the goal of the General Assembly to enact, for the 1997-98 school year, a salary schedule plan that will provide a twelve percent (12%) bonus for teachers who attain NBPTS certification. It is further the goal of the General Assembly to enact by the year 2000 and after the "Masters/Advanced Competencies" under Section 16(a) of this act have been developed, a salary schedule plan that will provide a ten percent (10%) bonus to teachers who attain a "Masters/Advanced Competencies" certification. With these bonuses, the top salary under the plan for teachers with both the "Masters/Advanced Competencies" certification and the NBPTS certification would be a minimum of fifty-three thousand dollars ($53,000) a year by the year 2000.

C. PARTICIPATION FEE AND PAID LEAVE FOR NBPTS PROGRAM

Section 18. It is the goal of the General Assembly to continue to pay for the National Board for Professional Teaching Standards (NBPTS) participation fee and for up to three days of approved paid leave for eligible, State-paid teachers participating in the NBPTS program during the 1997-98 school year and the 1998-99 school year and thereafter for teachers in the public schools.

D. SCHOOL-BASED INCENTIVE AWARDS UNDER THE ABC'S PROGRAM

Section 19. It is the goal of the General Assembly to provide school-based incentive awards under the ABC's Program to schools at which students achieve higher than expected improvements in the basics and the skills they need to get a good job. In accordance with the State Board of Education policy, incentive awards may be up to one thousand dollars ($1,000) for each teacher and up to five hundred dollars ($500.00) for each teacher assistant.

It is further the goal of the General Assembly to provide funds to provide assistance teams to low-performing schools.

E. EXTRA PAY FOR MENTOR TEACHERS

Section 20. It is the goal of the General Assembly to fund a mentor teacher program that will recognize the achievements of excellent, experienced teachers and will provide each newly certified teacher with a qualified and well-trained mentor. The funds shall be used to compensate each mentor for serving as a mentor prior to and during the school year.

F. EXTRA PAY FOR NEW TEACHER DEVELOPMENT

Section 21. It is the goal of the General Assembly to compensate every newly certified teacher for three additional days of employment for orientation and classroom preparation.

G. EXTRA PAY FOR PROFESSIONAL DEVELOPMENT

Section 22. It is the goal of the General Assembly to provide funds for teachers' participation in professional development related to standards and accountability consistent with the State education policies. The funds should be used for teacher development programs that enable teachers to renew continually their knowledge and professional skills, programs that train principals and master teachers to evaluate teachers with and without career status, programs that train mentors for beginning teachers, and other programs as directed by the State Board of Education.

H. EXTRA PAY FOR EXTRA DAYS

Section 23. It is the goal of the General Assembly to provide funds to enable school systems to utilize better the teacher workdays within the calendar for planning, staff development, remediation, and other purposes. These funds shall be used to pay teachers for working on, and thereby forfeiting, vacation days.

I. ADDITIONAL PAY FOR TEACHERS WITH ADDITIONAL RESPONSIBILITIES

Section 24. It is the goal of the General Assembly to provide funds to compensate teachers for additional assignments and responsibilities for additional workdays outside of the school calendar. These funds should be allocated to local school administrative units on the basis of average daily membership. The local board should use one-half of the funds on the recommendation of the local superintendent and one-half on the recommendation of school improvement teams. These funds could be used to compensate teachers for purposes such as teaching after-school or Saturday academies for students at risk of academic failure, developing curriculum, participating in teacher training and development outside of the school calendar, and teaching Saturday to students needing additional instructional opportunities.

VIII. FUNDS FOR COMPUTER SYSTEMS

Section 25. G.S. 115C-546.1(a) reads as rewritten:

"(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital ~~needs.~~ needs and their equipment needs under their local school technology plans."

Section 26. G.S. 115C-546.2 reads as rewritten:

"§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.

(a) Monies in the Fund shall be allocated to the counties on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education. Interest earned on funds allocated to each county shall be allocated to that county.

(b) ~~Monies~~ Counties shall use monies in the Fund ~~shall be used~~ for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings and for the purchase of land for public school ~~buildings.~~ buildings; for equipment to implement a local school technology plan that is approved pursuant to G.S. 115C-102.6C; or for both. Monies used to implement a local school technology plan shall be transferred to the State School Technology Fund and allocated by that Fund to the local school administrative unit for equipment.

As used in this section, 'public school buildings' only includes facilities for individual schools that are used for instructional and related purposes and does not include centralized administration, maintenance, or other facilities.

In the event a county finds that it does not need all or part of the funds allocated to it for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school ~~buildings or~~ buildings, for the purchase of land for public school buildings, or for equipment to implement a local school technology plan, the unneeded funds allocated to that county may be used to retire any indebtedness incurred by the county for public school facilities.

In the event a county finds that its public school building needs and its school technology needs can be met in a more timely fashion through the allocation of financial resources previously allocated for purposes other than school building needs or school technology needs and not restricted for use in meeting public school building ~~needs,~~ needs or school technology needs, the county commissioners may, with the concurrence of the affected local Board of Education, use those financial resources to meet school building needs and school technology needs and may allocate the funds it receives under this Article for purposes other than school building needs or school technology needs to the extent that financial resources were redirected from such purposes. The concurrence described herein shall be secured in advance of the allocation of the previously unrestricted financial resources and shall be on a form prescribed by the Local Government Commission.

(c) Monies in the Fund allocated for capital projects shall be matched on the basis of one dollar of local funds for every three dollars of State funds. Monies in the Fund transferred to the State Technology Fund do not require a local match.

Revenue received from local sales and use taxes that is restricted for public school capital outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local matching requirement. Funds expended by a county after July 1, 1986, for land acquisition, engineering fees, architectural fees, or other directly related costs for a public school building capital project that was not completed prior to July 1, 1987, may be used to meet the local match requirement."

IX. MISCELLANEOUS PROVISIONS

A. CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT

Section 27. The series of captions used in this act (the descriptive phrases in boldface and capital letters) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of this act.

B. NO APPROPRIATIONS REQUIRED BY ACT

Section 28. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Nothing in Sections 15 through 24 of this act shall be construed to create any rights or causes of action.

C. EFFECTIVE DATES

Section 29. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

Attachment 2

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Kory Goldsmith, Committee Counsel
Robin Johnson, Committee Counsel
Sara Kamprath, Legislative Analyst
Jim Watts, Committee Specialist
DATE: March 18, 1997
RE: **SB 272. Excellent Schools Act.**

SECTION 1 is an outline of the provisions of the Act. The outline is for reference purposes only and in no way limits, defines, or prescribes the scope of the text.

Raise Student Performance Standards

SECTION 2 would require the State Board of Education to report to the Joint Legislative Education Oversight Committee before September 1, 1997 and again before February 1, 1998 on its comprehensive plan for raising reading, writing and math student performance standards.

Standards For Entering The Teaching Profession

SECTION 3 would amend G.S. 115C-296(b) to require the State Board of Education to continue raising entry standards for institutions of teacher education and to lengthen and enhance the required student internship at such institutions. In addition to cooperating with the UNC Board of Governors, the Board of Community Colleges and other appropriate public and private agencies, the State Board shall consult with the North Carolina Professional Teaching Standards Commission.

SECTION 4 would amend G.S. 115C-296(a) to urge the State Board of Education to continue making the standard exam for initial certification more rigorous and to raise the minimum score to ensure that applicants are academically and professionally prepared to teach.

SECTION 5 would require the State Board of Education to report to the Joint Legislative Education Oversight Committee before February 1, 1998 on its plans and actions for enhancing standards for entering the teaching profession and receiving State Board certification pursuant to Sections 3 and 4 above.

Standards For Continuing Education

SECTION 6 would amend G.S. 115C-296(b) as amended in Section 3 to require that the teacher certification program provide initial certification after completion of preservice training, continuing certification after 3 years of teaching experience and certificate renewal every five years. This section applies to teachers who have not received continuing certification before January 1, 1999.

SECTION 7 would require the State Board to reevaluate and enhance the requirements for continuing certification including making the process a performance-based system. The State Board shall consult with the N.C. Professional Teaching Standards Commission, local boards of education, and the UNC Board of Governors. The State Board shall report to the Joint Legislative Education Oversight Committee before February 1, 1998 on the study results and any actions to make teacher certification renewal more rigorous.

Standards, Evaluation And Support Before Career Status Is Considered

SECTION 8 would require the State Board to develop a mentor program so that each newly certified teacher will have a qualified mentor. The State Board shall report to the Joint Legislative Education Oversight Committee before February 1, 1998 on its progress in developing the mentor program.

SECTION 9 would amend G.S. 115C-326(a) to direct the State Board to also consult with the N.C. Standards Board for Public School Administration and the N.C. Professional Teaching Standards Commission when developing performance standards for evaluating professional public school employees. The State Board shall also develop programs to train administrators to improve professional public school employee evaluations. Qualified administrators shall evaluate all teachers who have not reached career status at least 3 times annually.

SECTION 10 extends to 4 years the period of time that teachers are employed on probationary contracts. Currently, if a teacher is employed for a fourth consecutive year, the teacher achieves "career status", also known as tenure. Under the new law, the teacher would have to be employed for five consecutive years before achieving career status.

SECTION 11 would require the State Board to study ways to provide each teacher with meaningful opportunities for professional development and report the study results to the Joint Legislative Education Oversight Committee before February 1, 1998.

SECTION 12 amends G.S. 115C-325 which deals with the process for dismissing a career teacher. It should be noted that the same dismissal procedure applies to: (1) school administrators that achieve tenure on or before July 1, 1997; (2) probationary teachers **during** the term of their 1 year contracts; and (3) school administrators who do not have career status **during** the term of their multiple-year contracts. The legislation creates a new definition, the "career employee", which brings together under one term these four types of employees for purposes of the dismissal procedure.

The amendments to the dismissal process do away completely with the Professional Review Commission (PRC), as well as the procedure that allowed a teacher to request that a Professional Review Panel review the superintendent's grounds for dismissal. In its place, the legislation provides that the "career employee" may request a hearing before a "case manager". The Superintendent of Public Instruction selects and maintains a list of up to 42 individuals certified as Superior Court mediators, as arbitrators by the American Arbitration Association, or with comparable credentials in alternative dispute resolution, and who have also taken a training course for case managers. The career employee and the superintendent may agree to have someone not on the State list serve as a case manager. The case manager is responsible for conducting a private hearing, deciding procedural issues, and would have the authority to subpoena witnesses, documents, and records. The case manager is also charged with preparing a report for the superintendent. The report must include findings of fact as to each and every ground for dismissal and on all matters related to the superintendent's recommendation to dismiss the teacher. The case manager also makes a recommendation regarding whether the findings of fact substantiate the superintendent's grounds for dismissal.

If the superintendent proceeds with a recommendation to dismiss the career employee, the employee may request a hearing before the local board. That hearing is private, and based upon the record produced in the hearing before the case manager. New evidence may be admitted under very limited circumstances. The board may reject the superintendent's recommendation, or accept or modify the recommendation. As under current law, the employee has 30 days to appeal the board decision to Superior Court.

The amendments also create a procedure called "Disciplinary Suspension Without Pay". This occurs if the career employee is suspended without pay for up to 60 days. The procedure for suspending the employee differs according to the length of the suspension and also the conduct involved. The career employee may request a board hearing if the suspension is for more than 10 days, or for intentional misconduct such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or non-medical use of a controlled substance. The procedure for this type of hearing is similar to a case manager hearing. If the suspension is for less than 10 days and for conduct not otherwise covered, the employee may request a board hearing based upon documentary evidence.

SECTION 13 would require the State Board of Education, in consultation with the N.C. Professional Teaching Standards Commission, local boards and the UNC Board of Governors, to study making teacher certificate renewal more rigorous. The State Board shall report to the Joint Legislative Education Oversight Committee before February 1, 1998.

SECTION 14 would require the N.C. Standards Board for Public School Administration to make recommendations for making the administrator recertification process more rigorous and report to the Joint Legislative Education Oversight Committee before February 1, 1998.

SECTION 15 states the intent of the General Assembly to increase the starting salary for teachers almost 20% over the next four fiscal years and thereby bringing the starting salary to a minimum of $25,000 by the year 2000. The proposed salary schedule includes significant increases at the third year (continuing certification attained); the fourth year (career status attained); and the eighth year (certificate renewal attained). The General Assembly intends that local school units will not use this money to supplant local salary supplements.

The General Assembly intends to fund salary schedule plans for teachers with "A" certificates for the 1997-98 school year, the 1998-99 school year, the 1999-2000 school year and the 2000-20001 school year similar to those illustrated in the section.

It is also the intent of the General Assembly to increase longevity pay for teachers with 25 or more years of service to 4.5% of base salary, the same level as other State employees.

It is further the intent of the General Assembly to set aside a deferred bonus of $2,500 during the eighth year to be earned if the teacher continues to teach through the thirteenth year. To phase in the bonus for the 1997-98 school year, lesser amounts would be reserved for teachers in the ninth to twelfth year of teaching.

Pay For Exemplary Performance/Special Assignments

SECTION 16 would require the State Board to develop a "Masters/Advanced Competencies" certificate to replace the "G" certificate beginning September 1, 2000. The State Board shall report to the Joint Legislative Education Oversight Committee before January 1, 1998 on its progress.

Sections 17 through 24 state the intentions of the General Assembly to:

(1) Enact for the 1997-98 school year a salary schedule to give teachers who get National Board for Professional Teaching Standards certification a 12% bonus and a salary schedule plan by the year 2000 to give teachers a 10% bonus for getting "Masters/Advanced Competencies" certification. The top salary for both certifications would equal a minimum of $53,000 a year by 2000 -- **(SECTION 17).**

(2) Continue to pay the fee for the National Board for Professional Teaching Standards (NBPTS) test and pay for a maximum of 3 days approved paid leave for public teachers participating in the program beginning with the 1997-98 school year -- **(SECTION 18).**

(3) Provide school-based incentive awards, not exceeding $1,000 for teachers and not exceeding $500 for teacher assistants, under the ABC's program to schools where student achievement is higher than expected. Provide funds for assistance teams to low-performing schools – **(SECTION 19).**

(4) Fund a program to provide each newly certified teacher with a mentor and to provide extra pay for the mentor teachers – **(SECTION 20).**

(5) Pay each newly certified teacher for 3 extra days of orientation and classroom preparation – **(SECTION 21).**

(6) Provide funds for extra pay for teachers and principals who participate in professional development programs related to standards and accountability as determined by the State Board – **(SECTION 22).**

(7) Provide funds to pay teachers for working on vacation days – **(SECTION 23).**

(8) Provide funds to pay teachers for additional assignments and additional workdays – **(SECTION 24).**

SECTION 25 would amend G.S. 115C-546.1(a) so that monies from the Public School Building Capital Fund can be used for computers. Currently, the monies can only be used for public school building capital needs.

Miscellaneous Provisions

SECTION 26 amends G.S. 115C-546.2 so that counties can also use monies from the Public School Building Capital Fund for equipment to implement local school technology plans approved pursuant to G.S. 115C-102.6C or for both capital outlay projects and equipment. Monies for equipment to implement a local school technology plan shall be transferred to the State School Technology Fund for allocation to the local school administrative unit. Monies transferred to the State Technology Fund do not require a local match.

SECTION 27 provides that the captions used in the Act do not define or limit the application of the bill.

SECTION 28 provides that the General Assembly is not obligated to appropriate funds to implement the provisions of the Act. Nothing in Sections 15-24 of the Act shall be construed to create any rights or causes of action.

House Bill 351 would take effect when it becomes law.

The Excellent Schools Act

High Standards for Teaching

A. *Preparation*

- Higher standards for entry into school of education
- Year-long internship in classroom prior to college graduation
- Highest standards for initial license: NC uses toughest test, has highest cut-off scores in nation.

B. *Entry*

- Trained mentors for new teachers
- 3 orientation days for new teachers
- 1 additional day for mentors

C. Rigorous **performance-based** requirement for ***continuing license***

D. Increased demands for ***earning tenure***

E. Higher standards for ***license renewal*** throughout teaching career:

- improved evaluation system, streamlined tenure law

F. ***Better Performance***

- National Board Certification
- Master's Degree/Advanced Competencies
- ABC Plan incentives

Higher Salaries for Teachers

A. ***$25,000 starting salary*** by year 2000 (currently $21,330)

B. ***Support***

$100/month for mentors
Additional pay for new teachers
Additional pay for mentors

C. ***"Bump"*** (extra money between steps) in salary schedule

D. ***"Bump"*** in salary schedule

E. ***"Bump"*** for 1st renewal + ***deferred comp. package***, 8th yr; 4.5% longevity for 25+ years

F. ***Higher Pay***

12% salary increase
10% salary increase
$500-1000 bonus

Additional Opportunities for Increased Pay

Professional Development
Calendar Revision: allows pay for teachers to work on vacation days
Additional Days of Employment

Pay for Maximum Service and Top Qualifications in 2000-01 = $53,000+.

Attachment 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
SENATE BILL 272

ABC

S272-ALE-03

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of __

Date _____ ,1997

Comm. Sub. []
Amends Title []
Proposed Committee Substitute S272-PCS38579

Senator Gulley

moves to amend the bill on page 3, lines 28-32, by deleting the sentence that begins on line 28 and ends on line 32 and substituting the following:

"The reports shall include (i) comparisons of current standards and the State Board's plan to raise student performance expectations as outlined in the ABC's initiative, the standard course of study, the work of the North Carolina Education Standards and Accountability Commission, and the work of the National Assessment of Educational Progress (NAEP), and (ii) specific details and timetables on the State Board's efforts to establish student performance benchmarks at grades four, eight, ten, and twelve."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment 5

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 272

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S272-ARC-001 Page 1 of __

Date_____,1997

Comm. Sub. [YES]
Amends Title []
PCS8579

Senator

moves to amend the bill on page 9, line 13, by deleting the word "compensation" and substituting "~~compensation~~ salary";

and on page 14, line 14, by deleting the phrase "G.S. 115C-325(j2)" and substituting "G.S. 115C-325(j3)";

and on page 19, line 41, by deleting "(i)" and substituting "~~(i)~~";

and on page 22, line 14, by inserting after the word "with" the word "any";

and on page 25, line 32, by inserting after the word "with" the word "any";

and on page 26, line 13, by inserting after the word "produced" the words "the evidence";

and on page 27, line 42, by deleting the phrase "(j2)" and substituting "(j3)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 3/20/97

S. B. No. 272 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE 8579

Rep.)
) Gulley
Sen.)

moves to amend the bill on page 6, line 40

( ) WHICH CHANGES THE TITLE

by inserting after the word "once" the word "annually".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

~~JOINT APPROPRIATIONS~~/Education/Higher Ed Subcommittee Thursday, March 20, 1997 ~~8:00 AM~~ Noon

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Donna J. Smith	SDPI
Jeff Davis	UNC
Janet Patton	OSBM
[illegible]	OSBM
Bill Benson	NCSBA
~~Frank Greene~~	Gov.'s office
Ann Williams	Office of the Governor
Lynda McCulloch	" "
Beryl F. Wade	"
[illegible]	DPI
Harriet Dial	NCAE
Tom Stern	NCAE Attorney

VISITOR REGISTRATION SHEET

~~JOINT APPROPRIATIONS~~/Education ~~EE~~ committee (Higher Ed) Thursday, March 20, 1997 ~~8:00 AM~~ noon

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gene Causby	E-EBC
Leslie Bevacqua	NCCBE
Thomas V. Bennett	NCCFTF
Jim Bowles	NCDPI
Lou Thompson	"
Alicia Howe	Public School Forum
JB Buxton	" "
JCratts	NCASA
David Byrd	NCASA
[illegible]	Bunt
Carrie Athens	DPI
Brock Murray	Licensure - DPI

VISITOR REGISTRATION SHEET

~~JOINT APPROPRIATIONS~~ Higher Ed/Education Subcommittee Thursday, March 20, 1997

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDI
David Brown	OSBM
Mark Sisak	OSBM
ANNA TEFFT	OSBM

EDUCATION/HIGHER EDUCATION

AGENDA

MARCH 26, 1997

HB 78	School Administrator Standards Exemption (Study Commission)
HB 113	Add Trustees/College of the Albemarle
SB 72	St. Bd. Of Ed./Subpoena Power
SB 366	Revise Sch. Bd./Cty. Comm. Mediation

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, March 26, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, March 26, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Nine of the members of the Committee attended the meeting, including the Co-Chair, Senator Leslie Winner, who presided.

Senator Winner introduced Representatives Owens, who spoke on HB113, Short Title: Add Trustees/College of the Albemarle. The Committee voted on HB113 and it received a favorable report.

Senator Winner introduced Representative Rogers, who spoke on HB78, Short Title: Sch. Admin. Stds. Exemption. Senator Lucas moved for a favorable report. The Committee voted for a favorable report on HB78.

Senator Winner introduced Senator Dannelly, who spoke on SB72, Short Title: St. Bd. Of Ed./Subpoena Power. Senator Hartsell moved for a favorable report. There was some discussion and then the Committee voted favorably on SB72.

The Committee was adjourned at 11:00 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Leslie Winner, Co-Chair
Senator Howard Lee, Co-Chair

Wednesday, March 26. 1997

SENATOR WINNER,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **78** Sch. Admin. Stds. Exemption.
Sequential Referral: None
Recommended Referral: None

H.B. **113** Add Trustees/College of the Albemarle
Sequential Referral: None
Recommended Referral: None

S.B. **72** St. Bd. of Ed./Subpoena Power.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 3

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 113

Short Title: Add Trustees/College of the Albemarle. (Local)

Sponsors: Representative Owens.

Referred to: Education.

February 12, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE EXPANSION OF THE BOARD OF TRUSTEES OF THE COLLEGE OF THE ALBEMARLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-12(a) reads as rewritten:

"(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, who shall be selected by the following agencies.

Group One -- four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.

Group Two -- four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in

which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees. Provided also, if a community college serves six or more counties outside of its administrative area, the board of trustees of that community college may authorize the county commissioners of one or more of each of those counties to elect an additional board member. No more than one trustee from Group Two may be a member of a board of county commissioners. Should the boards of education or the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.

Group Three -- four trustees, appointed by the Governor.

Group Four -- the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to G.S. 115D shall be an ex officio nonvoting member of the board of trustees of each said institution."

Section 2. This act applies only to the College of the Albemarle.

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory Goldsmith, Committee Counsel KSG

DATE: March 10, 1997

RE: Summary HB 113 - Add Trustees/College of the Albemarle

House Bill 113 is a local bill that only applies to the College of the Albemarle. The College of the Albemarle's service area includes seven counties (Camden, Chowan, Currituck, Dare, Gates, Perquimans, and Pasquotank). Under current law, only the boards of County Commissioners of the county where the college is located (Pasquotank), and the counties where satellite campuses are located (Dare and Chowan), may elect representatives to the board of trustees. House bill 113 would allow the Board of Trustees of the College of the Albemarle to authorize the county commissioners of one or more of the remaining counties to elect an additional board member.

House Bill 113 is effective when it becomes law.

H113-SMRC-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 78

Short Title: Sch. Admin. Stds. Exemption. (Public)

Sponsors: Representatives Rogers, Grady, Black, McMahan, Preston; Bonner, Moore, Shubert, Sutton, and Yongue.

Referred to: Education.

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHO IS EXEMPT FROM THE PUBLIC SCHOOL ADMINISTRATOR EXAM.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 1998, G.S. 115C-290.8 reads as rewritten:

"**§ 115C-290.8. (Effective January 1, 1998) Exemptions from requirements.**

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, ~~or~~ (ii) was engaged in school administration while in possession of an active State administrator/supervisor ~~certificate.~~ 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. 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 2. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs
FROM: Robin S. Johnson, Staff Attorney
DATE: March 25, 1997
RE: **HB 78: SCH. ADMIN. STDS. EXEMPTION**

House Bill 78 is recommended by the Joint Legislative Education Oversight Committee at the request of the State Board of Education. House Bill 78 would amend G.S. 115C-290.8 to clarify that professors of educational administration who have held active State administrator/supervisor certificates during the five years before January 1, 1998, will be exempt from the North Carolina Public School Administrator Exam. Beginning January 1, 1998, a person seeking certification as a school administrator will be required to take and pass this exam.

House Bill 78 is effective when it becomes law.

HB78SUMMARY1

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 72*

Short Title: St. Bd. of Ed./Subpoena Power. (Public)

Sponsors: Senators Dannelly, Winner, Lee, Hartsell, Lucas, Perdue; Albertson, Dalton, Hoyle, Kinnaird, Martin of Pitt, Rand, Reeves, Shaw of Cumberland, and Weinstein.

Referred to: Education/Higher Education.

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO GRANT SUBPOENA POWER TO THE STATE BOARD OF EDUCATION IN CASES INVOLVING THE SUSPENSION OR REVOCATION OF CERTIFICATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-296(d) reads as rewritten:

"(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates. In addition, the State Board ~~of Education~~ may revoke or refuse to renew a teacher's certificate when:

(1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37; and

(2) The assistance team assigned to that school under G.S. 115C-105.38 makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates."

Section 2. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs
FROM: Robin S. Johnson, Staff Attorney
DATE: March 25, 1997
RE: **S 72. STATE BOARD OF EDUCATION SUBPOENA POWER.**

Senate Bill 72 is recommended by the Joint Legislative Education Oversight Committee at the request of the State Board of Education. The act would allow the State Board to issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with Board proceedings to suspend or revoke certificates.

The act also directs the Board to adopt rules for the suspension and revocation of certificates. The Board, in fact, has rules it adopted under the authority of the State Constitution, which provides the Board is to "supervise and administer the free public school system and the educational funds provided for its support," and to "make all needed rules and regulations in relation thereto, subject to the laws enacted by the General Assembly." Attached is a copy of the Board's current rule pertaining to certificate suspension and revocation.

Senate Bill 72 is effective when it becomes law.

SB72SUMMARY1

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

(2) the candidate has not had the opportunity to satisfy this requirement after becoming aware of it.

(b) A temporary permit is valid for the remainder of the fiscal year during which certification is established. Graduates of in-state approved programs are not eligible for a temporary permit.

History Note: Authority N.C. Constitution, Article IX, Sec. 5; G.S. 115C-12(9)a.;
Eff. July 1, 1986;
Amended Eff. March 1, 1990.

.0312 CERTIFICATE SUSPENSION AND REVOCATION

(a) The SBE may deny an application for certification or may suspend or revoke a certificate issued by the department only for the following reasons:

(1) fraud, material misrepresentation or concealment in the application for certification;
(2) changes in or corrections of the certificate documentation which makes the individual ineligible to hold a certificate;
(3) conviction or entry of a plea of no contest, as an adult, of a crime if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner;
(4) final dismissal of a person by a local board pursuant to G.S. 115C-325(e)(1)b., if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of his/her professional functions effectively;
(5) final dismissal of a person by a LEA under G.S. 115C-325(e)(1)e.;
(6) resignation from employment with a LEA without thirty work days' notice, except with the prior consent of the local superintendent;
(7) revocation of a certificate by another state; and
(8) any other illegal, unethical or lascivious conduct by a person, if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner.
(9) Failure to report revocable conduct as required under paragraph (b) of this Rule.

(b) In addition to any duty to report suspected child abuse under G.S. 7A-543, any superintendent, assistant superintendent, associate superintendent, personnel administrator or principal who knows or has substantial reason to believe that a certified employee of the LEA has engaged in behavior that would justify revocation of the employee's certificate under sections (3), (4) or (8) of paragraph (a) of this Rule and which behavior involves physical or sexual abuse of a child shall report that information to the Superintendent of Public Instruction. For purposes of this section, the term "physical abuse" means the infliction of serious physical injury other than by accidental means and other than in self-defense. The term "sexual abuse" means the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of the age of the student and regardless of the presence or absence of consent. This paragraph applies to acts that occur on or after October 1, 1993.

(c) Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's certificate, the Superintendent of Public Instruction will conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's certificate should be suspended or revoked.

(1) If the Superintendent determines that reasonable cause exists to believe that the person's certificate should be suspended or revoked on one or more of the grounds specified in paragraph (a) of this Rule, the Superintendent shall prepare and file written charges with the SBE.
(2) The SBE will review the written charges and determine whether the person's certificate should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and

notify the person that it will revoke the person's certificate unless the person, within 30 days of receipt of notice, initiates administrative proceedings under Article 3, Chapter 150B of the General Statutes. The notice will be sent certified mail, return receipt requested.

(3) If the person initiates administrative proceedings the SBE will defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-34. If the person does not initiate administrative proceedings within 30 days of receipt of notice, the SBE may suspend or revoke the person's certificate at its next meeting.

(d) The SBE may suspend an individual's certificate for a stated period of time or may permanently revoke the certificate, except as limited by G.S. 115C-325(o).

(e) The SBE may reinstate a suspended or revoked certificate or may grant a new certificate after denial of certification under paragraph (a) of this Rule upon application and showing of good cause by the individual. The burden of proving good cause is on the applicant. The SBE will not grant any request for reinstatement or for granting a new certificate unless it finds as facts that:

(1) the action that resulted in revocation or denial of certification did not involve abuse of minors; possession, sale or use of controlled substances; moral turpitude or grounds listed in G.S. 115C-325 (e)(1)b. or e.;

(2) the person has no record of subsequent behavior that could have resulted in certificate revocation; and

(3) there is no court order or judicial determination that would prohibit the person from returning to or holding a certificated position.

(f) The SBE will notify all other states of all actions which involve the suspension, revocation or reinstatement of a certificate.

History Note: *Authority N.C. Constitution, Article IX, Sec. 5; G.S. 115C-12(9)a.;*
Eff. July 1, 1986;
Amended Eff. January 1, 1988;
ARRC Objection Lodged February 22, 1990;
ARRC Objection Removed Eff. March 15, 1990;
Amended Eff. October 1, 1993; November 1, 1990; August 1, 1990.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 366

Short Title: Revise Sch. Bd./Cty. Comm. Mediation. (Public)

Sponsors: Senator Winner.

Referred to: Education/Higher Education.

March 11, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE MEDIATION PROCEDURE FOR RESOLVING SCHOOL BUDGET DISPUTES BETWEEN LOCAL BOARDS OF EDUCATION AND BOARDS OF COUNTY COMMISSIONERS, AND TO CLARIFY THE SCOPE OF THE SCHOOL FACILITIES GUIDELINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-431 reads as rewritten:

"**§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.**

(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations.

Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a mediator unless the boards agree to jointly select a mediator. The mediator shall preside at the joint meeting and shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the boards' differences.

At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, ~~either board may notify the clerk of superior court who shall request the appointment of a mediator by superior court under G.S. 7A-38.1. The mediator shall be appointed within five days of the notification to the clerk. The mediator shall present recommendations for resolution of the matters in dispute within 15 days of the notification to the clerk.~~ the mediator shall, at the request of either board, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Unless otherwise agreed upon by both boards, the following individuals shall constitute the two working groups empowered to represent their respective boards during the mediation:

(1) The chair of each board or the chair's designee;

(2) The superintendent of the local school administrative unit and the county manager or either's designee;

(3) The finance officer of each board; and

(4) The attorney for each board.

Members of both boards, their chairs, and representatives shall cooperate with and respond to all reasonable requests of the mediator to participate in the mediation. Unless otherwise subject to Article 33C of Chapter 143 of the General Statutes, the mediation proceedings involving the two working groups shall be conducted in private. Information disclosed and conduct occurring during the mediation proceedings shall remain privileged and confidential. Reports by members of either working group to their respective boards shall be made in open meetings in compliance with Article 33C of Chapter 143 of the General Statutes.

Unless both boards agree otherwise, or unless the boards have already resolved their dispute, the mediation shall end no later than July 1. The mediator shall have the authority to determine that an impasse exists and to discontinue the mediation. The mediation may continue beyond July 1 provided both boards agree. If both boards agree to continue the mediation beyond July 1, the board of county commissioners shall appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient to equal the local contribution to this fund for the previous year.

If the working groups reach a proposed agreement, the terms and conditions must be approved by each board. If no agreement is reached, the mediator shall announce that fact to the chairs of both boards, the Senior Resident Superior Court Judge, and the public. The mediator shall not disclose any other information about the mediation. The mediator shall not make any recommendations or public statement of findings or conclusions.

The local board of education and the board of county commissioners shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

(c) Within five days ~~of receiving the recommendations of the mediator, either board~~ after an announcement of no agreement by the mediator, the local board of education may file an action in the superior court division of the General Court of Justice. The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The issue submitted to the jury shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the local school administrative unit, and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose.

(d) If an appeal is taken to the appellate division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year. All papers and records relating to the case shall be considered a part of the record on appeal.

(e) If, in an action filed under this section, the final judgment of the General Court of Justice is rendered after the due date prescribed by law for property taxes, the board of county commissioners is authorized to levy such supplementary taxes as may be required by the judgment, notwithstanding any other provisions of law with respect to the time for doing acts necessary to a property tax levy. Upon making a supplementary levy under this subsection, the board of county commissioners shall designate the person who is to compute and prepare the supplementary tax receipts and records for all such taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date of the levy, and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the

one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed."

Section 2. G.S. 115C-521(c) reads as rewritten:

"(c) The building of all new school buildings and the repairing of all old school buildings shall be under the control and direction of, and by contract with, the board of education for which the building and repairing is done. If a board of education is considering building a new school building to replace an existing school building, the board shall not invest any construction money in the new building unless it submits to the State Superintendent and the State Superintendent submits to the North Carolina Historical Commission an analysis that compares the costs and feasibility of building the new building and of renovating the existing building and that clearly indicates the desirability of building the new building. No board of education shall invest any money in any new building until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board. No local board of education shall contract for more money than is made available for the erection of a new building. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor. Nothing in this subsection shall prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of the board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, ~~the State Board of Education, under any rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of the loan or grant, until the completed~~

~~buildings, erected or repaired, in whole or in part, from the loan or grant funds, shall have been approved by a designated agent of the State Board of Education. Upon approval by the State Board of Education, the State Treasurer may pay the balance of the loan or grant to the treasurer of the local school administrative unit for which the loan or grant was made.~~ no board of education shall invest any money until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board."

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KG
DATE: March 24, 1997
RE: Summary SB 366 - Revise School Board/County Commissioner Mediation

Background: In 1996, the School Capital Construction Study Commission recommended modifying the process for resolving disputes between school boards and county commissioners over the local school budget. The law had provided that in the event there was a disagreement between the two boards, either board could request an arbitration by the clerk of superior court. However, if the clerk made a good faith determination that the dispute could not be resolved by arbitration, the clerk was required to transfer the matter to superior court for litigation. As a practical matter, all clerks that had been faced with the request for arbitration had determined that arbitration was not possible, so all local school budget disputes were going into litigation. The Commission determined that a revised alternative dispute resolution process was necessary, and recommended that the parties be required to attempt to mediate their differences. The changes were incorporated in HB 1102 which was ratified June 21, 1996. The Commission also determined that State school facility standards should be changed to guidelines and that DPI should provide review and comment, but not approval, of proposed plans. These changes were incorporated in Section 18.17 of the 1996 Expansion Budget.

Section 1 makes revisions to the mediation process. First, it requires that the Senior Resident Superior Court judge appoint a mediator to preside over the joint meeting of the two boards. The mediator is supposed to act as a neutral facilitator at the joint meeting. Second, the bill deletes language requiring the mediator make recommendations for resolving the dispute. This change was made in response to concerns that the requirement ran contrary to a mediator's normal role as an impartial facilitator. Third, the bill provides greater detail regarding how the mediation will proceed. It outlines the individuals that will serve on the working groups that represent each board in the mediation: 1) the chair of each board or the chair's designee; 2) the superintendent and the county manager or their designees; 3) the finance officer for each board; and 4) each board's attorney. The bill does allow the membership of the working groups to be modified if both boards agree. It specifies that information provided during the mediation is privileged and confidential. It sets July 1 as the ending date for the mediation, but provides that a mediator may declare an impasse at an earlier time and also provides that the boards may mutually agree to continue the mediation. If the mediation is continued after July 1, the board of county commissioners must appropriate the same amount of money to the local current expense fund as was appropriated in the previous year. The bill provides that if the working groups reach an agreement, it must be approved by both boards. Finally, if the mediator announces that there has

been no agreement, the local board of education may file an action in Superior Court under the current provisions for a court action to resolve the budget dispute.

Section 2 revises G.S. 115C-521(c) to apply the same process for State Board review and comment for school building plans where money is loaned or granted by the State as applies when local funds are used.

The act is effective upon becoming law.

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
APRIL 2, 1997

The Senate Committee on Education/Higher Education met on April 2, 1997 in Room 414 of the Legislative Office Building. Senator Howard Lee presided.

Before the Committee was the following:

SB 297 AMEND CHARTER SCH. LAWS. Senator Gulley brought before the Committee a Proposed Committee Substitute (PCSRH-007) . Senator Cochrane moved that the PCS be considered. Motion carried. Senator Gulley offered an amendment, which was adopted. Senator Gulley explained the PCS. Senator Lucas offered amendment 2, which was adopted. On a motion by Senator Horton, the PCS, with amendments, would be incorporated into a new PCS and reported favorably.

Senator Winner stated that the Safe Schools Act would be heard at the next meeting.

The meeting was adjourned at 11:00 a.m.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Thursday, April 03, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **297** AMEND CHARTER SCH.LAWS.

Draft Number:	PCS 8615
Sequential Referral:	NONE
Recommended Referral:	PENSIONS, RETIREMENT AND INSURANCE
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

DRAFT

S297-PCSRH-007
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 297
THIS IS A DRAFT 1-APR-97 21:04:35
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Amend Charter Sch. Laws. (Public)

Sponsors:

Referred to: Education/Higher Education.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter ~~school on behalf of a private nonprofit corporation.~~ school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the process to be followed by the school to ensure parental involvement. If the applicant seeks to operate the charter school by a board of directors whose members are approved by the State Board of Education, the applicant shall include the names of the proposed initial members of the board of directors.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the contract.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school

would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) ~~A description of whether the school will operate independently of the local board of education or whether it agrees to be subject to some supervision and control of its administrative operations by the local board of education. In the event the charter school elects to operate independently of the local board of education,~~ A statement of whether the school will be operated by a nonprofit, tax-exempt corporation or by a board of directors whose members are approved by the State Board of Education. In the event a nonprofit, tax-exempt corporation will operate the charter school, the application must specify which employee benefits will be offered to its employees and how the benefits will be funded.

(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity may be:

(1) The local board of education of the local school administrative unit in which the charter school will be located;

(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or

(3) The State Board of Education.

Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school.

(c1) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board by November 10. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant

shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board."

Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"**§ 115C-238.29C1. Criminal history checks.**

(a) As used in this section:

(1) 'Criminal history' means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as the operator of a charter school. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of

G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) 'School personnel' means any:

a. Employee of a charter school,

c. Independent contractor or employee of independent contractor of a charter school if the independent contractor carries out duties customarily performed by school personnel,

C. Member of the board of directors of a charter school,

whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of a charter school.

(b) The State Board of Education shall adopt a policy on whether and under what circumstances school personnel shall be required to be checked for a criminal history. The policy shall not require school personnel to be checked for a criminal history check before preliminary approval is granted under G.S. 115C-238.29B. The Board shall apply its policy uniformly in requiring school personnel to be checked for a criminal history. The Board may grant conditional approval of an application while the Board is checking a person's criminal history and making a decision based on the results of the check.

The State Board shall not require school personnel to pay for the criminal history check authorized under this section.

(c) The Department of Justice shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the Board requires a criminal history check. The Board of Education shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the State board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The State Board shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D and when making an employment recommendation.

The State Board shall not require school personnel to pay for being fingerprinted as authorized under this section.

(d) The State Board shall review the criminal history it receives on an individual. The State Board shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval of an application for a charter school under G.S. 115C-238.29D and for making an employment recommendation to the charter school. The State Board shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D and when making an employment recommendation.

(e) The State Board shall provide to a person designated by the charter school the criminal history it receives on any person who is, or who is applying for employment as, an employee or independent contractor of the charter school. At the same time, the State Board shall provide to the person designated by the charter school the written findings the Board makes in subsection (d) of this section and its employment recommendation. If the State Board recommends dismissal or nonemployment of any person, the charter school shall dismiss or refuse to employ that person.

(f) All the information received by the State Board of Education or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the State Board of Education or the charter school. The State Board of Education or the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of the State Board of Education or the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

Section 3. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant a charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Nonrenewal of a charter operated by a board of directors whose members are approved by the State Board of Education shall constitute a termination of the board of directors."

Section 4. G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. ~~It~~ A charter school that receives preliminary approval from the local board of education of the local school administrative unit in which the school is located shall be accountable to ~~the local~~ that board ~~of education~~ for purposes of ensuring compliance with applicable laws and the provisions of its charter. All other charter schools shall be accountable to the State Board of Education for purposes of ensuring compliance with applicable laws and the provisions of their charters.

(b) A charter school shall be operated ~~by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.~~ in one of the following ways:

(1) By a private nonprofit corporation that receives federal tax-exempt status no later than 24 months after final approval of the application.

(2) By a board of directors whose members are approved by the State Board of Education. The board of directors shall be composed of no more than 25 members. The terms of the initial proposed members of the board of directors shall serve terms no longer than the length of the charter granted by the State Board. The terms of subsequent proposed members of the board of directors shall serve terms no longer than five years. Vacancies on the board of directors shall be recommended by the current board of directors and approved by the State Board of Education. The board of directors whose members are approved by the State Board of Education shall have all powers necessary or convenient to carry

out and effectuate the purposes and provisions of this Part as well as the obligations and duties imposed on it by the State Board.

In the event a charter school receives final approval from the State Board of Education by March 15, 1997, and, in its application, the school agreed to be subject to some supervision and control of its administrative operations by the local board of education, the State Board shall provide the opportunity for the school to be operated by a board of directors whose members are approved by the State Board.

(c) A charter school shall operate under a written contract signed by the ~~local board of education~~ entity to which the charter school is accountable under subsection (a) of this section and the applicant. The contract shall incorporate at a minimum the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education.

~~If the local board of education does not sign the contract, the State Board may sign on behalf of the local board.~~

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) ~~A charter school shall be located in the local school administrative unit with which it signed the contract. Its~~ A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education, from a public or private nonsectarian organization, or as is otherwise lawful in the local school administrative unit in which the charter school is located. At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs.

(f) Except as provided in this Part and pursuant to the provisions of its contract, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

Section 5. G.S. 115C-238.29F reads as rewritten:

"**§ 115C-238.29F. General requirements.**

(a) Health and Safety Standards. -- A charter school shall meet the same health and safety requirements required of a local school administrative unit.

(b) School Nonsectarian. -- A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. --

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish a reasonable amount and types of liability insurance that a board of directors shall be required by the contract to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the contract. The liability in tort of a charter school, the members of its board of directors, its officers, and its employees shall not be covered under the Tort Claims Act, as set out in Article 31 of Chapter 143 of the General Statutes, and the State shall not provide for the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee of a charter school. Any sovereign immunity of a charter school, the members of its board of directors, its employees, or its officers, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. ~~In the event a charter school has not elected total independence from the local board of education under subsection (e) of this section, the immunity established by this subsection~~ The immunity established by this subdivision shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is

waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(d) Instructional Program. --

(1) The school shall provide instruction each year for at least 180 days.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the ~~contract with the local board of education.~~ contract.

(3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education.

(4) The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General ~~Statutes;~~ Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its contract.

(e) Employees. --

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. The local school administrative unit shall grant a leave for any number of years requested by the teacher, shall extend the leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request. The local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving an extended leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) ~~In the event a charter school, in its application, elects total independence from the local board of education, its employees shall not be deemed to be employees of the local school administrative unit and shall not be entitled to any State-funded employee benefits, including membership in the North Carolina Teachers' and State Employees' Retirement System or the Teachers' and State Employees' Comprehensive Major Medical Plan. In the event a charter school, in its application, agrees to be subject to some supervision and control of its administrative operations by the local board of education, the employees of the charter school will be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including~~

~~membership in the Teachers' and State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan. The Board of Trustees of the Teachers' and State Employees' Retirement System, in consultation with the State Board of Education, shall determine the degree of supervision and control necessary to qualify the employees of the applicant for membership in the Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.~~ The employees of a charter school operated by a board of directors whose members are approved by the State Board are public employees and are 'teachers' within the meaning of G.S. 135-1(25) to the same extent as if they were employees of a local school administrative unit. Employees of a charter school operated by a nonprofit, tax-exempt corporation are not public employees and are not 'teachers' within the meaning of G.S. 135-1(25).

(f) Accountability. --

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board.

(g) Admission Requirements. --

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area

in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student ~~resides, except that the provisions of G.S. 115C-366(d) shall apply to a student who wishes to attend a charter school in a county other than the county in which the student resides.~~ resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the contract, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(h) Transportation. -- The charter school ~~shall provide transportation for students enrolled at the school who reside in~~

~~the local school administrative unit in which the school is located. The charter school~~ may provide transportation for students enrolled at the ~~school who reside in different local school administrative units.~~ school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board shall contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable fee that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.

(i) Assets. -- Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school shall be deemed the property of the local school administrative unit in which the charter school is located."

Section 6. G.S. 115C-238.29G reads as rewritten:

"§ 115C-238.29G. Causes for nonrenewal or ~~termination.~~ termination; disputes.

(a) The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, may terminate or not renew a contract upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the contract;

(2) Failure to meet generally accepted standards of fiscal management;

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the contract;

(5) Two-thirds of the faculty and instructional support personnel at the school request that the contract be terminated or not renewed; or

(6) Other good cause identified.

(b) The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and its chartering ~~entity~~ entity, the local board of education, or the State Board during the time of its charter."

Section 7. G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school (i) an amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with special needs and (ii) an additional amount for each child attending the charter school who is a child with special needs.

Funds allocated by the State Board of Education ~~shall not be used to purchase land or buildings.~~ may be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. However, funds allocated by the State Board of Education shall not be used to obtain any other interest in real property or mobile classroom units. As used in this subsection, the term 'operational leases' is defined according to generally accepted accounting principles. The school may own land and buildings it ~~obtained~~ obtains through non-State sources."

Section 8. G.S. 115C-238.29I(d) reads as rewritten:

"(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a contract, (v) make recommendations concerning grievances between a charter school and its chartering entity, (vi) assist with the review under subsection (c) of this section, and (vii) provide any other assistance as may be required by the State Board."

Section 9. G.S. 115C-238.29I is amended by adding the following new subsection to read:

"(e) Notwithstanding the dates set forth in this Part, the State Board of Education may establish an alternative timeline for the submission of applications, preliminary approvals, criminal record checks, appeals, and final approvals so long as

the Board grants final approval by March 15 of each calendar year."

Section 10. G.S. 115C-238.29J(a) reads as rewritten:

"(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative ~~units and to contract with those charter schools to provide student transportation.~~ units."

Section 11. G.S. 143-291 is amended by adding the following new subsection:

"(d) Charter schools as authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes and their boards of directors are not State agencies for purposes of this Article, and their liability in tort is not subject to this Article."

Section 12. Article 31A of Chapter 143 of the General Statutes is amended by adding the following new section:

"**§ 143-300.4A. Defense of charter school personnel.**

Notwithstanding any other provisions of this Article, the State shall not provide the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee, individually or collectively, of a charter school authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes."

Section 13. Article 31B of Chapter 143 of the General Statutes is amended by adding the following new section:

"**§ 143-300.15A. Defense of charter school personnel.**

Notwithstanding any other provisions of this Article, the State shall not provide the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee, individually or collectively, of a charter school authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes."

Section 14. (a) G.S. 150B-21.2(a)(1) shall not apply to proposed rules adopted by the State Board of Education if the proposed rules are directly related to the implementation of this act.

(b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the State Board of Education, is approved by the Rules Review Commission, and is directly related to the implementation of this act, shall become effective five business days after the Commission delivers the rule to the Codifier of Rules, unless the rule specifies a later effective date. If the State Board of Education specifies a later effective date, the rule becomes effective upon that date. A permanent rule that is

adopted by the State Board of Education that is directly related to the implementation of this act, but is not approved by the Rules Review Commission, shall not become effective.

(c) G.S. 150B-21.4(b1) shall not apply to permanent rules the State Board of Education proposes to adopt if those rules are directly related to the implementation of this act.

Section 15. Employees of charter schools that are operated by a board of directors whose members are approved by the State Board of Education shall be eligible for participation in the North Carolina Teachers' and State Employees' Retirement System upon the first day of the calendar month following the State's receipt of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, that they are qualified for participation.

Section 16. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel Robin
DATE: April 2, 1997
RE: **Proposed Committee Substitute for SB 297: AMEND CHARTER SCH. LAWS. (S297-PCSRH-007)**

The Proposed Committee Substitute for Senate Bill 297 makes the following changes to the laws governing charter schools:

- Under current law, charter schools are to be operated by private, nonprofit corporations. However, if they want their teachers to be eligible for participation in the State Teachers' and State Employees' Retirement System, then the application for a charter must include a description of whether the school agrees to be subject to some supervision and control of its administrative operations by the local board. For federal tax purposes, participants in qualified retirement plans must be public employees. There is concern that a "private, nonprofit corporation" cannot be made into a public entity, and, therefore, no charter school will be able to have its employees eligible for participation. The committee substitute would allow applicants to declare whether they want to be operated by a private, non-profit corporation or by a board of directors whose members are approved by the State Board. Employees of charter schools operated by a board of directors whose members are approved by the State Board would be eligible for participation in the State Retirement System one month after the State receives a favorable letter ruling from the Internal Revenue Service that says they are qualified for participation. Employees of charter schools operated by private, nonprofit corporations would not be eligible for participation. In the case of a board of directors whose members are approved by the State Board, there can be no more than 25 members. The terms for the initial members can be no longer than the term of the charter that the State Board grants (i.e., no more than 5 years); subsequent members' terms can be no more than 5 years. Vacancies shall be recommended by the current board of directors and approved by the State Board.
- The committee substitute provides that the local board of education of the local school administrative unit in which the charter school is proposed to be located may offer any information or comment concerning an application for a charter. The board must deliver the information to the chartering entity by January 1 following the date applications must be submitted for preliminary approval (November 1). The bill provides specifically that the applicant is not required to obtain or deliver this information. Currently, the State Board's policy is that applicants must include an "impact statement" from the local board as part of their applications.
- Section 2 creates a new G.S. 115C-238.29C1 to direct the State Board to adopt a uniform policy on whether and under what circumstances it will require members of the board of

directors of a charter school, its employees and its independent contractors who have significant access to students or who have responsibility for the fiscal management of the schools to be subject to a criminal history check. The criminal history check must occur after preliminary approval is given. The Board cannot require any of these persons to pay for the criminal history check or to be fingerprinted. This section is virtually identical to G.S. 115C-332, which directs local boards to adopt a similar policy for their school personnel. The check is to be done for purposes of deciding whether to grant final approval of a charter and for the State Board to make employment recommendations to charter schools. If the State Board recommends dismissal or nonemployment of a person, then the charter school shall dismiss or refuse to employ that person.

- Section 4 amends G.S. 115C-238.29E(a) to provide that charter schools that do not receive preliminary approval from the local board of the school unit in which the school will be located to be accountable to the State Board for purposes of ensuring compliance with applicable laws and their respective charters. Charter schools that receive preliminary approval from the local board will be accountable to that board for these purposes. Currently, a charter school is to be accountable to the local board of the local school administrative unit in which the school is to be located. This change also removes the requirement that the State Board may sign on behalf of the local board the contract under which the school is to be operated.
- Also, Section 4 directs the State Board to provide the opportunity for charter schools who provided in their applications that they would agree to some supervision and control by a local board and who received final approval of their applications by March 15, 1997, the opportunity for them to be operated by a board of directors whose members are approved by the State Board.
- Section 4 also amends G.S. 115C-238.29E(e) to require local boards to lease any available building or land to the charter school, upon its request, unless it is not "economically or practically feasible" or the local board does not have adequate classroom space to meet its enrollment needs.
- Section 5 amends G.S. 115C-238.29F(c) to direct the State Board to adopt rules to set a reasonable amount and types of liability insurance that a charter school must be required by contract to obtain. In addition, this change would exempt charter schools from the State Tort Claims Act and would provide that the State will not defend the charter schools in the defense of any civil or criminal action or proceeding. For any charter school that possibly could have any sovereign immunity, this immunity is waived to the extent of indemnification by insurance.
- Section 5 also removes the requirement that students who reside in a local school administrative unit other than the one where the charter school is located must have the approval of both local boards. This requirement also allowed the local board of the unit in which the school is located to charge the student tuition.
- In addition, Section 5 amends G.S. 115C.29F(h) to direct the charter school to develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The school is not required to provide transportation to any student who lives within 1-1/2 miles of the school. The bill also requires the local board of the unit in which the school is located to contract with the school, upon the school's request, for the provision of transportation in accordance with the transportation plan for students who reside at least 1-1/2 miles of the school in that school unit. The local board may refuse to provide the transportation if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible. The board may charge a reasonable fee

sufficient to cover the cost of providing this transportation. Currently, charter schools receive the State funds for transportation for each student. In addition, the charter schools are required to provide transportation for students who reside in the local school administrative unit in which the school is located. Also, local boards are not required to provide transportation for students who live within 1-1/2 miles of the public school to which they are assigned.

- Finally, Section 5 amends G.S. 115C-238.29F(i) to limit the assets to "net assets" that are considered property of the local school administrative unit upon dissolution of the school or upon nonrenewal of the charter. Net assets are obtained by subtracting the liabilities from the total assets.
- Section 6 amends G.S. 115C-238.29G, which currently directs the State Board to develop and implement a process to resolve grievances between a charter school and its chartering entity. The amendment requires the process also to address disputes between charter schools and local boards or the State Board.
- Section 7 amends G.S. 115C-238.29H(a) to allow funds allocated by the State Board to be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. This law currently prohibits using these funds "to purchase land or buildings". Legally, the word "purchase" means any type of acquisition of property, which includes leasing. Using State funds to obtain any other interest in real property will still be prohibited.
- Section 9 allows the State Board to establish an alternative timeline for the application, approval, and appeals process. Currently, the law gives specific dates for specific steps in the process. The Board's alternative timeline must still provide for final approval by March 15 of each calendar year.
- Section 14 allows the State Board to use a streamlined procedure for adopting rules directly related to the implementation of this legislation. The Board may publish the text of any proposed rule as the first step in the rulemaking procedure, and a rule may take effect without waiting for submission to the General Assembly.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 297

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S297-ARH-001

Date April 2, 1997

Comm. Sub. [X]
Amends Title []

Senator Gunn

1 moves to amend S297-PCSRH-007 on page 15, lines 25-38,
2 by deleting those lines and by renumbering the remaining sections.
3

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 297 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S297-PCSRH-007

Rep.)
) Lucas
Sen.)

moves to amend the bill on page ~~8~~ 9, line 6

( ) WHICH CHANGES THE TITLE

by inserting after the word "tuition" the phrase "or fees".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

Reported

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 297*
Proposed Committee Substitute S297-PCS8615

Short Title: Amend Charter Sch. Laws. (Public)

Sponsors:

Referred to:

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"**§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter ~~school on behalf of a private nonprofit corporation.~~ school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the process to be followed by the school to ensure parental involvement. If the

applicant seeks to operate the charter school by a board of directors whose members are approved by the State Board of Education, the applicant shall include the names of the proposed initial members of the board of directors.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the contract.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) ~~A description of whether the school will operate independently of the local board of education or whether it agrees to be subject to some supervision and control of its administrative operations by the local board of education. In the event the charter school elects to operate independently of the local board of education,~~ A statement of whether the school will be operated by a nonprofit, tax-exempt corporation or by a board of directors whose members are approved by the State Board of Education. In the event a nonprofit, tax-exempt corporation will operate the charter school,

the application must specify which employee benefits will be offered to its employees and how the benefits will be funded.

(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity may be:

(1) The local board of education of the local school administrative unit in which the charter school will be located;

(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or

(3) The State Board of Education.

Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school.

(c1) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board by November 10. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board."

Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"**§ 115C-238.29C1. Criminal history checks.**

(a) As used in this section:

(1) 'Criminal history' means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as the operator of a charter school. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public

Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) 'School personnel' means any:

a. Employee of a charter school,

b. Independent contractor or employee of independent contractor of a charter school if the independent contractor carries out duties customarily performed by school personnel,

c. Member of the board of directors of a charter school,

whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of a charter school.

(b) The State Board of Education shall adopt a policy on whether and under what circumstances school personnel shall be required to be checked for a criminal history. The policy shall not require school personnel to be checked for a criminal history check before preliminary approval is granted under G.S. 115C-238.29B. The Board shall apply its policy uniformly in requiring school personnel to be checked for a criminal history. The Board may grant conditional approval of an application while the Board is checking a person's criminal history and making a decision based on the results of the check.

The State Board shall not require school personnel to pay for the criminal history check authorized under this section.

(c) The Department of Justice shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the Board requires a criminal history check. The Board of Education shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the State Board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The State Board shall consider refusal to consent when deciding whether to grant final approval

of an application under G.S. 115C-238.29D and when making an employment recommendation.

The State Board shall not require school personnel to pay for being fingerprinted as authorized under this section.

(d) The State Board shall review the criminal history it receives on an individual. The State Board shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval of an application for a charter school under G.S. 115C-238.29D and for making an employment recommendation to the charter school. The State Board shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D and when making an employment recommendation.

(e) The State Board shall provide to a person designated by the charter school the criminal history it receives on any person who is, or who is applying for employment as, an employee or independent contractor of the charter school. At the same time, the State Board shall provide to the person designated by the charter school the written findings the Board makes in subsection (d) of this section and its employment recommendation. If the State Board recommends dismissal or nonemployment of any person, the charter school shall dismiss or refuse to employ that person.

(f) All the information received by the State Board of Education or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the State Board of Education or the charter school. The State Board of Education or the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the State Board of Education or the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

Section 3. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant a charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Nonrenewal of a charter operated by a board of directors whose

members are approved by the State Board of Education shall constitute a termination of the board of directors."

Section 4. G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. ~~It~~ A charter school that receives preliminary approval from the local board of education of the local school administrative unit in which the school is located shall be accountable to ~~the local~~ that board ~~of education~~ for purposes of ensuring compliance with applicable laws and the provisions of its charter. All other charter schools shall be accountable to the State Board of Education for purposes of ensuring compliance with applicable laws and the provisions of their charters.

(b) A charter school shall be operated ~~by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.~~ in one of the following ways:

(1) By a private nonprofit corporation that receives federal tax-exempt status no later than 24 months after final approval of the application.

(2) By a board of directors whose members are approved by the State Board of Education. The board of directors shall be composed of no more than 25 members. The terms of the initial proposed members of the board of directors shall serve terms no longer than the length of the charter granted by the State Board. The terms of subsequent proposed members of the board of directors shall serve terms no longer than five years. Vacancies on the board of directors shall be recommended by the current board of directors and approved by the State Board of Education. The board of directors whose members are approved by the State Board of Education shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part as well as the obligations and duties imposed on it by the State Board.

In the event a charter school receives final approval from the State Board of Education by March 15, 1997, and, in its application, the school agreed to be subject to some supervision and control of its administrative operations by the local board of education, the State Board shall provide the opportunity for the school to be operated by a board of directors whose members are approved by the State Board.

(c) A charter school shall operate under a written contract signed by the ~~local board of education~~ entity to which the charter school is accountable under subsection (a) of this section and the applicant. The contract shall incorporate at a minimum the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education.

~~If the local board of education does not sign the contract, the State Board may sign on behalf of the local board.~~

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) ~~A charter school shall be located in the local school administrative unit with which it signed the contract. Its~~ A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education, from a public or private nonsectarian organization, or as is otherwise lawful in the local school administrative unit in which the charter school is located. At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs.

(f) Except as provided in this Part and pursuant to the provisions of its contract, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

Section 5. G.S. 115C-238.29F reads as rewritten:

"§ 115C-238.29F. General requirements.

(a) Health and Safety Standards. -- A charter school shall meet the same health and safety requirements required of a local school administrative unit.

(b) School Nonsectarian. -- A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. --

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that a board of directors shall be required by the contract to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the contract. The liability in tort of a charter school, the members of its board of directors, its officers, and its employees shall not be covered under the Tort Claims Act, as set out in Article 31 of Chapter 143 of the General Statutes, and the State shall not provide for the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee of a charter school. Any sovereign immunity of a charter school, the members of its board of directors, its employees, or its officers, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. ~~In the event a charter school has not elected total~~

~~independence from the local board of education under subsection (c) of this section, the immunity established by this subsection~~ The immunity established by this subdivision shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(d) Instructional Program. --

(1) The school shall provide instruction each year for at least 180 days.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the ~~contract with the local board of education.~~ contract.

(3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education.

(4) The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General ~~Statutes;~~ Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its contract.

(e) Employees. --

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. The local school administrative unit shall grant a leave for

any number of years requested by the teacher, shall extend the leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request. The local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving an extended leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) ~~In the event a charter school, in its application, elects total independence from the local board of education, its employees shall not be deemed to be employees of the local school administrative unit and shall not be entitled to any State-funded employee benefits, including membership in the North Carolina Teachers' and State Employees' Retirement System or the Teachers' and State Employees' Comprehensive Major Medical Plan. In the event a charter school, in its application, agrees to be subject to some supervision and control of its administrative operations by the local board of education, the employees of the charter school will be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan. The Board of Trustees of the Teachers' and State Employees' Retirement System, in consultation with the State Board of Education, shall determine the degree of supervision and control necessary to qualify the employees of the applicant for membership in the Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.~~

The employees of a charter school operated by a board of directors whose members are approved by the State Board are public employees and are 'teachers' within the meaning of G.S. 135-1(25) to the same extent as if they were employees of a local school administrative unit. Employees of a charter school operated by a

nonprofit, tax-exempt corporation are not public employees and are not 'teachers' within the meaning of G.S. 135-1(25).

(f) Accountability. --

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board.

(g) Admission Requirements. --

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student ~~resides, except that the provisions of G.S. 115C-366(d) shall apply to a student who wishes to attend a charter school in a county other than the county in which the student resides.~~ resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the contract, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(h) Transportation. -- The charter school ~~shall provide transportation for students enrolled at the school who reside in the local school administrative unit in which the school is located. The charter school~~ may provide transportation for students enrolled at the ~~school who reside in different local school administrative units.~~ school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board shall contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable fee that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.

(i) Assets. -- Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school shall be deemed the property of the local school administrative unit in which the charter school is located."

Section 6. G.S. 115C-238.29G reads as rewritten:

"**§ 115C-238.29G. Causes for nonrenewal or ~~termination.~~ termination; disputes.**

(a) The State Board of Education, or a chartering entity subject to the approval of the State Board of Education, may terminate or not renew a contract upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the contract;

(2) Failure to meet generally accepted standards of fiscal management;

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the contract;

(5) Two-thirds of the faculty and instructional support personnel at the school request that the contract be terminated or not renewed; or

(6) Other good cause identified.

(b) The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and its chartering ~~entity~~ entity, the local board of education, or the State Board during the time of its charter."

Section 7. G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school (i) an amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with special needs and (ii) an additional amount for each child attending the charter school who is a child with special needs.

Funds allocated by the State Board of Education ~~shall not be used to purchase land or buildings.~~ may be used to enter into operational leases for real property or mobile classroom units for use as school facilities for charter schools. However, funds allocated by the State Board of Education shall not be used to obtain any other interest in real property or mobile classroom units. As used in this subsection, the term 'operational leases' is defined according to generally accepted accounting principles. The school may own land and buildings it ~~obtained~~ obtains through non-State sources."

Section 8. G.S. 115C-238.29I is amended by adding the following new subsection to read:

"(e) Notwithstanding the dates set forth in this Part, the State Board of Education may establish an alternative timeline for the submission of applications, preliminary approvals, criminal record checks, appeals, and final approvals so long as the Board grants final approval by March 15 of each calendar year."

Section 9. G.S. 115C-238.29J(a) reads as rewritten:

"(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative ~~units and to contract with those charter schools to provide student transportation.~~ units."

Section 10. G.S. 143-291 is amended by adding the following new subsection:

"(d) Charter schools as authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes and their boards of directors are not State agencies for purposes of this Article, and their liability in tort is not subject to this Article."

Section 11. Article 31A of Chapter 143 of the General Statutes is amended by adding the following new section:

"**§ 143-300.4A. Defense of charter school personnel.**

Notwithstanding any other provisions of this Article, the State shall not provide the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee, individually or collectively, of a charter school authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes."

Section 12. Article 31B of Chapter 143 of the General Statutes is amended by adding the following new section:

"**§ 143-300.15A. Defense of charter school personnel.**

Notwithstanding any other provisions of this Article, the State shall not provide the defense of any civil or criminal action or proceeding brought against any member of a board of directors, officer, or employee, individually or collectively, of a charter school authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes."

Section 13. (a) G.S. 150B-21.2(a)(1) shall not apply to proposed rules adopted by the State Board of Education if the proposed rules are directly related to the implementation of this act.

(b) Notwithstanding G.S. 150B-21.3(b), a permanent rule that is adopted by the State Board of Education, is approved by the Rules Review Commission, and is directly related to the implementation of this act, shall become effective five business days after the Commission delivers the rule to the Codifier of Rules, unless the rule specifies a later effective date. If the State Board of Education specifies a later effective date, the rule becomes effective upon that date. A permanent rule that is adopted by the State Board of Education that is directly related to the implementation of this act, but is not approved by the Rules Review Commission, shall not become effective.

(c) G.S. 150B-21.4(b1) shall not apply to permanent rules the State Board of Education proposes to adopt if those rules are directly related to the implementation of this act.

Section 14. Employees of charter schools that are operated by a board of directors whose members are approved by the State Board of Education shall be eligible for participation in the North Carolina Teachers' and State Employees' Retirement System upon the first day of the calendar month following the State's receipt of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, that they are qualified for participation.

Section 15. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Education/Higher Education — April 2, 1997
Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jen Crotts	NC ASA
Carlanda Purcell	Supt. - Warren County Schools
Ann Bellamy	SBE
Bill [illegible]	NCAE
[illegible]	TAP/AP
Karen Gaffney	Gov's Office
John Rust	NC FPC
[illegible]	[illegible]
Joyce Peters	EBR
E.P. Dalesio	The Associated Press
Ed Bradsher	Asheville Citizen-Times

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
THURSDAY, APRIL 3, 1997
414 LOB

SB 4, SAFE SCHOOLS ACT OF 1997 (Winner)

SB 196, REMOVE DISRUPTIVE STUDENTS (BobShaw)

SB 236 STUDENT DISCIPLINE/CIVIL IMMUNITY (Blust)

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
APRIL 3, 1997

The Senate Committee on Education/Higher Education met on April 3, 1997 in Room 414, Legislative Office Building. Senator Lee presided.

Before the committee was the following:

SB 4 SAFE SCHOOLS ACT OF 1997. Senator Winner offered and explained Proposed Committee Substitute (PCS 7676). During discussion, Senator Blust was recognized to explain SB 236, Student Discipline/No Civil Liability. Senator Winner offered the contents of SB 236 as an amendment to SB 4 and moved adoption. Motion carried. It was agreed by members that the PCS for SB 4, as amended, would be considered further at the next meeting of the Committee.

The meeting was adjourned at 1:10 p.m.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 4
Proposed Committee Substitute S4-PCS7676

Short Title: Safe Schools Act of 1997. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SAFE SCHOOLS ACT OF 1997.

The General Assembly of North Carolina enacts:

TITLE OF ACT

Section 1. This act shall be known as "The Safe Schools Act of 1997".

*****

An outline of the provisions of the act follows this section. The outline shows the heading "**CONTENTS/INDEX**" and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act. This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.

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SAFETY TEAMS TO RESTORE ORDER TO SCHOOLS

Section 2. There is appropriated from the General Fund to the State Board of Education the sum of five hundred thousand dollars ($500,000) for the 1997-98 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year to provide safety intervention teams to schools to assist those schools in restoring safety and order. Upon the request of a local board of education,

a superintendent, a principal, a school improvement team, or a parent-teacher organization at a school, the State Board of Education is authorized to provide a safety intervention team to a school. The team may consist of teachers, retired teachers, school administrators, retired school administrators, and others who have demonstrated their ability to restore and maintain order in public schools. The team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining order and discipline at the school. The team shall also make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. The team shall revisit the school as needed to monitor the school's progress in implementing the plan and in restoring and maintaining order and discipline in the school. If appropriate, the team may make further recommendations to the local board of education and the superintendent on additional actions, including dismissal of teachers or administrators, to resolve problems at the school. If the school fails to make adequate progress on its implementation of a long-term plan, the team recommends the dismissal of any teacher or administrator, and the local board fails to take action on the dismissal recommendation, then the team shall make the dismissal recommendation to the State Board of Education. Upon receipt of a dismissal recommendation, the State Board shall follow the procedure established in G.S. 115C-325(q)(1) or G.S. 115C-325(q)(2), whichever is applicable, for the dismissal of the teacher or administrator.

MANAGEMENT OF CHRONICALLY DISRUPTIVE STUDENTS

Section 3. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"Management and Placement of Chronically Disruptive Students.

"§ 115C-397.1. Management and placement of chronically disruptive students.

The principal of each school shall designate a committee that includes instructional personnel elected by teachers, instructional support personnel, and administrators, to assist teachers with the management and placement of chronically disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's chronically disruptive behavior, the teacher finds that the student's chronically disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, the teacher may refer the matter to the committee. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary diagnosis and evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the

resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee."

SMALLER CLASS SIZE FOR STUDENTS ENTERING MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 4. (a) There is appropriated from the General Fund to State Aid to Local School Administrative Units the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1997-98 fiscal year and the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1998-99 fiscal year to provide additional teachers for middle or junior high school-age children who are academically below grade level.

The State Board of Education shall allocate these teacher positions on the basis of the number of students in grades six or seven who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. Under this allocation, all county school administrative units shall receive at least one whole teacher position.

(b) The purpose of these funds is to improve the academic performance and the behavior of these students during the first two school years after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

(c) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars ($25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools and junior high schools.

RESTRICTIONS ON ADMISSION OF A STUDENT WHO IS UNDER SUSPENSION OR EXPULSION FROM ANOTHER SCHOOL

Section 5. G.S. 115C-366 is amended by adding the following new subsections to read:

"(a3) Before the admission of a student to any public school in North Carolina, the local board shall require the student's parent, guardian, custodian, or other person satisfactory to the local board to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time,

under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a crime in this or any other state that would be grounds for expulsion under G.S. 115C-391.

(a4) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-391 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-391 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or employees or who has been convicted of a crime in this or any other state that would be grounds for expulsion under G.S. 115C-391. If the local board denies admission to a student who has been expelled or convicted of a crime that would be grounds for expulsion under G.S. 115C-391, the student may request the local board to reconsider that decision in accordance with G.S. 115C-391(d)."

NOTIFICATION OF SCHOOL OF UNLAWFUL ACTS BY A STUDENT AND OF THE STATUS OF LEGAL ACTION REGARDING THOSE ACTS

Section 6. Article 54 of Chapter 7A of the General Statutes is amended by adding the following new section to read:

"**§ 7A-675.1. Notification of schools when juveniles are alleged or found to be delinquent.**

(a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

(1) A petition is filed under G.S. 7A-560 that alleges delinquency for an offense that would be a felony if committed by an adult;

(2) The judge transfers jurisdiction over a juvenile to superior court under G.S. 7A-608;

(3) The judge dismisses under G.S. 7A-637 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;

(4) The judge issues a dispositional order under Article 52 of Chapter 7A of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult; or

(5) The judge modifies or vacates any order or disposition under G.S. 7A-664 concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery of the written notification shall be made as soon as practicable but at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified order, a vacated order, or a transfer to superior court shall describe the judge's action and any applicable disposition requirements. As used in this subsection, the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

(b) If the principal of the school the juvenile attends returns any notification as required by G.S. 115C-404 and if the juvenile court counselor learns that the juvenile is transferring to another school, the juvenile court counselor shall deliver the notification to the principal of the school to which the juvenile is transferring. Delivery shall be made as soon as practicable and shall be made in person or by certified mail.

(c) Principals shall handle any notification delivered under this section in accordance with G.S. 115C-404.

(d) For the purpose of this section, 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

Section 7. Article 29 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-404. Use of juvenile court information.**

(a) Written notifications received in accordance with G.S. 7A-675.1 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents.

(b) Documents received under this section may be used only to protect the safety of the student or others and to improve the educational opportunities in the school. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for dismissal of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee, in accordance with G.S. 115C-325(e)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal shall return the documents to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring."

Section 8. G.S. 15A-505 reads as rewritten:

"**§ 15A-505. Notification of ~~minor's parent.~~** parent and school.

(a) A law-enforcement officer who charges a minor with a criminal offense shall notify the minor's parent or guardian of the charge, as soon as practicable, in person or by telephone. If the minor is taken into custody, the law enforcement officer or the officer's immediate superior shall notify a parent or guardian in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent or guardian of the minor cannot be found, then the officer or the officer's immediate superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

(b) The notification provided for by subsection (a) of this section shall not be required if:

(1) The minor is emancipated;

(2) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.01(24a); or

(3) The minor has been charged with a motor vehicle offense that is not a moving violation.

(c) A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. The notification may be made in person or by telephone. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor shall notify the principal of any school the person attends. This notification shall be in writing and shall be made within five days of the person's arrest. As used in this subsection, the term 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

LOCAL PLANS TO MAINTAIN, IMPROVE, OR RESTORE ORDER AND DISCIPLINE WITHIN SCHOOLS

Section 9. G.S. 115C-12 is amended by adding a new subdivision to read:

"(25) Duty to Provide Technical Assistance on School Safety Plans. -- The State Board of Education shall provide technical assistance to local school administrative units on developing, implementing, and evaluating local plans to maintain, improve, or restore order and discipline within their schools."

TRAINING FOR SCHOOL PERSONNEL ON MAINTAINING SAFE AND ORDERLY SCHOOLS

Section 10. The Board of Governors of The University of North Carolina shall develop a plan for ensuring that school administrator and teacher preparation and continuing education programs provide their students with the training and experience they need to maintain and restore safety and order in schools.

The Board of Governors shall report on the plan, prior to February 15, 1998, to the Joint Legislative Education Oversight Committee.

MODIFICATION OF SCHOOL FACILITY GUIDELINES IN ORDER TO IMPROVE SCHOOL CLIMATE

Section 11. The State Board of Education shall review and consider modifications to its school facility guidelines in light of research on the relationship between (i) school design components, especially school size, and (ii) school climate and order.

The State Board shall also develop recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on actions taken to implement the provisions of this section.

MAKE REPORTS OF VIOLENT ACTS IN SCHOOLS MORE ACCURATE AND CONSISTENT THROUGHOUT THE STATE

Section 12. Prior to August 15, 1997, the State Board of Education shall review and modify, if necessary, its policies and procedures on data kept and reports made on acts of violence in school and on students suspended or expelled from school, to ensure that data and reports are accurate and consistent on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the impact of its efforts to attain accurate and consistent reports.

MULTIAGENCY TASK FORCE TO ASSIST AT-RISK STUDENTS AT THE COMMUNITY LEVEL

Section 13. (a) There is created the At-Risk Students Task Force under the State Board of Education. The Task Force shall consist of the Chair of the State Board of Education, the Superintendent of Public Instruction, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. Each officer may designate one representative from that officer's department or office to represent that officer on the Task Force. These officers also may appoint additional members who represent other State and local public agencies to the Task Force. The Chair of the State Board of Education, or the Chair's designee, shall serve as the Chair of the Task Force. The Department of Public Instruction and the Department of Human Resources shall provide staff and

clerical support to the Task Force. The State Board of Education shall fund the Task Force within funds available to it.

(b) The Task Force shall develop a plan to develop interagency agreements between local school administrative units and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services to students who are at risk of school failure, at risk of participation in juvenile crime, or both.

(c) The Task Force shall report its plan, along with any suggested statutory revisions, to the Joint Legislative Education Oversight Committee by October 15, 1997, at which time the Task Force shall terminate.

EXPANSION OF THE S.O.S. PROGRAM

Section 14. (a) There is appropriated from the General Fund to the Department of Human Resources the sum of one million dollars ($1,000,000) for the 1997-98 fiscal year and the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year to expand the S.O.S. Program.

(b) G.S. 143B-152.5 reads as rewritten:

"**§ 143B-152.5. Grants review and selection.**

(a) The Department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local S.O.S. programs and administering grants to establish local S.O.S. programs. This information shall include examples of the design and types of S.O.S. programs that evaluations have shown are likely to be successful in improving the academic performance of the participants or in reducing disruptive or illegal behavior.

(b) The Secretary of Human Resources shall appoint a State task force to assist the Secretary in reviewing grant applications. The State task force shall include representatives of the Department of Human Resources, the Department of Public Instruction, local school administrative units, educators, parents, the juvenile justice system, social services, and governmental agencies providing services to children, and other members the Secretary considers appropriate. In appointing the State task force, the Secretary shall consult with the Superintendent of Public Instruction in an effort to coordinate the membership of this State task force, the State task force appointed by the Secretary pursuant to G.S. 143B-152.14, and the State task force appointed by the Superintendent pursuant to G.S. 115C-238.42.

In reviewing grant applications, the Secretary and the State task force may consider (i) the severity of the local problems as determined by the needs assessment data, (ii) the likelihood that the locally designed plan will result in high quality after-school services for school-aged children, (iii) evidence of local collaboration and coordination of services, (iv) any innovative or experimental aspects of the plan that will make it a useful model for replication in other neighborhoods and communities, ~~and (v)~~ (v) evidence that similarly designed programs have been efficient and effective in improving the academic performance of the participants or in reducing

disruptive or illegal behavior, and (vi) any other factors which affect the well-being of school-aged children.

(c) In determining the amount of funds an applicant receives, the Secretary and the State task force may consider (i) the number of children to be served, (ii) the number and percentage of children to be served who participate in the subsidized lunch program, (iii) the number and percentage of school-aged children with two working parents or one single parent to be served, (iv) the availability of other resources or funds, and (v) the amount needed to implement the proposal.

(d) The Secretary shall award the grants."

(c) G.S. 143B-152.7(a) reads as rewritten:

"(a) The Department of Human Resources shall develop and implement an evaluation system that will assess the efficiency and effectiveness of the S.O.S. Program. The Department shall design this system to:

(1) Provide information to the Department and to the General Assembly on how to improve and refine the programs;

(1a) Develop information for dissemination to potential grant applicants on the design of programs that experience has shown are likely to be successful;

(2) Enable the Department and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;

(3) Enable the Department and the General Assembly to determine whether to modify the S.O.S. Program; and

(4) Provide a detailed fiscal analysis of how State funds for these programs were used."

TESTING AND REMEDIATION IN ALTERNATIVE SCHOOLS

Section 15. G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board of Education shall recommend to local boards of education ways to measure the academic achievement of students while they are in the alternative learning programs or in remedial learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation."

STUDY ON OPTIONS FOR STUDENTS WITH SEVERE EMOTIONAL AND BEHAVIORAL PROBLEMS

Section 16. The State Board of Education and the Secretary of the Department of Human Resources shall appoint an advisory committee to consider the advisability of and to develop a proposal for creating regional residential schools for students with emotional and behavioral problems so severe that the public schools cannot serve them. The advisory committee shall clearly define the population and the age limits of the population for whom such a residential school would be appropriate, estimate the number of students in that population, devise a plan for building and operating such schools, and estimate the costs and benefits of such schools. The advisory committee shall consider whether any existing State facilities would be available and appropriate to house such a school. The advisory committee shall report the results of its study, including its recommendation on the advisability of creating these schools, to the State Board of Education and the Secretary of the Department of Human Resources prior to January 15, 1998. The State Board of Education and the Secretary of Human Resources shall report the results of the study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT

Section 17. The series of captions used in this act (the descriptive phrases in boldface and capital letters) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of this act.

EFFECTIVE DATE

Section 18. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs
FROM: Sara Kamprath, Legislative Analyst
Robin S. Johnson, Staff Attorney
DATE: April 3, 1997
RE: **SB 4: Proposed Committtee Substitute for Safe Schools Act of 1997 (S4-PCS7676)**

Section 1 is an outline of the sections of the act. **Section 2** would appropriate $500,000 in each year of the 1997-99 fiscal biennium to the State Board of Education for safety intervention teams to aid schools in restoring order and safety. The State Board is authorized to provide safety intervention teams when requested by a local board of education, a superintendent, a principal, a school improvement team, or a parent-teacher organization. The safety teams shall assess problems, help school personnel to develop long-term plans for restoring order, make recommendations to the local board of education and the superintendent on actions that they can take, and monitor plan implementation. The safety teams may make more recommendations, including teacher or administrator dismissal, to the local board of education or the superintendent to resolve problems. If adequate progress on long-term plan implementation is not made, the safety team recommends a teacher or administrator be dismissed, and the local board fails to act on the dismissal, then the safety team shall recommend dismissal to the State Board of Education. When the dismissal recommendation is received, the State Board shall follow the appropriate dismissal procedure.

Section 3 would amend Chapter 115C to add a new Article 27A (Management and Placement of Chronically Disruptive Students). Each school principal shall name a committee to help teachers manage and place chronically disruptive students. If a teacher has asked for the principal's help 2 or more times because of a student's behavior and the teacher finds that the student's behavior is continuing to interfere with the students' academic achievement, then the teacher may refer the case of a chronically disruptive student to the committee. The committee shall take one or more of the following actions: (1) advise the teacher on more effective ways to manage the disruptive behavior, (2) recommend that the student be transferred to another class in the school, (3) recommend a multidisciplinary diagnosis and evaluation, (4) recommend assignment to an alternative learning program, (5) recommend that the student receive any additional services that the school or school unit can provide. If the principal ignores the committee's recommendation, then the principal shall provide a written explanation to the committee, the referring teacher and the superintendent of any actions taken and the reasons for ignoring the committee's recommendation.

Section 4 would appropriate $17,146,720 in each year of the 1997-99 fiscal year to provide additional teachers for middle school or junior high students academically below grade level. These positions would be allocated, by the State Board of Education, based on the number of students in 6th or 7th grade who scored at proficiency Level I on the end-of-grade math or reading test at the end of their last school year. All counties would receive at least 1 teacher position. The funds are to be used for putting these students in classes with low student-to-teacher ratios for all academic courses or for the course(s) that they are below grade level. The State Board may use up to $25,000 to evaluate the effectiveness of smaller classes in improving academic performance and discipline in middle and junior high schools.

Section 5 would amend G.S. 115C-366 to allow a local board to determine whether a transfer student is under a term of suspension or expulsion from another school or has been convicted of a crime that would be grounds for expulsion in this state. Section 5 would require the parent, guardian, custodian or other person satisfactory to the local board to provide a statement made under oath or an affirmation before a qualified official (i.e., a notary) before any student can be admitted to a public school. This statement or affirmation must indicate whether the student is, at the time, under suspension or expulsion from any other school or has been convicted of a crime. If the board learns that a student is currently suspended from another school, the board may deny admission to that transfer student for the time remaining in the period of suspension. A student who has been expelled or was convicted of a crime would be allowed the opportunity to request the local board to reconsider its decision to deny admission at any time after the first July 1 that is at least 6 months from the decision to expel.

Section 6 would amend the Juvenile Code to add a new section (G.S. 7A-675.1) that would require the juvenile court counselor to deliver verbal and written notice to a principal of a public or private school when a petition is filed alleging delinquency for a felony offense (other than a motor vehicle offense), the case is transferred to superior court where the juvenile will be tried as an adult, the petition is dismissed, the judge issues ANY dispositional order (including probation with school attendance required as a condition of probation), or the judge modifies or vacates any order or disposition. Currently, there is no provision requiring the court to notify schools when juveniles (who are under 16) are alleged or found delinquent. The notice is to be delivered within five days either in person or by certified mail. If the court counselor learns that the juvenile is transferring to another school, the counselor shall deliver the required notification to the principal of that school.

Section 7 would add a new G.S. 115C-404 to provide for the school's confidential treatment of juvenile records received from court counselors under the previous section of the bill. Documents must be used only to protect the safety of the student or others and to improve educational opportunities at the school. The principal must share the information with staff who have direct guidance, teaching, or supervisory responsibility for the particular student or who have a specific need to know in order to protect the safety of the student or others. Failure to maintain confidentiality would be grounds for dismissal. The principal must keep the records in a safe place, separate from other records, and must destroy the information when the principal learns that the judge has dismissed the petition, transferred jurisdiction to superior court, or ordered expunction of the records. If the student graduates, withdraws from school, is suspended for the rest of the school year, is expelled, or transfers to another school, the principal must return the documents to the court counselor. If applicable, the principal also shall provide the counselor with the name and address of the school to which the student is transferring.

Section 8 would amend G.S. 15A-505 to require law enforcement officials to notify the appropriate principal (of a public or private school) within five days when a student is charged with a felony, except for a motor vehicle offense. Notification must be made by phone or in person. Currently, law enforcement officials are required to notify a minor's parent or guardian when a minor is charged with a criminal offense, not including certain motor vehicle offenses. This section would apply to students who are at least 16.

Section 9 would amend G.S. 115C-12 (Powers and duties of the Board generally) by adding a new subdivision to require the State Board of Education to provide technical assistance for developing school safety plans.

Section 10 would require the UNC Board of Governors to develop a plan to ensure that students in school administrator, teacher preparation and continuing education programs receive the necessary training and experience to maintain order in schools. The Board of Governors shall report to the Joint Legislative Education Oversight Committee before February 15, 1998.

Section 11 would require the State Board of Education to review and consider modifications to its school facility guidelines to take into account the relationship between school design and school climate. The State Board would also be required to make recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order. The State Board would be required to report to the Joint Legislative Education Oversight Committee before February 15, 1998, on steps taken to implement the section.

Section 12 would require the State Board of Education to review and modify, as needed, procedures for keeping data and reports made about acts of violence in school and on students suspended or expelled to ensure consistency on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee before March 1, 1998.

Section 13 establishes the At-risk Students Task Force under the State Board of Education. The following State officers are named as members of the Task Force: the Chair of the State Board of Education, the Superintendent of Public Instruction, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. These officers may name designees. This section directs the Department of Public Instruction and the Department of Human Resources to provide staff and clerical support to the Task Force; and the State Board of Education is directed to fund the Task Force within funds available to it.

The Task Force is directed to develop a plan to establish interagency agreements between local school administrative units and other local public agencies, including health departments, departments of social services, mental health agencies, and courts, in order to coordinate the provision of services to students who are at risk of school failure, at risk of participation in juvenile crime, or both. The Task Force is required to report to the Joint Legislative Education Oversight Committee by October 15, 1997, at which time the Task Force terminates.

Section 14 would appropriate $1,000,000 in each year of the 1997-99 fiscal biennium in expansion funds for the S.O.S. Program. The S.O.S. Program is designed to award grants to neighborhood based and community-based organizations. The grants are to be used to provide school-aged children with quality after-school activities.

The section also amends G.S. 143B-152.5 (Grants review and selection) to provide that when grant applications are reviewed, the Secretary of Human Resources and the State task force that helps the Secretary review grant applications for the S.O.S. may consider evidence that similarly designed programs have been efficient in improving academic performance or reducing disruptive or illegal behavior. The section also amends G.S. 143B-152.7(a) to provide that the Department of Human Resources evaluation system for the S.O.S. Program develop information for potential grant applicants on the design of programs that are likely to be successful.

Section 15 would amend G.S. 115C-12 (24) (Powers and duties of the Board generally) to require that the State Board of Education recommend means of measuring the academic achievement of students in alternative learning programs or in remedial learning programs.

Section 16 would require the State Board of Education and the Secretary of the Department of Human Resources to appoint an advisory committee to review the advisability of and to develop a proposal for regional residential schools for students with emotional and behavioral problems too severe for the public schools to serve. The advisory committee is to define the population to be served, estimate the number of students, devise a plan for building and operating the schools, estimate the costs and benefits and consider whether there are any existing available State facilities that are appropriate for such schools. The advisory committee shall report its findings to the State Board of Education and the Secretary of the Department of Human Resources before January 15, 1998. The State Board and the Secretary shall report to the Joint Legislative Education Oversight Committee before February 15, 1998.

Senate Bill 4 is effective when it becomes law.

SB4SUMMARY1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4
Proposed Committee Substitute S4-PCS7676

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S4-ARH-002

Date April 3 ,1997

Comm. Sub. [X]
Amends Title []

Senator Winner

moves to amend the committee substitute on page 2, lines 33-34, by inserting between the lines the following:
"STUDENT DISCIPLINE/NO CIVIL LIABILITY";

and on page 2, line 35, by deleting "17" and by substituting "18";

and on page 2, line 37, by deleting "18" and by substituting "19";

and on page 11, lines 30-31, by inserting between the lines the following new section:

"STUDENT DISCIPLINE/NO CIVIL LIABILITY

Section 17. (a) G.S. 115C-391(a) reads as rewritten:

'(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;
(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;
(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment

and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

~~The~~ Each local board shall publish all the policies mandated by this ~~subsection~~ section and make them available to each student and his parent or guardian at the beginning of each school year.

(a1) Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; ~~or~~

(4) For the protection of persons or ~~property.~~ property; or

(5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property.'

(b). G.S.115C-391 is amended by adding the following new subsection to read:

'(h) Notwithstanding any other law,no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force, including corporal punishment, in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.'";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4
Proposed Committee Substitute S4-PCS7676

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S4-ARH-002

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 236

Short Title: Student Discipline/No Civil Liability. (Public)

Sponsors: Senators Blust; Cochrane, Foxx, and Horton.

Referred to: Education/Higher Education.

February 25, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW SCHOOL PERSONNEL TO USE REASONABLE FORCE TO MAINTAIN ORDER IN SCHOOL OR AT SCHOOL-RELATED ACTIVITIES, AND TO MAKE SCHOOL OFFICERS AND EMPLOYEES IMMUNE FROM CIVIL LIABILITY FOR ANY ACTION CARRIED OUT TO CONTROL OR DISCIPLINE STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-391(a) reads as rewritten:

"(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;

(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;

(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be

informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

~~The~~ Each local board shall publish all the policies mandated by this ~~subsection~~ section and make them available to each student and his parent or guardian at the beginning of each school year.

(a1) Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; ~~or~~

(4) For the protection of persons or ~~property.~~ property; or

(5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property."

Section 2. G.S.115C-391 is amended by adding the following new subsection to read:

"(h) Notwithstanding any other law and except in the case of excessive force or cruel and unusual punishment, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for any action carried out in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students."

Section 3. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel
DATE: April 3, 1997
RE: **Senate Bill 236: Student Discipline/No Civil Liability**

SUMMARY: **Section 1** of Senate Bill 236 would amend G.S. 115C-391(a) to allow school personnel to use reasonable force to control behavior or to remove a person from the scene when necessary to maintain order on school property or at a school-related activity on or off school property. Currently, G.S. 115C-390 allows school personnel, except as prohibited or restricted by local board policy, to use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. In addition, G.S. 115C-391 allows school personnel to use reasonable force to control behavior or to remove a person from the scene when necessary (i) to quell a disturbance threatening injury to others; (ii) to obtain possession of weapons or other dangerous objects; (iii) for self-defense; or (iv) to protect persons or property.

Section 2 of the bill would amend G.S. 115C-391 to add a new subsection that would expressly provide that school officers and employees are immune from civil liability for any action carried out to control or discipline students, except in the case of `excessive force or cruel and unusual punishment'. The North Carolina courts have interpreted G.S. 115C-390, which authorizes the use of reasonable force, to protect from civil liability school personnel who use reasonable force to control or discipline students. However, this protection is not explicitly stated in the statutes.

ANALYSIS: Currently, the law, in several different places, allows school personnel to use reasonable force to maintain discipline. Senate Bill 236 would allow for immunity from civil liability for school personnel who discipline students, so long as they don't use excessive force or cruel and unusual punishment. The first issue for consideration is whether it would be confusing to allow reasonable force in some places and prohibit excessive force in others. The phrases are almost, but not exactly, opposites. According to Black's Law Dictionary, `excessive force' is the "amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all the circumstances". `Reasonable force' is defined as the "degree of force which is not excessive and is appropriate in protecting oneself or one's property". The North Carolina Court of Appeals has stated that the law in this state is "that a child could recover for excessive punishment, but there can be no recovery if the punishment is reasonable in light of its purpose." The second issue concerns the phrase `cruel and unusual punishment'. The U.S. Supreme Court in Ingraham v. Wright, 430 U.S. 651 (1977), held that the Eighth Amendment of the United States Constitution which forbids "cruel and unusual punishment" does not apply to corporal punishment administered in the public schools. On the other hand, this phrase is used in at least one other state's expulsion statute (e.g., Florida).

VISITOR REGISTRATION SHEET

Appropriations Subcommittee 3-3-97
Name of Committee or Ed/Higher Ed — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Crotts	DCASA
Penny Van Dorsten	PENC
E. P. DeLesio	The Associated Press
Ann Bellamy	SBE
Bill Wilson	NCAE
Cesi Banks	NCAE
Scott Mason	WRAL-TV
Deborah Ross	ACLU
Don Hargrove	AOC-JSD
Brian Matheny	NCAE
Amy Miller	NC ELP
Gene Causby	E-ERC
Anne Dill	NCBA

VISITOR REGISTRATION SHEET

Appropriations Subcommittee 3-3-97
Name of Committee or Ed/Higher Ed — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hugh J. Barnes	NC Justice Ctr.
Deborah Perry	CMS
Susan Harrison	WCPSS
Bindu Rao	Common Sense Foundation
Dianne Wimer	EBHCS
Dick Taylor	NCATE
Cam Cox	BPMHL
Karen Gray	Gov's Office
Pam Deardorff	YAIO / DOA
Stuart Thompson	Supt of Schools Hickory, N.C.
Alicia Howe	Public School Forum
Joyce Peters	EEB
Joe Hall	NCCSA

Paula S. Wolf — Covenant w/NC's Children

[illegible]

Sam Poole UNC

Pam Riley Center for Prevention of School Violence

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
APRIL 8, 1997

The Senate Committee on Education/Higher Education met on April 8, 1997 in Room 414 of the Legislative Office Building. Senator Lee presided.

Before the Committee was the following:

SB 4, SAFE SCHOOLS ACT OF 1997. Senator Lee stated that the discussion was a continuation of that held on April 3, 1997 when PCS 7676 was adopted and amended . Senator Winner offered Amendment 2, which was adopted on a motion by Senator Dalton. Senator Winner offered Amendment 3, which was given approval on a motion by Senator Gulley. Amendment 4 was offered by Senator Allran and adopted on a motion by Senator Winner. Senator Winner had stated when moving for adoption of the Allran amendment 4, that the wording of the amendment should be reconsidered when the bill reached the discussion stage in the Senate Appropriations Committee. Senator Allran offered Amendment 5, which was adopted. On a motion by Senator Horton, all amendments would be incorporated into PCS 7676 and given a favorable report as a new proposed committee substitute. The bill would be re-referred to the Committee on Appropriations.

The meeting was adjourned at 2:10 p.m.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Wednesday, April 09, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **457** STUDENTS LEARN CPR
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **4** SAFE SCHOOLS ACT OF 1997
Draft Number: PCS 7702
Sequential Referral: NONE
Recommended Referral: Committee on Appropriations
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment: PLEASE DELIVER REPORT TO SENATOR LEE, THANKS- JUDY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 4
Proposed Committee Substitute S4-PCS7676

Short Title: Safe Schools Act of 1997. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SAFE SCHOOLS ACT OF 1997.

The General Assembly of North Carolina enacts:

TITLE OF ACT

Section 1. This act shall be known as "The Safe Schools Act of 1997".

*****

An outline of the provisions of the act follows this section. The outline shows the heading "**CONTENTS/INDEX**" and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act. This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.

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TITLE OF ACT
Section 1.
SAFETY TEAMS TO RESTORE ORDER TO SCHOOLS
Section 2.
MANAGEMENT OF CHRONICALLY DISRUPTIVE STUDENTS
Section 3.

SMALLER CLASS SIZE FOR STUDENTS ENTERING MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL WHO ARE ACADEMICALLY BELOW GRADE LEVEL
Section 4.
RESTRICTIONS ON ADMISSION OF A STUDENT WHO IS UNDER SUSPENSION OR EXPULSION FROM ANOTHER SCHOOL
Section 5.
NOTIFICATION OF SCHOOLS OF UNLAWFUL ACTS BY A STUDENT AND OF THE STATUS OF LEGAL ACTION REGARDING THOSE ACTS
Section 6.
Section 7.
Section 8.
LOCAL PLANS TO MAINTAIN, IMPROVE, OR RESTORE ORDER AND DISCIPLINE WITHIN SCHOOLS
Section 9.
TRAINING FOR SCHOOL PERSONNEL ON MAINTAINING SAFE AND ORDERLY SCHOOLS
Section 10.
MODIFICATION OF SCHOOL FACILITY GUIDELINES IN ORDER TO IMPROVE SCHOOL CLIMATE
Section 11.
MAKE REPORTS OF VIOLENT ACTS IN SCHOOLS MORE ACCURATE AND CONSISTENT THROUGHOUT THE STATE
Section 12.
MULTIAGENCY TASK FORCE TO ASSIST AT-RISK STUDENTS AT THE COMMUNITY LEVEL
Section 13.
EXPANSION OF THE S.O.S. PROGRAM
Section 14.
TESTING AND REMEDIATION IN ALTERNATIVE SCHOOLS
Section 15.
STUDY ON OPTIONS FOR STUDENTS WITH SEVERE EMOTIONAL AND BEHAVIORAL PROBLEMS
Section 16.
CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT
Section 17.
EFFECTIVE DATE
Section 18.

SAFETY TEAMS TO RESTORE ORDER TO SCHOOLS

Section 2. There is appropriated from the General Fund to the State Board of Education the sum of five hundred thousand dollars ($500,000) for the 1997-98 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year to provide safety intervention teams to schools to assist those schools in restoring safety and order. Upon the request of a local board of education,

a superintendent, a principal, a school improvement team, or a parent-teacher organization at a school, the State Board of Education is authorized to provide a safety intervention team to a school. The team may consist of teachers, retired teachers, school administrators, retired school administrators, and others who have demonstrated their ability to restore and maintain order in public schools. The team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining order and discipline at the school. The team shall also make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. The team shall revisit the school as needed to monitor the school's progress in implementing the plan and in restoring and maintaining order and discipline in the school. If appropriate, the team may make further recommendations to the local board of education and the superintendent on additional actions, including dismissal of teachers or administrators, to resolve problems at the school. If the school fails to make adequate progress on its implementation of a long-term plan, the team recommends the dismissal of any teacher or administrator, and the local board fails to take action on the dismissal recommendation, then the team shall make the dismissal recommendation to the State Board of Education. Upon receipt of a dismissal recommendation, the State Board shall follow the procedure established in G.S. 115C-325(q)(1) or G.S. 115C-325(q)(2), whichever is applicable, for the dismissal of the teacher or administrator.

MANAGEMENT OF CHRONICALLY DISRUPTIVE STUDENTS

Section 3. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"Management and Placement of Chronically Disruptive Students.

"**§ 115C-397.1. Management and placement of chronically disruptive students.**

The principal of each school shall designate a committee that includes instructional personnel elected by teachers, instructional support personnel, and administrators, to assist teachers with the management and placement of chronically disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's chronically disruptive behavior, the teacher finds that the student's chronically disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, the teacher may refer the matter to the committee. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary diagnosis and evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the

resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee."

SMALLER CLASS SIZE FOR STUDENTS ENTERING MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 4. (a) There is appropriated from the General Fund to State Aid to Local School Administrative Units the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1997-98 fiscal year and the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1998-99 fiscal year to provide additional teachers for middle or junior high school-age children who are academically below grade level.

The State Board of Education shall allocate these teacher positions on the basis of the number of students in grades six or seven who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. Under this allocation, all county school administrative units shall receive at least one whole teacher position.

(b) The purpose of these funds is to improve the academic performance and the behavior of these students during the first two school years after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

(c) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars ($25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools and junior high schools.

RESTRICTIONS ON ADMISSION OF A STUDENT WHO IS UNDER SUSPENSION OR EXPULSION FROM ANOTHER SCHOOL

Section 5. G.S. 115C-366 is amended by adding the following new subsections to read:

"(a3) Before the admission of a student to any public school in North Carolina, the local board shall require the student's parent, guardian, custodian, or other person satisfactory to the local board to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time,

under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a crime in this or any other state that would be grounds for expulsion under G.S. 115C-391.

(a4) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-391 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-391 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or employees or who has been convicted of a crime in this or any other state that would be grounds for expulsion under G.S. 115C-391. If the local board denies admission to a student who has been expelled or convicted of a crime that would be grounds for expulsion under G.S. 115C-391, the student may request the local board to reconsider that decision in accordance with G.S. 115C-391(d)."

NOTIFICATION OF SCHOOL OF UNLAWFUL ACTS BY A STUDENT AND OF THE STATUS OF LEGAL ACTION REGARDING THOSE ACTS

Section 6. Article 54 of Chapter 7A of the General Statutes is amended by adding the following new section to read:

"**§ 7A-675.1. Notification of schools when juveniles are alleged or found to be delinquent.**

(a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

(1) A petition is filed under G.S. 7A-560 that alleges delinquency for an offense that would be a felony if committed by an adult;

(2) The judge transfers jurisdiction over a juvenile to superior court under G.S. 7A-608;

(3) The judge dismisses under G.S. 7A-637 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;

(4) The judge issues a dispositional order under Article 52 of Chapter 7A of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult; or

(5) The judge modifies or vacates any order or disposition under G.S. 7A-664 concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery of the written notification shall be made as soon as practicable but at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified order, a vacated order, or a transfer to superior court shall describe the judge's action and any applicable disposition requirements. As used in this subsection, the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

(b) If the principal of the school the juvenile attends returns any notification as required by G.S. 115C-404 and if the juvenile court counselor learns that the juvenile is transferring to another school, the juvenile court counselor shall deliver the notification to the principal of the school to which the juvenile is transferring. Delivery shall be made as soon as practicable and shall be made in person or by certified mail.

(c) Principals shall handle any notification delivered under this section in accordance with G.S. 115C-404.

(d) For the purpose of this section, 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

Section 7. Article 29 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-404. Use of juvenile court information.**

(a) Written notifications received in accordance with G.S. 7A-675.1 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents.

(b) Documents received under this section may be used only to protect the safety of the student or others and to improve the educational opportunities in the school. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for dismissal of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee, in accordance with G.S. 115C-325(e)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal shall return the documents to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring."

Section 8. G.S. 15A-505 reads as rewritten:

"**§ 15A-505. Notification of ~~minor's parent.~~** parent and school.

(a) A law-enforcement officer who charges a minor with a criminal offense shall notify the minor's parent or guardian of the charge, as soon as practicable, in person or by telephone. If the minor is taken into custody, the law enforcement officer or the officer's immediate superior shall notify a parent or guardian in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent or guardian of the minor cannot be found, then the officer or the officer's immediate superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

(b) The notification provided for by subsection (a) of this section shall not be required if:

(1) The minor is emancipated;

(2) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.01(24a); or

(3) The minor has been charged with a motor vehicle offense that is not a moving violation.

(c) A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. The notification may be made in person or by telephone. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor shall notify the principal of any school the person attends. This notification shall be in writing and shall be made within five days of the person's arrest. As used in this subsection, the term 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

LOCAL PLANS TO MAINTAIN, IMPROVE, OR RESTORE ORDER AND DISCIPLINE WITHIN SCHOOLS

Section 9. G.S. 115C-12 is amended by adding a new subdivision to read:

"(25) Duty to Provide Technical Assistance on School Safety Plans. -- The State Board of Education shall provide technical assistance to local school administrative units on developing, implementing, and evaluating local plans to maintain, improve, or restore order and discipline within their schools."

TRAINING FOR SCHOOL PERSONNEL ON MAINTAINING SAFE AND ORDERLY SCHOOLS

Section 10. The Board of Governors of The University of North Carolina shall develop a plan for ensuring that school administrator and teacher preparation and continuing education programs provide their students with the training and experience they need to maintain and restore safety and order in schools.

The Board of Governors shall report on the plan, prior to February 15, 1998, to the Joint Legislative Education Oversight Committee.

MODIFICATION OF SCHOOL FACILITY GUIDELINES IN ORDER TO IMPROVE SCHOOL CLIMATE

Section 11. The State Board of Education shall review and consider modifications to its school facility guidelines in light of research on the relationship between (i) school design components, especially school size, and (ii) school climate and order.

The State Board shall also develop recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on actions taken to implement the provisions of this section.

MAKE REPORTS OF VIOLENT ACTS IN SCHOOLS MORE ACCURATE AND CONSISTENT THROUGHOUT THE STATE

Section 12. Prior to August 15, 1997, the State Board of Education shall review and modify, if necessary, its policies and procedures on data kept and reports made on acts of violence in school and on students suspended or expelled from school, to ensure that data and reports are accurate and consistent on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the impact of its efforts to attain accurate and consistent reports.

MULTIAGENCY TASK FORCE TO ASSIST AT-RISK STUDENTS AT THE COMMUNITY LEVEL

Section 13. (a) There is created the At-Risk Students Task Force under the State Board of Education. The Task Force shall consist of the Chair of the State Board of Education, the Superintendent of Public Instruction, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. Each officer may designate one representative from that officer's department or office to represent that officer on the Task Force. These officers also may appoint additional members who represent other State and local public agencies to the Task Force. The Chair of the State Board of Education, or the Chair's designee, shall serve as the Chair of the Task Force. The Department of Public Instruction and the Department of Human Resources shall provide staff and

clerical support to the Task Force. The State Board of Education shall fund the Task Force within funds available to it.

(b) The Task Force shall develop a plan to develop interagency agreements between local school administrative units and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services to students who are at risk of school failure, at risk of participation in juvenile crime, or both.

(c) The Task Force shall report its plan, along with any suggested statutory revisions, to the Joint Legislative Education Oversight Committee by October 15, 1997, at which time the Task Force shall terminate.

EXPANSION OF THE S.O.S. PROGRAM

Section 14. (a) There is appropriated from the General Fund to the Department of Human Resources the sum of one million dollars ($1,000,000) for the 1997-98 fiscal year and the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year to expand the S.O.S. Program.

(b) G.S. 143B-152.5 reads as rewritten:

"**§ 143B-152.5. Grants review and selection.**

(a) The Department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local S.O.S. programs and administering grants to establish local S.O.S. programs. This information shall include examples of the design and types of S.O.S. programs that evaluations have shown are likely to be successful in improving the academic performance of the participants or in reducing disruptive or illegal behavior.

(b) The Secretary of Human Resources shall appoint a State task force to assist the Secretary in reviewing grant applications. The State task force shall include representatives of the Department of Human Resources, the Department of Public Instruction, local school administrative units, educators, parents, the juvenile justice system, social services, and governmental agencies providing services to children, and other members the Secretary considers appropriate. In appointing the State task force, the Secretary shall consult with the Superintendent of Public Instruction in an effort to coordinate the membership of this State task force, the State task force appointed by the Secretary pursuant to G.S. 143B-152.14, and the State task force appointed by the Superintendent pursuant to G.S. 115C-238.42.

In reviewing grant applications, the Secretary and the State task force may consider (i) the severity of the local problems as determined by the needs assessment data, (ii) the likelihood that the locally designed plan will result in high quality after-school services for school-aged children, (iii) evidence of local collaboration and coordination of services, (iv) any innovative or experimental aspects of the plan that will make it a useful model for replication in other neighborhoods and communities, ~~and (v)~~ (v) evidence that similarly designed programs have been efficient and effective in improving the academic performance of the participants or in reducing

disruptive or illegal behavior, and (vi) any other factors which affect the well-being of school-aged children.

(c) In determining the amount of funds an applicant receives, the Secretary and the State task force may consider (i) the number of children to be served, (ii) the number and percentage of children to be served who participate in the subsidized lunch program, (iii) the number and percentage of school-aged children with two working parents or one single parent to be served, (iv) the availability of other resources or funds, and (v) the amount needed to implement the proposal.

(d) The Secretary shall award the grants."

(c) G.S. 143B-152.7(a) reads as rewritten:

"(a) The Department of Human Resources shall develop and implement an evaluation system that will assess the efficiency and effectiveness of the S.O.S. Program. The Department shall design this system to:

(1) Provide information to the Department and to the General Assembly on how to improve and refine the programs;

(1a) Develop information for dissemination to potential grant applicants on the design of programs that experience has shown are likely to be successful;

(2) Enable the Department and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;

(3) Enable the Department and the General Assembly to determine whether to modify the S.O.S. Program; and

(4) Provide a detailed fiscal analysis of how State funds for these programs were used."

TESTING AND REMEDIATION IN ALTERNATIVE SCHOOLS

Section 15. G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board of Education shall recommend to local boards of education ways to measure the academic achievement of students while they are in the alternative learning programs or in remedial learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation."

STUDY ON OPTIONS FOR STUDENTS WITH SEVERE EMOTIONAL AND BEHAVIORAL PROBLEMS

Section 16. The State Board of Education and the Secretary of the Department of Human Resources shall appoint an advisory committee to consider the advisability of and to develop a proposal for creating regional residential schools for students with emotional and behavioral problems so severe that the public schools cannot serve them. The advisory committee shall clearly define the population and the age limits of the population for whom such a residential school would be appropriate, estimate the number of students in that population, devise a plan for building and operating such schools, and estimate the costs and benefits of such schools. The advisory committee shall consider whether any existing State facilities would be available and appropriate to house such a school. The advisory committee shall report the results of its study, including its recommendation on the advisability of creating these schools, to the State Board of Education and the Secretary of the Department of Human Resources prior to January 15, 1998. The State Board of Education and the Secretary of Human Resources shall report the results of the study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT

Section 17. The series of captions used in this act (the descriptive phrases in boldface and capital letters) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of this act.

EFFECTIVE DATE

Section 18. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 4

Short Title: Safe Schools Act of 1997. (Public)

Sponsors: Senators Winner; Albertson, Ballance, Conder, Cooper, Dalton, Gulley, Hoyle, Lee, Lucas, Martin of Guilford, Miller, Odom, Perdue, Plyler, Rand, Reeves, Shaw of Cumberland, Soles, Warren, Weinstein, and Wellons.

Referred to: Education/Higher Education.

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SAFE SCHOOLS ACT OF 1997.

The General Assembly of North Carolina enacts:

Whereas, many schools in North Carolina have achieved a safe and orderly environment but others have not; and

Whereas, students, teachers, and other school personnel in all schools are entitled to a school environment that is safe, secure, and orderly; and

Whereas, students cannot learn in schools that are not safe, secure, and orderly; and

Whereas, recent statistics compiled by the Department of Public Instruction show an unacceptable level of violent acts and drug-related offenses in public schools; and

Whereas, many teachers leaving the profession cite lack of school safety and lack of discipline as one of their reasons for leaving; and

Whereas, national surveys show that one of parents' greatest concerns about public schools in this country is the lack of school safety and discipline; and

Whereas, all schools must be free of drugs, violence, and weapons; and

Whereas, all schools must be free of disruption, there must be a climate of respect, and appropriate personal conduct must be a priority; and

Whereas, the General Assembly has given local boards of education greater flexibility in serving the needs of violent and disruptive students and in

removing violent students from the classroom, funded alternative schools, provided school resource officers for schools that need them, funded local school safety initiatives, and funded local efforts to coordinate services for students at risk of academic failure and students with discipline problems; and

Whereas, State and local governments, officials, and employees, public school personnel, parents, students, communities, and businesses must do all that is necessary to ensure that schools are safe, secure, and orderly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Safe School Act of 1997".

Section 2. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs
FROM: Sara Kamprath, Legislative Analyst
Robin S. Johnson, Staff Attorney
DATE: April 3, 1997
RE: **SB 4: Proposed Committtee Substitute for Safe Schools Act of 1997 (S4-PCS7676)**

Section 1 is an outline of the sections of the act. **Section 2** would appropriate $500,000 in each year of the 1997-99 fiscal biennium to the State Board of Education for safety intervention teams to aid schools in restoring order and safety. The State Board is authorized to provide safety intervention teams when requested by a local board of education, a superintendent, a principal, a school improvement team, or a parent-teacher organization. The safety teams shall assess problems, help school personnel to develop long-term plans for restoring order, make recommendations to the local board of education and the superintendent on actions that they can take, and monitor plan implementation. The safety teams may make more recommendations, including teacher or administrator dismissal, to the local board of education or the superintendent to resolve problems. If adequate progress on long-term plan implementation is not made, the safety team recommends a teacher or administrator be dismissed, and the local board fails to act on the dismissal, then the safety team shall recommend dismissal to the State Board of Education. When the dismissal recommendation is received, the State Board shall follow the appropriate dismissal procedure.

Section 3 would amend Chapter 115C to add a new Article 27A (Management and Placement of Chronically Disruptive Students). Each school principal shall name a committee to help teachers manage and place chronically disruptive students. If a teacher has asked for the principal's help 2 or more times because of a student's behavior and the teacher finds that the student's behavior is continuing to interfere with the students' academic achievement, then the teacher may refer the case of a chronically disruptive student to the committee. The committee shall take one or more of the following actions: (1) advise the teacher on more effective ways to manage the disruptive behavior, (2) recommend that the student be transferred to another class in the school, (3) recommend a multidisciplinary diagnosis and evaluation, (4) recommend assignment to an alternative learning program, (5) recommend that the student receive any additional services that the school or school unit can provide. If the principal ignores the committee's recommendation, then the principal shall provide a written explanation to the committee, the referring teacher and the superintendent of any actions taken and the reasons for ignoring the committee's recommendation.

Section 4 would appropriate $17,146,720 in each year of the 1997-99 fiscal year to provide additional teachers for middle school or junior high students academically below grade level. These positions would be allocated, by the State Board of Education, based on the number of students in 6th or 7th grade who scored at proficiency Level I on the end-of-grade math or reading test at the end of their last school year. All counties would receive at least 1 teacher position. The funds are to be used for putting these students in classes with low student-to-teacher ratios for all academic courses or for the course(s) that they are below grade level. The State Board may use up to $25,000 to evaluate the effectiveness of smaller classes in improving academic performance and discipline in middle and junior high schools.

Section 5 would amend G.S. 115C-366 to allow a local board to determine whether a transfer student is under a term of suspension or expulsion from another school or has been convicted of a crime that would be grounds for expulsion in this state. Section 5 would require the parent, guardian, custodian or other person satisfactory to the local board to provide a statement made under oath or an affirmation before a qualified official (i.e., a notary) before any student can be admitted to a public school. This statement or affirmation must indicate whether the student is, at the time, under suspension or expulsion from any other school or has been convicted of a crime. If the board learns that a student is currently suspended from another school, the board may deny admission to that transfer student for the time remaining in the period of suspension. A student who has been expelled or was convicted of a crime would be allowed the opportunity to request the local board to reconsider its decision to deny admission at any time after the first July 1 that is at least 6 months from the decision to expel.

Section 6 would amend the Juvenile Code to add a new section (G.S. 7A-675.1) that would require the juvenile court counselor to deliver verbal and written notice to a principal of a public or private school when a petition is filed alleging delinquency for a felony offense (other than a motor vehicle offense), the case is transferred to superior court where the juvenile will be tried as an adult, the petition is dismissed, the judge issues ANY dispositional order (including probation with school attendance required as a condition of probation), or the judge modifies or vacates any order or disposition. Currently, there is no provision requiring the court to notify schools when juveniles (who are under 16) are alleged or found delinquent. The notice is to be delivered within five days either in person or by certified mail. If the court counselor learns that the juvenile is transferring to another school, the counselor shall deliver the required notification to the principal of that school.

Section 7 would add a new G.S. 115C-404 to provide for the school's confidential treatment of juvenile records received from court counselors under the previous section of the bill. Documents must be used only to protect the safety of the student or others and to improve educational opportunities at the school. The principal must share the information with staff who have direct guidance, teaching, or supervisory responsibility for the particular student or who have a specific need to know in order to protect the safety of the student or others. Failure to maintain confidentiality would be grounds for dismissal. The principal must keep the records in a safe place, separate from other records, and must destroy the information when the principal learns that the judge has dismissed the petition, transferred jurisdiction to superior court, or ordered expunction of the records. If the student graduates, withdraws from school, is suspended for the rest of the school year, is expelled, or transfers to another school, the principal must return the documents to the court counselor. If applicable, the principal also shall provide the counselor with the name and address of the school to which the student is transferring.

Section 8 would amend G.S. 15A-505 to require law enforcement officials to notify the appropriate principal (of a public or private school) within five days when a student is charged with a felony, except for a motor vehicle offense. Notification must be made by phone or in person. Currently, law enforcement officials are required to notify a minor's parent or guardian when a minor is charged with a criminal offense, not including certain motor vehicle offenses. This section would apply to students who are at least 16.

Section 9 would amend G.S. 115C-12 (Powers and duties of the Board generally) by adding a new subdivision to require the State Board of Education to provide technical assistance for developing school safety plans.

Section 10 would require the UNC Board of Governors to develop a plan to ensure that students in school administrator, teacher preparation and continuing education programs receive the necessary training and experience to maintain order in schools. The Board of Governors shall report to the Joint Legislative Education Oversight Committee before February 15, 1998.

Section 11 would require the State Board of Education to review and consider modifications to its school facility guidelines to take into account the relationship between school design and school climate. The State Board would also be required to make recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order. The State Board would be required to report to the Joint Legislative Education Oversight Committee before February 15, 1998, on steps taken to implement the section.

Section 12 would require the State Board of Education to review and modify, as needed, procedures for keeping data and reports made about acts of violence in school and on students suspended or expelled to ensure consistency on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee before March 1, 1998.

Section 13 establishes the At-risk Students Task Force under the State Board of Education. The following State officers are named as members of the Task Force: the Chair of the State Board of Education, the Superintendent of Public Instruction, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. These officers may name designees. This section directs the Department of Public Instruction and the Department of Human Resources to provide staff and clerical support to the Task Force; and the State Board of Education is directed to fund the Task Force within funds available to it.

The Task Force is directed to develop a plan to establish interagency agreements between local school administrative units and other local public agencies, including health departments, departments of social services, mental health agencies, and courts, in order to coordinate the provision of services to students who are at risk of school failure, at risk of participation in juvenile crime, or both. The Task Force is required to report to the Joint Legislative Education Oversight Committee by October 15, 1997, at which time the Task Force terminates.

Section 14 would appropriate $1,000,000 in each year of the 1997-99 fiscal biennium in expansion funds for the S.O.S. Program. The S.O.S. Program is designed to award grants to neighborhood based and community-based organizations. The grants are to be used to provide school-aged children with quality after-school activities.

The section also amends G.S. 143B-152.5 (Grants review and selection) to provide that when grant applications are reviewed, the Secretary of Human Resources and the State task force that helps the Secretary review grant applications for the S.O.S. may consider evidence that similarly designed programs have been efficient in improving academic performance or reducing disruptive or illegal behavior. The section also amends G.S. 143B-152.7(a) to provide that the Department of Human Resources evaluation system for the S.O.S. Program develop information for potential grant applicants on the design of programs that are likely to be successful.

Section 15 would amend G.S. 115C-12 (24) (Powers and duties of the Board generally) to require that the State Board of Education recommend means of measuring the academic achievement of students in alternative learning programs or in remedial learning programs.

Section 16 would require the State Board of Education and the Secretary of the Department of Human Resources to appoint an advisory committee to review the advisability of and to develop a proposal for regional residential schools for students with emotional and behavioral problems too severe for the public schools to serve. The advisory committee is to define the population to be served, estimate the number of students, devise a plan for building and operating the schools, estimate the costs and benefits and consider whether there are any existing available State facilities that are appropriate for such schools. The advisory committee shall report its findings to the State Board of Education and the Secretary of the Department of Human Resources before January 15, 1998. The State Board and the Secretary shall report to the Joint Legislative Education Oversight Committee before February 15, 1998.

Senate Bill 4 is effective when it becomes law.

SB4SUMMARY1

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel
DATE: April 3, 1997
RE: **Senate Bill 236: Student Discipline/No Civil Liability**

SUMMARY: **Section 1** of Senate Bill 236 would amend G.S. 115C-391(a) to allow school personnel to use reasonable force to control behavior or to remove a person from the scene when necessary to maintain order on school property or at a school-related activity on or off school property. Currently, G.S. 115C-390 allows school personnel, except as prohibited or restricted by local board policy, to use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. In addition, G.S. 115C-391 allows school personnel to use reasonable force to control behavior or to remove a person from the scene when necessary (i) to quell a disturbance threatening injury to others; (ii) to obtain possession of weapons or other dangerous objects; (iii) for self-defense; or (iv) to protect persons or property.

Section 2 of the bill would amend G.S. 115C-391 to add a new subsection that would expressly provide that school officers and employees are immune from civil liability for any action carried out to control or discipline students, except in the case of `excessive force or cruel and unusual punishment'. The North Carolina courts have interpreted G.S. 115C-390, which authorizes the use of reasonable force, to protect from civil liability school personnel who use reasonable force to control or discipline students. However, this protection is not explicitly stated in the statutes.

ANALYSIS: Currently, the law, in several different places, allows school personnel to use reasonable force to maintain discipline. Senate Bill 236 would allow for immunity from civil liability for school personnel who discipline students, so long as they don't use excessive force or cruel and unusual punishment. The first issue for consideration is whether it would be confusing to allow reasonable force in some places and prohibit excessive force in others. The phrases are almost, but not exactly, opposites. According to Black's Law Dictionary, `excessive force' is the "amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all the circumstances". `Reasonable force' is defined as the "degree of force which is not excessive and is appropriate in protecting oneself or one's property". The North Carolina Court of Appeals has stated that the law in this state is "that a child could recover for excessive punishment, but there can be no recovery if the punishment is reasonable in light of its purpose." The second issue concerns the phrase `cruel and unusual punishment'. The U.S. Supreme Court in Ingraham v. Wright, 430 U.S. 651 (1977), held that the Eighth Amendment of the United States Constitution which forbids "cruel and unusual punishment" does not apply to corporal punishment administered in the public schools. On the other hand, this phrase is used in at least one other state's expulsion statute (e.g., Florida).

(1)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4
Proposed Committee Substitute S4-PCS7676

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S4-ARH-002

Date 4-3 ,1997

Comm. Sub. [X]
Amends Title [ ]

Senator Winner

moves to amend the committee substitute on page 2, lines 33-34, by inserting between the lines the following:
"**STUDENT DISCIPLINE/NO CIVIL LIABILITY**";

and on page 2, line 35, by deleting "17" and by substituting "18";

and on page 2, line 37, by deleting "18" and by substituting "19";

and on page 11, lines 30-31, by inserting between the lines the following new section:

"**STUDENT DISCIPLINE/NO CIVIL LIABILITY**

Section 17. (a) G.S. 115C-391(a) reads as rewritten:

'(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;
(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;
(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment

and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

~~The~~ Each local board shall publish all the policies mandated by this ~~subsection~~ section and make them available to each student and his parent or guardian at the beginning of each school year.

(a1) Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; ~~or~~

(4) For the protection of persons or ~~property.~~ property; or

(5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property.'

(b). G.S.115C-391 is amended by adding the following new subsection to read:

'(h) Notwithstanding any other law,no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force, including corporal punishment, in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.'";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4
Proposed Committee Substitute S4-PCS7676

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S4-ARH-002

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4
Proposed Committee Substitute S4-PCS7676

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S4-ARH-003 Page 1 of _

Date 4/8 ,1997

Comm. Sub. [X]
Amends Title [ ]

Senator Winner

moves to amend the committee substitute on page 2, line 5, and on page 4, line 38, by inserting after the word "SCHOOL" the following phrase:
"**OR HAS BEEN CONVICTED OF A FELONY**";

and on page 3, line 19, by deleting the word "shall" and by substituting the word "may";

and on page 5, lines 2-3, by rewriting the lines to read:
"any other state or has been convicted of a felony in this or any other state.";

and on page 5, lines 13-14, by rewriting the lines to read:
"the safety of other students or employees or who has been convicted of a felony in this or any other state. If";

and on page 5, line 16, by rewriting the line to read:
"a felony, the student may".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

S4-ARH-004.1

Date 4-8 ,1997

Comm. Sub. [X] PCS S4-PCS7676
Amends Title []

Senator Winner

moves to amend the committee substitute on page 3, lines 31-38, by rewriting the lines to read:

"If, after a teacher has requested assistance from the principal two or more times due to a student's chronically disruptive behavior, the teacher finds that the student's chronically disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to the school-based committee established at that school as authorized by the State Board of Education in its Procedures Governing Programs and Services for Children with Special Needs. For the purposes of this section, the student's parent, guardian, or legal custodian shall be requested to participate in the proceedings of the committee concerning the student. Furthermore, a student is not required to be screened, evaluated, or identified as a child with special needs under this section. The committee shall review the matter and shall take one or more of the";

and on page 4, line 5, by deleting the quotation mark at the end of the line and by inserting by following new paragraph:

"This section shall be in addition to and supplemental to disciplinary action taken in accordance with any other law. Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's

The teacher
[illegible] class
[illegible] parent's
[illegible]
by [illegible]
procedures.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S4-ARH-004.1

behavior referred to this committee before any discipline is imposed on the student.'".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 4/ (

S. B. No. _____ Amendment No. 7
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE 7676

Rep.)
)
Sen.)

S4-ARH-004.1

moves to amend the ~~bill~~ on page 1, line 22

( ) WHICH CHANGES THE TITLE

by inserting after the word "law." the following sentence:

"The recommendation of the committee is final and ~~[illegible]~~ may not be appealed under G.S. 115C-45(c)."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. 2 (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 21, and on page 3, lines 25-44, and on page 4, lines 1-5, ( ) WHICH CHANGES THE TITLE by deleting the word "chronically" in all the places it appeared.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

Reported version

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 4
Proposed Committee Substitute S4-PCS7702

Short Title: Safe Schools Act of 1997. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SAFE SCHOOLS ACT OF 1997.

The General Assembly of North Carolina enacts:

TITLE OF ACT

Section 1. This act shall be known as "The Safe Schools Act of 1997".

*****

An outline of the provisions of the act follows this section. The outline shows the heading "**CONTENTS/INDEX**" and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act. This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.

CONTENTS/INDEX

TITLE OF ACT
Section 1.
SAFETY TEAMS TO RESTORE ORDER TO SCHOOLS
Section 2.
MANAGEMENT OF DISRUPTIVE STUDENTS
Section 3.

SMALLER CLASS SIZE FOR STUDENTS ENTERING MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 4.

RESTRICTIONS ON ADMISSION OF A STUDENT WHO IS UNDER SUSPENSION OR EXPULSION FROM ANOTHER SCHOOL OR HAS BEEN CONVICTED OF A FELONY

Section 5.

NOTIFICATION OF SCHOOLS OF UNLAWFUL ACTS BY A STUDENT AND OF THE STATUS OF LEGAL ACTION REGARDING THOSE ACTS

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Section 11.

MAKE REPORTS OF VIOLENT ACTS IN SCHOOLS MORE ACCURATE AND CONSISTENT THROUGHOUT THE STATE

Section 12.

MULTIAGENCY TASK FORCE TO ASSIST AT-RISK STUDENTS AT THE COMMUNITY LEVEL

Section 13.

EXPANSION OF THE S.O.S. PROGRAM

Section 14.

TESTING AND REMEDIATION IN ALTERNATIVE SCHOOLS

Section 15.

STUDY ON OPTIONS FOR STUDENTS WITH SEVERE EMOTIONAL AND BEHAVIORAL PROBLEMS

Section 16.

STUDENT DISCIPLINE/NO CIVIL LIABILITY

Section 17.

CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT

Section 18.

EFFECTIVE DATE

Section 19.

SAFETY TEAMS TO RESTORE ORDER TO SCHOOLS

Section 2. There is appropriated from the General Fund to the State Board of Education the sum of five hundred thousand dollars ($500,000) for the

1997-98 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year to provide safety intervention teams to schools to assist those schools in restoring safety and order. Upon the request of a local board of education, a superintendent, a principal, a school improvement team, or a parent-teacher organization at a school, the State Board of Education is authorized to provide a safety intervention team to a school. The team may consist of teachers, retired teachers, school administrators, retired school administrators, and others who have demonstrated their ability to restore and maintain order in public schools. The team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining order and discipline at the school. The team shall also make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. The team shall revisit the school as needed to monitor the school's progress in implementing the plan and in restoring and maintaining order and discipline in the school. If appropriate, the team may make further recommendations to the local board of education and the superintendent on additional actions, including dismissal of teachers or administrators, to resolve problems at the school. If the school fails to make adequate progress on its implementation of a long-term plan, the team recommends the dismissal of any teacher or administrator, and the local board fails to take action on the dismissal recommendation, then the team may make the dismissal recommendation to the State Board of Education. Upon receipt of a dismissal recommendation, the State Board shall follow the procedure established in G.S. 115C-325(q)(1) or G.S. 115C-325(q)(2), whichever is applicable, for the dismissal of the teacher or administrator.

MANAGEMENT OF DISRUPTIVE STUDENTS

Section 3. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"Management and Placement of Disruptive Students.

"§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to the school-based committee established at that school as authorized by the State Board of Education in its Procedures Governing Programs and Services for Children with Special Needs. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the student's parent, guardian, or legal custodian shall be requested to participate in the proceedings of the committee concerning the student. Furthermore, a student is not required to be screened, evaluated, or identified as a child with special needs under this section.

The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary diagnosis and evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to and supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and may not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student."

SMALLER CLASS SIZE FOR STUDENTS ENTERING MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 4. (a) There is appropriated from the General Fund to State Aid to Local School Administrative Units the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1997-98 fiscal year and the sum of seventeen million one hundred forty-six thousand seven hundred twenty dollars ($17,146,720) for the 1998-99 fiscal year to provide additional teachers for middle or junior high school-age children who are academically below grade level.

The State Board of Education shall allocate these teacher positions on the basis of the number of students in grades six or seven who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. Under this allocation, all county school administrative units shall receive at least one whole teacher position.

(b) The purpose of these funds is to improve the academic performance and the behavior of these students during the first two school years after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

(c) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars ($25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools and junior high schools.

RESTRICTIONS ON ADMISSION OF A STUDENT WHO IS UNDER SUSPENSION OR EXPULSION FROM ANOTHER SCHOOL OR HAS BEEN CONVICTED OF A FELONY

Section 5. G.S. 115C-366 is amended by adding the following new subsections to read:

"(a3) Before the admission of a student to any public school in North Carolina, the local board shall require the student's parent, guardian, custodian, or other person satisfactory to the local board to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a felony in this or any other state.

(a4) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-391 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-391 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or employees or who has been convicted of a felony in this or any other state. If the local board denies admission to a student who has been expelled or convicted of a felony, the student may request the local board to reconsider that decision in accordance with G.S. 115C-391(d)."

NOTIFICATION OF SCHOOL OF UNLAWFUL ACTS BY A STUDENT AND OF THE STATUS OF LEGAL ACTION REGARDING THOSE ACTS

Section 6. Article 54 of Chapter 7A of the General Statutes is amended by adding the following new section to read:

"**§ 7A-675.1. Notification of schools when juveniles are alleged or found to be delinquent.**

(a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

(1) A petition is filed under G.S. 7A-560 that alleges delinquency for an offense that would be a felony if committed by an adult;

(2) The judge transfers jurisdiction over a juvenile to superior court under G.S. 7A-608;

(3) The judge dismisses under G.S. 7A-637 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;

(4) The judge issues a dispositional order under Article 52 of Chapter 7A of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult; or

(5) The judge modifies or vacates any order or disposition under G.S. 7A-664 concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery of the written notification shall be made as soon as practicable but at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified order, a vacated order, or a transfer to superior court shall describe the judge's action and any applicable disposition requirements. As used in this subsection, the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

(b) If the principal of the school the juvenile attends returns any notification as required by G.S. 115C-404 and if the juvenile court counselor learns that the juvenile is transferring to another school, the juvenile court counselor shall deliver the notification to the principal of the school to which the juvenile is transferring. Delivery shall be made as soon as practicable and shall be made in person or by certified mail.

(c) Principals shall handle any notification delivered under this section in accordance with G.S. 115C-404.

(d) For the purpose of this section, 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

Section 7. Article 29 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-404. Use of juvenile court information.**

(a) Written notifications received in accordance with G.S. 7A-675.1 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents.

(b) Documents received under this section may be used only to protect the safety of the student or others and to improve the educational opportunities in the school. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for dismissal of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee, in accordance with G.S. 115C-325(e)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal shall return the documents to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring."

Section 8. G.S. 15A-505 reads as rewritten:

"**§ 15A-505. Notification of ~~minor's parent.~~** parent and school.

(a) A law-enforcement officer who charges a minor with a criminal offense shall notify the minor's parent or guardian of the charge, as soon as practicable, in person or by telephone. If the minor is taken into custody, the law enforcement officer or the officer's immediate superior shall notify a parent or guardian in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent or guardian of the minor cannot be found, then the officer or the officer's immediate superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

(b) The notification provided for by subsection (a) of this section shall not be required if:

(1) The minor is emancipated;

(2) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.01(24a); or

(3) The minor has been charged with a motor vehicle offense that is not a moving violation.

(c) A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. The notification may be made in person or by telephone. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor shall notify the principal of any school the person attends. This notification shall be in writing and shall be made within five days of the person's arrest. As used in this subsection, the term 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

LOCAL PLANS TO MAINTAIN, IMPROVE, OR RESTORE ORDER AND DISCIPLINE WITHIN SCHOOLS

Section 9. G.S. 115C-12 is amended by adding a new subdivision to read:

"(25) Duty to Provide Technical Assistance on School Safety Plans. -- The State Board of Education shall provide technical assistance to local school administrative units on developing, implementing, and evaluating local plans to maintain, improve, or restore order and discipline within their schools."

TRAINING FOR SCHOOL PERSONNEL ON MAINTAINING SAFE AND ORDERLY SCHOOLS

Section 10. The Board of Governors of The University of North Carolina shall develop a plan for ensuring that school administrator and teacher preparation and continuing education programs provide their students with the training and experience they need to maintain and restore safety and order in schools.

The Board of Governors shall report on the plan, prior to February 15, 1998, to the Joint Legislative Education Oversight Committee.

MODIFICATION OF SCHOOL FACILITY GUIDELINES IN ORDER TO IMPROVE SCHOOL CLIMATE

Section 11. The State Board of Education shall review and consider modifications to its school facility guidelines in light of research on the relationship between (i) school design components, especially school size, and (ii) school climate and order.

The State Board shall also develop recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on actions taken to implement the provisions of this section.

MAKE REPORTS OF VIOLENT ACTS IN SCHOOLS MORE ACCURATE AND CONSISTENT THROUGHOUT THE STATE

Section 12. Prior to August 15, 1997, the State Board of Education shall review and modify, if necessary, its policies and procedures on data kept and reports made on acts of violence in school and on students suspended or expelled from school, to ensure that data and reports are accurate and consistent on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the impact of its efforts to attain accurate and consistent reports.

MULTIAGENCY TASK FORCE TO ASSIST AT-RISK STUDENTS AT THE COMMUNITY LEVEL

Section 13. (a) There is created the At-Risk Students Task Force under the State Board of Education. The Task Force shall consist of the Chair of the State Board of Education, the Superintendent of Public Instruction, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. Each officer may designate one representative from that officer's department or office to represent that officer on the Task Force. These officers also may appoint additional members who represent other State and local public agencies to the Task Force. The Chair of the State Board of Education, or the Chair's designee, shall serve as the Chair of the Task Force. The Department of Public Instruction and the Department of Human Resources shall provide staff and clerical support to the Task Force. The State Board of Education shall fund the Task Force within funds available to it.

(b) The Task Force shall develop a plan to develop interagency agreements between local school administrative units and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services to students who are at risk of school failure, at risk of participation in juvenile crime, or both.

(c) The Task Force shall report its plan, along with any suggested statutory revisions, to the Joint Legislative Education Oversight Committee by October 15, 1997, at which time the Task Force shall terminate.

EXPANSION OF THE S.O.S. PROGRAM

Section 14. (a) There is appropriated from the General Fund to the Department of Human Resources the sum of one million dollars ($1,000,000) for the 1997-98 fiscal year and the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year to expand the S.O.S. Program.

(b) G.S. 143B-152.5 reads as rewritten:

"**§ 143B-152.5. Grants review and selection.**

(a) The Department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local S.O.S. programs and administering grants to establish local S.O.S. programs. This information shall include examples of the design and types of S.O.S. programs that evaluations have shown are likely to be successful in improving the academic performance of the participants or in reducing disruptive or illegal behavior.

(b) The Secretary of Human Resources shall appoint a State task force to assist the Secretary in reviewing grant applications. The State task force shall include representatives of the Department of Human Resources, the Department of Public Instruction, local school administrative units, educators, parents, the juvenile justice system, social services, and governmental agencies providing services to children, and other members the Secretary considers appropriate. In appointing the State task force, the Secretary shall consult with the Superintendent of Public Instruction in an effort to coordinate the membership of this State task force, the State task force

appointed by the Secretary pursuant to G.S. 143B-152.14, and the State task force appointed by the Superintendent pursuant to G.S. 115C-238.42.

In reviewing grant applications, the Secretary and the State task force may consider (i) the severity of the local problems as determined by the needs assessment data, (ii) the likelihood that the locally designed plan will result in high quality after-school services for school-aged children, (iii) evidence of local collaboration and coordination of services, (iv) any innovative or experimental aspects of the plan that will make it a useful model for replication in other neighborhoods and communities, ~~and (v)~~ (v) evidence that similarly designed programs have been efficient and effective in improving the academic performance of the participants or in reducing disruptive or illegal behavior, and (vi) any other factors which affect the well-being of school-aged children.

(c) In determining the amount of funds an applicant receives, the Secretary and the State task force may consider (i) the number of children to be served, (ii) the number and percentage of children to be served who participate in the subsidized lunch program, (iii) the number and percentage of school-aged children with two working parents or one single parent to be served, (iv) the availability of other resources or funds, and (v) the amount needed to implement the proposal.

(d) The Secretary shall award the grants."

(c) G.S. 143B-152.7(a) reads as rewritten:

"(a) The Department of Human Resources shall develop and implement an evaluation system that will assess the efficiency and effectiveness of the S.O.S. Program. The Department shall design this system to:

(1) Provide information to the Department and to the General Assembly on how to improve and refine the programs;

(1a) Develop information for dissemination to potential grant applicants on the design of programs that experience has shown are likely to be successful;

(2) Enable the Department and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;

(3) Enable the Department and the General Assembly to determine whether to modify the S.O.S. Program; and

(4) Provide a detailed fiscal analysis of how State funds for these programs were used."

TESTING AND REMEDIATION IN ALTERNATIVE SCHOOLS

Section 15. G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that

an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board of Education shall recommend to local boards of education ways to measure the academic achievement of students while they are in the alternative learning programs or in remedial learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation."

STUDY ON OPTIONS FOR STUDENTS WITH SEVERE EMOTIONAL AND BEHAVIORAL PROBLEMS

Section 16. The State Board of Education and the Secretary of the Department of Human Resources shall appoint an advisory committee to consider the advisability of and to develop a proposal for creating regional residential schools for students with emotional and behavioral problems so severe that the public schools cannot serve them. The advisory committee shall clearly define the population and the age limits of the population for whom such a residential school would be appropriate, estimate the number of students in that population, devise a plan for building and operating such schools, and estimate the costs and benefits of such schools. The advisory committee shall consider whether any existing State facilities would be available and appropriate to house such a school. The advisory committee shall report the results of its study, including its recommendation on the advisability of creating these schools, to the State Board of Education and the Secretary of the Department of Human Resources prior to January 15, 1998. The State Board of Education and the Secretary of Human Resources shall report the results of the study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

STUDENT DISCIPLINE/NO CIVIL LIABILITY

Section 17. (a) G.S. 115C-391(a) reads as rewritten:

"(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing

the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;

(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;

(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

~~The~~ Each local board shall publish all the policies mandated by this ~~subsection~~ section and make them available to each student and his parent or guardian at the beginning of each school year.

(a1) Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; ~~or~~

(4) For the protection of persons or ~~property.~~ property; or

(5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property."

(b) G.S. 115C-391 is amended by adding the following new subsection to read:

"(h) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force, including corporal punishment, in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable."

CAPTIONS ARE FOR REFERENCE ONLY AND DO NOT LIMIT TEXT

Section 18. The series of captions used in this act (the descriptive phrases in boldface and capital letters) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of this act.

EFFECTIVE DATE

Section 19. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Education / Higher Education — 4-8-97 (1:15 pm)

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Mathurt	NCEDLAW
Bill Wilson	NONE
ANN Berlam	SBE
Jonathan Breeden	Citizen
Michael Trivette	Senate Page
Eric Spaulding	Saint Augustine's College
Andre Mallory	Saint Augustine's College
Carl D Cohen	Saint Augustine College
Elaine Yarbrough	Saint Augustine's College
Rashonda Rose	Saint Augustine's College
LaKenya Freeman	Saint Augustine's College

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Felicia Hemingway	St. Augustine's College
Julika Powell	St. Augustine's College
Germel Wilkins	St. Augustine's College
Robin Branch	St. Augustine's College
Roderick Belfield	St. Augustine's College
Didyuan Carter	St. Augustine's College
Darlene Haywood	St. Augustine's College
Tressa Carter	St. Augustine's College
Sandra Haley	St. Augustine's College
ALLEN K. WOYEE	St. Augustine's COLLEGE
(1) Donn Hargrove	AOC - JSD

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	Public School Forum
Alicia Howe	Public School Forum
Pam Riley	Center for Prevention of School Violence

EDUCATION/HIGHER EDUCATION

AGENDA

APRIL 9, 1997

SB 366	Revise School/County Mediation - (Sen. Winner)
SB 457	Students Learn CPR - (Sen. Shaw)
SB 472	Higher Education Admissions Requirements - (Sen. Cochrane)

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, April 9, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, April 9, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Nineteen of the members of the Committee attended the meeting, including the Co-Chair, Senator Leslie Winner, who presided. Senator Winner introduced Janet Overman, a page from Elizabeth City, sponsored by Senator Basnight.

The first bill on the agenda was SB366, Short Title: Revise School/County Mediation, sponsored by Senator Winner. Senator Lee introduced Senator Winner to speak and explain SB366. Senator Winner sent forth a Proposed Committee Substitute on SB366, and Senator Cochrane moved to adopt the Proposed Committee Substitute. The Committee voted to adopt the Proposed Committee Substitute.

Senator Forrester, Senator Cochrane, Senator Dannelly, Senator Conder, and Senator Rucho questioned or had comments on SB366.

Senator Hoyle moved for a favorable report on the Proposed Committee Substitute for SB366. The Committee voted for a favorable report on the Proposed Committee Substitute, but unfavorable as to the original bill.

Senator Winner introduced Senator Shaw to speak on SB457, Short Title: Students Learn CPR. After some discussion by the Committee, Senator Bill Martin moved for a favorable report on SB457. The Committee voted for a favorable report on SB457.

Senator Winner introduced Senator Cochrane to explain and speak on SB472, Short Title: Higher Education Admissions Requirements. No action was taken at this meeting.

The Committee was adjourned at 11:00 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Leslie J. Winner, Co-Chairman
Howard Lee, Co-Chairman

Monday, April 14, 1997

LESLIE WINNER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **366 Revise Sch. Bd./Cty. Comm. Mediation.**

Draft Number:	8641
Sequential Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Wednesday, April 09, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **457** STUDENTS LEARN CPR
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **4** SAFE SCHOOLS ACT OF 1997
Draft Number: PCS 7702
Sequential Referral: NONE
Recommended Referral: /Committee on Appropriations
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment: PLEASE DELIVER REPORT TO SENATOR LEE, THANKS- JUDY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 366

Short Title: Revise Sch. Bd./Cty. Comm. Mediation. (Public)

Sponsors: Senator Winner.

Referred to: Education/Higher Education.

March 11, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE MEDIATION PROCEDURE FOR RESOLVING SCHOOL BUDGET DISPUTES BETWEEN LOCAL BOARDS OF EDUCATION AND BOARDS OF COUNTY COMMISSIONERS, AND TO CLARIFY THE SCOPE OF THE SCHOOL FACILITIES GUIDELINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-431 reads as rewritten:

"**§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.**

(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations.

Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a mediator unless the boards agree to jointly select a mediator. The mediator shall preside at the joint meeting and shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the boards' differences.

At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, ~~either board may notify the clerk of superior court who shall request the appointment of a mediator by superior court under G.S. 7A-38.1. The mediator shall be appointed within five days of the notification to the clerk. The mediator shall present recommendations for resolution of the matters in dispute within 15 days of the notification to the clerk.~~ the mediator shall, at the request of either board, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Unless otherwise agreed upon by both boards, the following individuals shall constitute the two working groups empowered to represent their respective boards during the mediation:

(1) The chair of each board or the chair's designee;

(2) The superintendent of the local school administrative unit and the county manager or either's designee;

(3) The finance officer of each board; and

(4) The attorney for each board.

Members of both boards, their chairs, and representatives shall cooperate with and respond to all reasonable requests of the mediator to participate in the mediation. Unless otherwise subject to Article 33C of Chapter 143 of the General Statutes, the mediation proceedings involving the two working groups shall be conducted in private. Information disclosed and conduct occurring during the mediation proceedings shall remain privileged and confidential. Reports by members of either working group to their respective boards shall be made in open meetings in compliance with Article 33C of Chapter 143 of the General Statutes.

Unless both boards agree otherwise, or unless the boards have already resolved their dispute, the mediation shall end no later than July 1. The mediator shall have the authority to determine that an impasse exists and to discontinue the mediation. The mediation may continue beyond July 1 provided both boards agree. If both boards agree to continue the mediation beyond July 1, the board of county commissioners shall appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient to equal the local contribution to this fund for the previous year.

If the working groups reach a proposed agreement, the terms and conditions must be approved by each board. If no agreement is reached, the mediator shall announce that fact to the chairs of both boards, the Senior Resident Superior Court Judge, and the public. The mediator shall not disclose any other information about the mediation. The mediator shall not make any recommendations or public statement of findings or conclusions.

The local board of education and the board of county commissioners shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

(c) Within five days ~~of receiving the recommendations of the mediator, either board~~ after an announcement of no agreement by the mediator, the local board of education may file an action in the superior court division of the General Court of Justice. The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The issue submitted to the jury shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the local school administrative unit, and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose.

(d) If an appeal is taken to the appellate division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year. All papers and records relating to the case shall be considered a part of the record on appeal.

(e) If, in an action filed under this section, the final judgment of the General Court of Justice is rendered after the due date prescribed by law for property taxes, the board of county commissioners is authorized to levy such supplementary taxes as may be required by the judgment, notwithstanding any other provisions of law with respect to the time for doing acts necessary to a property tax levy. Upon making a supplementary levy under this subsection, the board of county commissioners shall designate the person who is to compute and prepare the supplementary tax receipts and records for all such taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date of the levy, and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the

one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed."

Section 2. G.S. 115C-521(c) reads as rewritten:

"(c) The building of all new school buildings and the repairing of all old school buildings shall be under the control and direction of, and by contract with, the board of education for which the building and repairing is done. If a board of education is considering building a new school building to replace an existing school building, the board shall not invest any construction money in the new building unless it submits to the State Superintendent and the State Superintendent submits to the North Carolina Historical Commission an analysis that compares the costs and feasibility of building the new building and of renovating the existing building and that clearly indicates the desirability of building the new building. No board of education shall invest any money in any new building until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board. No local board of education shall contract for more money than is made available for the erection of a new building. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor. Nothing in this subsection shall prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of the board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, ~~the State Board of Education, under any rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of the loan or grant, until the completed~~

~~buildings, erected or repaired, in whole or in part, from the loan or grant funds, shall have been approved by a designated agent of the State Board of Education. Upon approval by the State Board of Education, the State Treasurer may pay the balance of the loan or grant to the treasurer of the local school administrative unit for which the loan or grant was made.~~ no board of education shall invest any money until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board."

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: April 8, 1997
RE: Summary SB 366 (Proposed Committee Substitute) - Revise School Board/County Commissioner Mediation

Background: In 1996, the School Capital Construction Study Commission recommended modifying the process for resolving disputes between school boards and county commissioners over the local school budget. The law had provided that in the event there was a disagreement between the two boards, either board could request an arbitration by the clerk of superior court. However, if the clerk made a good faith determination that the dispute could not be resolved by arbitration, the clerk was required to transfer the matter to superior court. As a practical matter, clerks faced with the request for arbitration always determined that arbitration was not possible. The Commission determined that a revised alternative dispute resolution process was necessary, and recommended that the parties be required to attempt to mediate their differences. The recommended changes were incorporated in HB 1102 which was ratified June 21, 1996. The Commission also determined that State school facility standards should be changed to guidelines and that the State Board should provide review and comment, but not approval, of proposed plans. These changes were incorporated in Section 18.17 of the 1996 Expansion Budget.

Section 1 makes revisions to the mediation process. First, the Senior Resident Superior Court judge must appoint a mediator to preside over the joint meeting of the two boards. The joint meeting is a required step before The mediator is supposed to act as a neutral facilitator at the joint meeting. Second, the bill deletes language requiring the mediator make recommendations for resolving the dispute. This change is in response to concerns that the requirement contradicted a mediator's normal role as an impartial facilitator. Third, the bill provides greater detail regarding how the mediation will proceed. It outlines the individuals that will serve on the working groups that represent each board in the mediation: 1) the chair of each board or the chair's designee; 2) the superintendent and the county manager or their designees; 3) the finance officer for each board; and 4) each board's attorney. The membership of the working groups to be modified if both boards agree. It specifies that information provided during the mediation is privileged and confidential. It sets July 1 as the ending date for the mediation, but provides that a mediator may declare an impasse at an earlier time and also provides that the boards may mutually agree to continue the mediation. If the mediation is continued after July 1, the board of county commissioners must appropriate the same amount of money to the local current expense fund as was appropriated in the previous year. The bill provides that if the working groups reach an agreement, it must be approved by both boards. Finally, if the mediator

announces that there has been no agreement, the local board of education may file an action in Superior Court under the current provisions for a court action to resolve the budget dispute.

Section 2 revises the open meetings law regarding which meetings may be held in closed session. G.S. 143-318.11(a)(3) is amended to add mediation and arbitration to the list of matters a public body may consider in closed session, provided the purpose of the closed session is to consult with and receive advice from the public body's attorney.

Section 3 revises G.S. 115C-521(c) to apply the same process for State Board review and comment for school building plans where money is loaned or granted by the State as applies when local funds are used.

The act is effective upon becoming law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 472*

Short Title: Higher Ed. Admission Requirements. (Public)

Sponsors: Senators Cochrane, Kerr, Perdue; Albertson, Allran, Ballantine, Blust, Carpenter, Carrington, Clark, Conder, Dannelly, East, Forrester, Foxx, Garwood, Hartsell, Horton, Hoyle, Jordan, Kincaid, Ledbetter, Lucas, Martin of Pitt, McDaniel, Page, Phillips, Plyler, Rucho, Shaw of Guilford, Webster, and Weinstein.

Referred to: Education/Higher Education.

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE UNIFORM HIGHER EDUCATION ADMISSION REQUIREMENTS FOR NONPUBLIC SCHOOL STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.6. Admission requirements for Article 39 students.**

If the transcript of an individual applying for admission to a constituent institution from a school lawfully operating under Article 39 of Chapter 115C of the General Statutes reflects that the applicant has met the Board of Governor's minimum admission requirements, the applicant shall not be required to take additional tests as a condition of application for admission. This section shall not be construed to preclude the constituent institutions from requiring that applicants from schools lawfully operated under Article 39 of Chapter 115C of the General Statutes take, as a condition of admission, the same college entrance exams that are required of all applicants for admission."

Section 2. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel
DATE: April 7, 1997
RE: Summary SB 472 - Higher Education Admission Requirements.

Section 1 creates a new section G.S. 116-40.6. It would prohibit a constituent institution from requiring additional admission tests of students that graduated from a North Carolina private religious school, other North Carolina private schools, or a North Carolina home school if the student's transcript reflects that the student has met the Minimum Admission Requirements set the UNC Board of Governors. The constituent institutions may require that these applicants take the same college admission tests that all applicants to the institution must take.

The act is effective upon becoming law.

Background: . All applicants for admission a UNC constituent institutions must meet the Minimum Admission Requirements (MAR) as set by the Board of Governors (BOG). Admissions officers evaluate a student's transcript to determine if those requirements have been met. The BOG and the State Board of Education have developed a uniform high school transcript for North Carolina public schools. The transcript is designed to provide, among other things, uniform course designations that align with the BOG's MAR.

Students applying from home schools, private schools, or schools with unconventional grading practices may present transcripts that do not clearly indicate that a student has met the MAR. Prior to February of 1997, The University of North Carolina did not have a uniform, system-wide policy regarding the procedures an admission officer could use if questions arose regarding whether a student had met the MAR. Some constituent institutions did not have a policy, some dealt with the issue on a case-by-case basis, and at least one had a policy that required additional tests and minimum test scores of all students applying from a home school, a non-accredited school, or a school with unconventional grading practices.

On February 20, 1997, President Spangler adopted a uniform, system-wide policy for addressing questions regarding whether a student from home school, a non-accredited school, or a school with a nontraditional grading system has met the MAR. A copy of the policy is attached. The policy is permissive in that it allows admission officers discretion regarding whether to require additional tests. It is prescriptive in that it limits the tests that may be required and temporarily prohibits the establishment of minimum test scores.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 457

Short Title: Students Learn CPR. (Public)

Sponsors: Senators Shaw of Guilford; Albertson, Allran, Ballance, Ballantine, Blust, Carpenter, Carrington, Clark, Conder, Dalton, East, Forrester, Foxx, Garwood, Horton, Jenkins, Jordan, Kincaid, Kinnaird, Ledbetter, Lee, Lucas, Martin of Pitt, McDaniel, Odom, Perdue, Phillips, Plyler, Rand, Reeves, Shaw of Cumberland, Warren, Weinstein, and Wellons.

Referred to: Education/Higher Education.

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM TO PROVIDE INSTRUCTION ON THE PERFORMANCE OF CARDIOPULMONARY RESUSCITATION AND THE HEIMLICH MANEUVER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-81(e1)(1) reads as rewritten:

"(e1) School Health Education Program to Be Developed and Administered.

(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, 'family life education', 'family health education', 'health education', 'family living', 'health', 'healthful living curriculum', or 'self-esteem':

a. Mental and emotional health;

b. Drug and alcohol abuse prevention;

c. Nutrition;

d. Dental health;

e. Environmental health;

f. Family living;
g. Consumer health;
h. Disease control;
i. Growth and development;
j. First aid and emergency ~~care;~~ care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students become proficient in order to pass a test approved by the American Heart Association.
k. Preventing sexually transmitted diseases, including Acquired Immune Deficiency Syndrome (AIDS) virus infection, and other communicable diseases;
l. Abstinence until marriage education; and
m. Bicycle safety."

Section 2. G.S. 115C-81(c) reads as rewritten:

"(c) **(For effective date see notes)** Local boards of education shall provide for the efficient teaching at appropriate grade levels of all materials set forth in the standard course of study, including integrated instruction in the areas of citizenship in the United States of America, government of the State of North Carolina, government of the United States, fire prevention, the free enterprise ~~system,~~ system, and the dangers of harmful or illegal drugs, including ~~alcohol, and cardio-pulmonary resuscitation (CPR) and the Heimlich maneuver.~~ alcohol.

Except when a board authorizes teaching in a foreign language in order to comply with federal law, local boards of education shall require all teachers and principals to conduct classes except foreign language classes in English. Any teacher or principal who refuses to do so may be dismissed."

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 7, 1997
RE: **SB 457. Students Learn CPR.**

Summary: **Section 1** would amend G.S. 115C-81(e1)(1) to provide that CPR and the Heimlich maneuver training are part of the School Health Education Program. Students shall have hands-on training with mannequins to reach a level of proficiency needed to pass a test approved by the American Heart Association.

Section 2 makes a technical and conforming change.

Senate Bill 457 would take effect when it becomes law.

Background: In 1987, the General Assembly directed local boards of education to teach, appropriate to the grade level, CPR and the Heimlich maneuver. According to the Framework for Healthful Living Education (1996), one Fourth grade objective is to provide "first aid for choking victims, including the Heimlich maneuver". One Eighth grade objective is "demonstrating basic CPR techniques and procedures, including community resources for becoming certified in CPR and including the Heimlich maneuver."

The American Heart Association has a "Heart Saver" course designed for individuals who want to learn CPR and the Heimlich maneuver. Instructors can tailor the class so that adult, child or infant CPR or any combination of the three is taught. To become certified, a person must pass a mannequin skills check-off. The class runs 4-6 hours and costs range from free to $15-20 per person. The American Heart Association has no set fees for courses so instructors can set their own fees, including a charge for renting the mannequin and/or the facility. The text for the course costs $3 and the certification card costs $1. The American Heart Association recommends that the certification be renewed on an annual basis, one month from the date when the course was taken.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

Education / Higher Education — 4-9-97 (10:00 am)

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
GARY E. Rogers	FAITH CHRISTIAN SCHOOL
Joe Haas	NCCSA
Hal Miller	DCAccT
[illegible]	
Jan Crotts	NCCSA
Ron Aycock	NCACC
DG Martin	UNC
Clifton B. Metcalf	UDC
Artie Kamiya	DPI
Ann Belcher	SBE
Bill Walker	NCAE

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Burton	A. Smith Buick Inc Raz. N.C
David Farris	Farris Mts Rocky Mt.
Harry Land Jr	Land Automotive, Durham
Dave Westcott	Westcott Buick - Burlington N.C
Karen Burgess	OSBM
Kay Daum	OSPL
Marian Ilg	OSBM
Bob Miller	NCACCT
Helen Stevens	NCACCT
Ken Hoyle	UNC
Judith Pulley	UNC
Ray Cornell	UNC - GA
Clifford B. Butler	UNC - GA

Barry Russell	NCCCS
[illegible]	NCCCS
Donny Hunter	NCCCS
Aileen W. Ford	FCDC
[illegible]	OSBM
Linda Robinson	NCAGT

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dwight Ausley	Raleigh Christian Academy
R.L. Tippett	" " "
H. Eugene Schuyler	Neuse Baptist Christian School
Charles Bright	Neuse Baptist Christian School
Sandra Therit	Wake Christian Academy
Amy Van Oostrum	PENC
Alicia Hare	Public School Forum
Jo Ann Norris	Public School Forum
Susan Harrison	WCPSS
Ruth Williamson	Williamson Magna
David Nunn	North Carolinians for Home Education

AGENDA

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE

WEDNESDAY, APRIL 16, 1997

SB 587 SCHOOL PERSONNEL/CLASS EXPERIENCE
(HARTSELL)

SB 668 CPA EDUCATION REQUIREMENTS
(HOYLE)

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
APRIL 16, 1997

The Senate Committee on Education/Higher Education met on April 16, 1997 in Room 414, Legislative Office Building. Senator Lee presided.

Before the Committee were the following:

SB 668, CPA EDUCATION REQUIREMENTS/AB. Senator Hoyle explained the bill and offered an amendment, which was adopted. Mr. Jim Ahler spoke on the bill and distributed to members a letter dated February 25, 1997 expressing support for the proposed legislation. (Attachment to the record) Mr. Marvin Musselwhite , an attorney with Poyner and Spruill, spoke against the proposal. On a motion by Senator Cooper, the bill and the approved amendment would be incorporated into a new proposed committee substitute and given a favorable report, with a recommendation that the bill be re-referred to the Committee on Appropriations. (Reported April 17, 1997)

SB 587, SCHOOL PERSONNEL/CLASSROOM EXPERIENCE. Senator Hartsell brought before the Committee a Proposed Committee Substitute (PCSRJ-001) which was adopted. Senator Hartsell then offered an amendment, which was adopted. Following discussion Senator Allran moved that the PCS with the amendment be incorporated into a new PCS and given a favorable report. Motion carried. (Reported April 21, 1997)

The meeting was adjourned at 10:55 a.m.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Thursday, April 17, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **668** CPA EDUCATION REQUIREMENTS/AB

Draft Number:	PCS 4580
Sequential Referral:	NONE
Recommended Referral:	APPROPRIATIONS
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: Tracie - Please Hold until I get there. Thanks, Judy

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Monday, April 21, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **587** School Personnel/Classroom Experience

Draft Number:	PCS 8670
Sequential Referral:	NONE
Recommended Referral:	NONE
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: PLEASE GIVE TO SENATOR LEE AT MONDAY NIGHT SESSION. THANKS, JUDY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 668*

Short Title: CPA Education Requirements/AB. (Public)

Sponsors: Senators Hoyle, Carpenter; Albertson, Ballance, Cooper, Dannelly, Forrester, Gulley, Jenkins, Jordan, Kerr, Lee, Lucas, Martin of Pitt, Martin of Guilford, McDaniel, Phillips, Rand, Reeves, Warren, and Wellons.

Referred to: Education/Higher Education.

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EDUCATION REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-12(5) reads as rewritten:

"(5) To issue certificates of qualification admitting to practice as certified public accountants, each applicant who, having the qualifications herein specified, ~~shall have~~ has passed an examination to the satisfaction of the Board, in 'accounting,' 'auditing,' 'business law,' and other related subjects.

A person is eligible to take the examination given by the Board, or to receive a certificate of qualification to practice as a certified public accountant, ~~who~~ if the person is a citizen of the United States, has declared the intention of becoming a citizen, is a resident alien, or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, is 18 years of age or over, and is of good moral ~~character, and submits evidence satisfactory to the Board that:~~ character.

~~a. He holds a bachelor's degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to~~

~~have standards substantially equivalent to a regionally accredited institution, and~~

~~b. His degree studies included a concentration in accounting as defined by the Board or that he supplemented his degree studies with courses that the Board determines to be substantially equivalent to a concentration in accounting.~~

~~c. Repealed by Session Laws 1991, c. 214, s. 1, effective January 1, 1997.~~

To be eligible to take the examination given by the Board, a person shall submit evidence satisfactory to the Board that the person holds a bachelors degree from a college or university that is accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards that are substantially equivalent to a regionally accredited institution. The degree studies shall include a concentration in accounting as prescribed by the Board or shall be supplemented with courses that are determined by the Board to be substantially equivalent to a concentration in accounting.

~~Provided, however, the~~ The Board may, in its discretion, waive the education requirement of any candidate if the Board is satisfied from the result of a special written examination given the candidate by the Board to test ~~his~~ the candidate's educational qualifications that ~~he~~ the candidate is as well qualified as if ~~he~~ the candidate met the education requirements specified above. The Board may provide by regulation for the general scope of such examinations and may obtain such advice and assistance as it deems appropriate to assist it in preparing, administering and grading such special examinations.

To be eligible to receive a certificate of qualification to practice as a certified public accountant, a person shall submit evidence satisfactory to the Board that:

a. The person has completed 150 semester hours and received a bachelors degree with a concentration in accounting and other courses that the Board may require from a college or university that is accredited by a regional accrediting association or from a college or university determined by the Board to have standards that are substantially equivalent to those of a regionally accredited institution.

b. ~~Such applicant, in addition to passing the examination given by the Board, shall have~~ The person has the endorsement as to ~~his~~ the person's eligibility of three certified public

accountants who currently hold licenses in any state or territory of the United States or the District of ~~Columbia and shall have had either:~~ Columbia.

c. The person has one of the following:

~~a.~~1. Two years of experience in the field of accounting under the direct supervision of a certified public accountant who currently holds a valid license in any state or territory of the United States or the District of ~~Columbia, or~~ Columbia.

~~b.~~2. Five years of experience teaching accounting in a four-year college or university accredited by one of the regional accrediting associations or in a college or university determined by the Board to have standards substantially equivalent to a regionally accredited ~~institution; or~~ institution.

~~c.~~3. Five years of experience in the field of ~~accounting;~~ accounting.

4. ~~or five~~ Five years of experience teaching college transfer accounting courses at a community college or technical institute accredited by one of the regional accrediting ~~associations; or~~ associations.

~~d.~~5. Any combination of such experience determined by the Board to be substantially equivalent to the foregoing.

A Master's or more advanced degree in accounting, tax law, economics, business administration, or the equivalent thereof, or a law degree with emphasis in taxation or accounting from ~~an~~ a regionally accredited college or university may be substituted for one year of experience. The Board may permit persons otherwise eligible to take its examinations and withhold certificates until ~~such~~ the person ~~shall have~~ has had the required experience."

Section 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 668

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S668-ARC-001

Page 1 of __

Date April 16 ,1997

Comm. Sub. []
Amends Title []

Senator

moves to amend the bill on page 3, line 30, by deleting the word "law." and inserting "law, and applies to applications for certificates of qualification received after December 31, 2000.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

North Carolina General Assembly
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(919) 733-2578

To: Senator Lee and Senator Winner, Cochairs, Senate Education Committee

From: Dr. Jim Watts, Education Specialist

Re: Summary - Senate Bill 668 - CPA Education Requirements

Date: April 16, 1997

The legislation rewrites G. S. 93-12(5) regarding educational requirements for taking the examination for CPA and being certified as a CPA. The legislation leaves in place current requirements for taking the examination and adds the requirement that to be eligible to receive certification the person pursuing certification shall provide evidence that that they have completed 150 semester hours and received a bachelors degree with a concentration in accounting and other courses that the Board may require from a college or university accredited by a regional accreditation association or from a college or university having standards equivalent to those of a regionally accredited institution.

This act is effective when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: **Senate Bill 668 (First Edition)**

SHORT TITLE: **CPA Education Requirements/AB**

SPONSOR(S): Senators Hoyle and Carpenter

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02
EXPENDITURES	$1,207,586	$1,247,206	$1,288,380	$1,332,205	$1,379,120

POSITIONS: **14 (approximate)**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina; Community Colleges

EFFECTIVE DATE: Upon ratification

BILL SUMMARY: Amends GS 93-12(5) regarding educational requirements for taking examination for CPA and for being certified as CPA. Leaves in place current requirements for taking examination (which include possibility of waiving education requirement) but adds new requirement that person have completed 150 semester hours and received bachelors degree with concentration in accounting and other courses required by Board, from accredited college or university or college or university with substantially equivalent standards.[1]

ASSUMPTIONS AND METHODOLOGY:

1. The number of students in accounting and those seeking to take the CPA examination will remain at the level for 1995-96. In 1995-96, there were 703 accounting baccalaureate graduates at UNC campuses which will continue to offer an undergraduate degree or

[1] Daily Bulletin, Vol. 1997, No. 37, 4/2/97,Legislative Reporting Service, Institute of Government, UNC-Chapel Hill.

concentration in accounting. An estimated 57.3% will take the CPA exam, based on first-time test takers over the two year period 1993-94 through 1994-95. Approximately 57 of the graduates immediately enrolled in a UNC graduate program during fall, 1996.

2. The average accounting graduate will need an additional 18 hours to meet the 150 hour requirement. This varies from only 3 semester credit hours for graduates of Appalachian State to 27 semester credit hours for UNC-Greensboro graduates.

3. Current dollars are inflated at the General Consumer Price Index estimates for non-salaried items (20%) and at the estimated increase in average hourly earnings in manufacturing for salaries (80%). Estimated rates are obtained from Data Resources, Inc.

4. If the bill passes, UNC schools will either increase their baccalaureate requirements in accounting to 150 hours, or graduates will take an additional year of coursework to complete the 150 hour requirement.

5. Ninety percent (90%) of the required extra coursework will be taken on UNC campuses. The balance will be taken at NC community colleges.

6. The estimated additional credit hours needed by those wishing to get a CPA certificate is calculated by the average credit hours passed by the 1995-96 graduates. The additional credit hours are then divided by 30 semester hours. This translates into an additional 223 full-time equivalent (FTE) students at UNC. We assume that 201 will be UNC students, and the balance (22 FTE or 666 credit hours) will be community college students.

7. The additional costs for the UNC system are calculated at the current funding rate for additional enrollment, which is based on average cost at each campus. Because UNC is preparing a new methodology for requesting enrollment increase funding, which will differentiate among levels of students as well as the costs of various programs, the methodolgy used in this note should be considered conservative. If additional campuses seek to offer a masters degree to meet the requirement, or if additional students enter existing masters programs as an option, the costs could be higher. There are no assumptions on the costs of additional masters programs included in this analysis. State costs used per additional student (FTE) at UNC campuses averaged $5,418 per FTE, and are net of tuition payments. State costs at the community colleges are based on an estimated state subsidy of $3,400 per FTE.

8. Students will begin to take the additional courses during the 1997-98 fiscal year since the bill is effective upon ratification.

9. Current (1996-97 dollars) costs are estimated at $1,089,000 for UNC and $75,500 for community colleges.

TECHNICAL CONSIDERATIONS:
The bill is effective upon ratification with no lead time for those persons planning to take the exam after the bill passes.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Jim Newlin
APPROVED BY: Tom L. Covington**TomC**
DATE: April 15, 1997

POYNER&SPRUILL L.L.P.

MEMORANDUM

TO: Members of Senate Education Committee

FROM: Marvin D. Musselwhite, Jr.

DATE: April 16, 1997

RE: SB 668 CPA Education Requirements

I am submitting to you the following concerning the effect of the subject bill:

- Although the bill requires an additional year of college (5 total years) there is no requirement for additional accounting courses.

- The requirement for additional education cannot be compared to that required for legal or medical professions as these professions require courses in law and medicine.

- Quality of the CPA profession will not be improved because the law will not require additional courses in accounting. As with the legal and medical professions under the existing law continuing education can be required on an annual basis to improve quality.

- There will be additional costs to taxpayers as the State supports students at state supported colleges and universities (approximately $6,375 per student per year in 1995) and students at private schools with a student grant of $1,250 in 1995. (I believe $1,900 in 1997.)

- Fiscal note in 1995 showed a cost of at least $1,178,000 per year to State for student supplements and some believe the cost was between $3-$5 Million per year. It is higher in 1997.

- There will be additional costs to students for an additional year of tuition charges.

- There will be additional costs to employees of CPAs as there will be fewer - these costs will be passed to consumers.

- The number of minorities and lower income students entering the accounting profession will decrease because of the costs and lack of scholarships beyond bachelor's degrees.

- Working and single parents would be adversely effected as they already spread their undergraduate education and this bill would further lengthen that time.

- The main effect will be to limit the number of new CPAs - this limits competition and drives accountants' fees higher.

ncaCPA
North Carolina Association of Certified Public Accountants

February 25, 1997

Dear Senator:

Senators Hoyle and Carpenter are the primary sponsors of legislation that will enable new CPAs to be better prepared in the year 2000 for a life-long career in public accounting. This is a national effort to equip future CPAs to handle the increasing complexities of business in the US and internationally.

This is good legislation that is very important to employers and clients of CPAs and for the incoming new professionals who seek to have a productive career in public accounting. This legislation requires only an additional 22 to 30 hours of broad based education, but it makes all the difference in the world to the student, their employers and our state. Most of the UNC constituent institutions already have the 150 hour program in effect.

The arguments in support of this increased entry level education requirement are compelling. For example, we now know from independent research in other states that:

1. The first time pass rate for the CPA Exam could double (16% to 30%);
2. The gain in lifetime earnings will more than offset the additional education and opportunity costs;
3. Employers (CPAs and businesses) will realize better performance and higher productivity from these better trained new professionals;
4. Minority enrollment in accounting programs will likely increase;
5. College departmental operating costs will not increase significantly with this legislation;
6. Thirty-seven (37) states have passed this new requirement and our students will lose their competitive edge in the marketplace, if we fail to exert our leadership in this important area.

We would like to solicit your active support of this legislation. For further information, please phone 919/469-1040, or fax 919/469-3959.

Thank you,

James T. Ahler, CAE
Executive Director

Copies To:
Sam Johnson, Atty.
Zeb Alley, Atty.
Tommy Harrelson
Harold Webb

PO Box 80188, Raleigh, NC 27623-0188 • 3100 Gateway Centre Blvd., Morrisville, NC 27560-9241
CPA
Phone (919) 469-1040 • (800) 722-2836 • Fax (919) 469-3959 • http://www.accountingnet.com

Reported
4/17/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 668*
Proposed Committee Substitute S668-PCS4580

Short Title: CPA Education Requirements/AB. (Public)

Sponsors:

Referred to:

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EDUCATION REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-12(5) reads as rewritten:

"(5) To issue certificates of qualification admitting to practice as certified public accountants, each applicant who, having the qualifications herein specified, ~~shall have~~ has passed an examination to the satisfaction of the Board, in 'accounting,' 'auditing,' 'business law,' and other related subjects.

A person is eligible to take the examination given by the Board, or to receive a certificate of qualification to practice as a certified public accountant, ~~who~~ if the person is a citizen of the United States, has declared the intention of becoming a citizen, is a resident alien, or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, is 18 years of age or over, and is of good moral ~~character, and submits evidence satisfactory to the Board that:~~ character.

~~a. He holds a bachelor's degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, and~~

~~b. His degree studies included a concentration in accounting as defined by the Board or that he supplemented his degree studies with courses that the Board determines to be substantially equivalent to a concentration in accounting.~~

~~c. Repealed by Session Laws 1991, c. 214, s. 1, effective January 1, 1997.~~

To be eligible to take the examination given by the Board, a person shall submit evidence satisfactory to the Board that the person holds a bachelors degree from a college or university that is accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards that are substantially equivalent to a regionally accredited institution. The degree studies shall include a concentration in accounting as prescribed by the Board or shall be supplemented with courses that are determined by the Board to be substantially equivalent to a concentration in accounting.

~~Provided, however, the~~ The Board may, in its discretion, waive the education requirement of any candidate if the Board is satisfied from the result of a special written examination given the candidate by the Board to test ~~his~~ the candidate's educational qualifications that ~~he~~ the candidate is as well qualified as if ~~he~~ the candidate met the education requirements specified above. The Board may provide by regulation for the general scope of such examinations and may obtain such advice and assistance as it deems appropriate to assist it in preparing, administering and grading such special examinations.

To be eligible to receive a certificate of qualification to practice as a certified public accountant, a person shall submit evidence satisfactory to the Board that:

a. The person has completed 150 semester hours and received a bachelors degree with a concentration in accounting and other courses that the Board may require from a college or university that is accredited by a regional accrediting association or from a college or university determined by the Board to have standards that are substantially equivalent to those of a regionally accredited institution.

b. ~~Such applicant, in addition to passing the examination given by the Board, shall have~~ The person has the endorsement as to ~~his~~ the person's eligibility of three certified public accountants who currently hold licenses in any state or

territory of the United States or the District of ~~Columbia and shall have had either:~~ Columbia.

c. The person has one of the following:

~~a.~~1. Two years of experience in the field of accounting under the direct supervision of a certified public accountant who currently holds a valid license in any state or territory of the United States or the District of ~~Columbia, or~~ Columbia.

~~b.~~2. Five years of experience teaching accounting in a four-year college or university accredited by one of the regional accrediting associations or in a college or university determined by the Board to have standards substantially equivalent to a regionally accredited ~~institution; or~~ institution.

~~c.~~3. Five years of experience in the field of ~~accounting;~~ accounting.

4. ~~or five~~ Five years of experience teaching college transfer accounting courses at a community college or technical institute accredited by one of the regional accrediting ~~associations; or~~ associations.

~~d.~~5. Any combination of such experience determined by the Board to be substantially equivalent to the foregoing.

A Master's or more advanced degree in accounting, tax law, economics, business administration, or the equivalent thereof, or a law degree with emphasis in taxation or accounting from ~~an~~ a regionally accredited college or university may be substituted for one year of experience. The Board may permit persons otherwise eligible to take its examinations and withhold certificates until ~~such~~ the person ~~shall have~~ has had the required experience."

Section 2. This act is effective when it becomes law and applies to applications for certificates of qualification received after December 31, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 587

Short Title: School Personnel/Classroom Experience. (Public)

Sponsors: Senators Hartsell; and Lee.

Referred to: Education/Higher Education.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO GIVE CLASSROOM EXPERIENCE TO SCHOOL PERSONNEL WHO ARE CERTIFIED TEACHERS BUT ARE NOT CLASSROOM TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"(18A) To Make Rules Requiring Certain Employees to Serve as Substitute Teachers. -- In order to improve employees' awareness of classroom climate and to enhance school discipline, local boards of education shall require each employee who holds a teaching certificate but who is not assigned to a classroom to serve as a substitute in the classroom at least two days each school year."

Section 2. This act is effective when it becomes law and applies beginning with the 1997-98 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 587
Proposed Committee Substitute S587-PCSRJ-001
LINE NUMBERS MAY CHANGE AFTER ADOPTION
16-APR-97 08:44:06

Short Title: School Personnel/Classroom Experience. (Public)

Sponsors:

Referred to: Education/Higher Education.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO GIVE CLASSROOM EXPERIENCE TO SCHOOL PERSONNEL WHO ARE CERTIFIED TEACHERS BUT ARE NOT CLASSROOM TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"(18A) To Make Rules Requiring Certain Employees to Serve as Substitute Teachers. -- In order to improve employees' awareness of classroom climate and to enhance school discipline, local boards of education shall require each professional public school employee who does not have daily instructional contact with students to serve as a substitute teacher in the classroom at least two days each school year. The State Board of Education shall adopt a policy providing that the time spent as a substitute teacher is an activity that earns renewal credit. The State Board of Education shall determine the amount of renewal credit for this activity and that amount shall be a part of the total number of required units for certificate renewal.".

Section 2. This act is effective when it becomes law and applies beginning with the 1997-98 school year.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 587 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S587-PCSRJ-001

Rep.)
) _____
Sen.) Hartsell

1 moves to amend the bill on page 1, line 14
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting that line to read:
4 "Substitute teacher in the classroom for the
5 equivalent of at least two".
6
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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

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(919) 733-2578

TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 16, 1997
RE: **SB 587. School Personnel/Classroom Experience.**

Section 1 adds a new subdivision to G.S. 115C-47 directing local boards of education to make rules requiring that professional public school employees who do not have daily instructional contact with students should substitute teach a minimum of 2 days during each school year. The State Board of Education shall adopt a policy providing that this is an activity that earns renewal credit. The amount of renewal credit is set by the State Board of Education and the amount shall be a part of the total number of units required for certificate renewal.

Senate Bill 587 would take effect when it becomes law and begin with the 1997-98 school year.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

Reported

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 587
Proposed Committee Substitute S587-PCS8670

Short Title: School Personnel/Classroom Experience. (Public)

Sponsors:

Referred to:

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO GIVE CLASSROOM EXPERIENCE TO SCHOOL PERSONNEL WHO ARE CERTIFIED TEACHERS BUT ARE NOT CLASSROOM TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"(18a) To Make Rules Requiring Certain Employees to Serve as Substitute Teachers. -- In order to improve employees' awareness of classroom climate and to enhance school discipline, local boards of education shall require each professional public school employee who does not have daily instructional contact with students to serve as a substitute teacher in the classroom for the equivalent of at least two days each school year. The State Board of Education shall adopt a policy providing that the time spent as a substitute teacher is an activity that earns renewal credit. The State Board of Education shall determine the amount of renewal credit for this activity and that amount shall be a part of the total number of required units for certificate renewal."

Section 2. This act is effective when it becomes law and applies beginning with the 1997-98 school year.

VISITOR REGISTRATION SHEET

Ed. Higher Ed. — 4-16-97

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Edwards	STPR
Ann Bevlam	SBE
Harold H. Webb	Johnson, Hanes, Uneca
Jim Ahlee	NCACRA
Tommy Hamelsw	Hamelsw & Long
Tom Mccall	NCAICU
Gene Causby	E - EBC
Jim Newton	Fiscal Research
DG Martin	UNC
Jeff Davis	UNC
Bill Wilson	NCAE

VISITOR REGISTRATION SHEET

SENATE APPROPRIATIONS/Education Subcommittee Tuesday, April 15, 1997 8:30 AM

Name of Committee **Date**

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia Hare	Public School Forum of NC
Jo Ann Norris	" " " "
Penny Van Dorsten	PENC
Sara Stewart	AFT/NC
Karen Gore	Gov's Office
Hal Miller	NCACCT
Dale McNeil	SCENIC NC
Jan Cratt	NCASA
BN Baker	NCSBA

EDUCATION/HIGHER EDUCATION

AGENDA

APRIL 23, 1997

SB 19	No Social Promotions (Sen. Perdue)
SB 196	Remove Disruptive Students (Sen. Shaw)
SB 442	American Heritage Act (Sen. Allran)
SB 958	Students Eligible to Attend School (Sen. Hartsell)
SB 1011	Time for Initial Entry into Kindergarten (Sen. Foxx)

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, April 23, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, April 23, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Fourteen of the members of the Committee attended the meeting, including the Co-Chair, Senator Leslie Winner, who presided. Senator Winner introduced John Bolmer, a page from Caswell County, sponsored by Senator Hugh Webster, and Jack Herr from Chapel Hill, sponsored by Senator Lee.

Senator Winner introduced Senator Allran to speak on his bill, SB442, Short Title: American Heritage Act. Senator Allran asked that a Senate Committee Substitute be adopted by the Committee for discussion purposes. The Committee voted to adopt the Committee Substitute. Senator Allran explained the purpose of the bill was to eliminate censorship of religious content in the schools. Senator Martin proposed an amendment to SB442. Senator Horton moved for a favorable report as amended. The Committee voted favorable as to the amended Committee Substitute but unfavorable as to the original bill.

Senator Winner introduced Senator Shaw to speak on his bill, SB196, Short Title: Remove Disruptive Students. After some discussion, no action was taken on this bill.

The Committee was adjourned at 11:00 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Monday, April 28, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

SB 442 **American History Act.**

Draft Number:	PCS6663
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

SB 958 **Students Eligible to Attend School.**

Draft Number:	PCSA743
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 442
Corrected Copy 3/21/97

Short Title: American Heritage Education Act. (Public)

Sponsors: Senators Allran, Ballance; Albertson, Ballance, Ballantine, Blust, Carpenter, Clark, Cochrane, East, Forrester, Foxx, Hartsell, Hoyle, Jordan, Ledbetter, Lucas, Martin of Pitt, Odom, Page, Perdue, Rand, Rucho, Shaw of Cumberland, Shaw of Guilford, Warren, and Webster.

Referred to: Education/Higher Education.

March 20, 1997

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT PUBLIC SCHOOL STUDENTS RECEIVE INSTRUCTION ON OUR AMERICAN HERITAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-81(g) reads as rewritten:

"(g) Civic Literacy. --

(1) Local boards of education shall require during the high school years the teaching of the nation's founding and related documents, which shall include at least the major principles in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.

(2) Local boards of education shall require that high school students demonstrate knowledge and understanding of the nation's founding and related documents in order to receive a certificate or diploma of graduation from high school.

(3) Local boards of education shall include among the requirements for graduation from high school a passing grade in all courses that include primary instruction in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.

(3a) Local boards of education shall allow and may encourage any public school teacher or administrator to read or post in a public school building, classroom, or event, any excerpts or portions of writings, documents, and records that reflect the history or heritage of the United States, including but not limited to (i) the preamble to the North Carolina Constitution, (ii) the Declaration of Independence, (iii) the United States Constitution, (iv) the Mayflower Compact, (v) the national motto, (vi) the National Anthem, (vii) the Pledge of Allegiance, (viii) the writings, speeches, documents, and proclamations of the founding fathers and Presidents of the United States, (ix) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post-Federalist eras, (x) decisions of the Supreme Court of the United States, and (xi) acts of the Congress of the United States, including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the public schools of this State based on religious or other references in these writings, documents, and records.

(4) The State Board of Education shall require that any high school level curriculum-based tests developed and administered statewide beginning with academic year 1990-91 include questions related to the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.

(5) The State Department of Public Instruction and the local boards of education, as appropriate, shall establish curriculum content and provide for teacher training to ensure that the intent and provisions of this subsection are carried out. The curriculum content established shall include a review of the contributions made by Americans of all races during the period in which our nation was founded."

Section 2. The State Board of Education shall provide a copy of this act to each local school superintendent in the State, and each local school superintendent shall ensure that school personnel within the unit are informed about the act.

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 16, 1997
RE: **Proposed Committee Substitute S442-PCSRH-002 for SB 442. American History Act.**

Section 1 amends G.S. 115C-81(g) by providing that local boards of education shall allow and may encourage public school teachers and administrators to read or post excerpts of documents that reflect U.S. history in school buildings, classrooms or at events. The documents shall include but are not limited to:

1. the preamble to the N.C. Constitution
2. the Declaration of Independence
3. the U.S. Constitution
4. the Mayflower Compact
5. the national motto
6. the National Anthem
7. the Pledge of Allegiance
8. the writings, speeches and other documents of the founding fathers and U.S. presidents
9. organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post-Federalist eras.
10. U.S. Supreme Court decisions
11. acts of the U.S. Congress

Local boards, superintendents, principals and supervisors shall not allow content-based censorship of American history based on religious references in these writings and documents.

Section 2 directs the State Board of Education to adopt a policy by September 30, 1997 ensuring that the textbooks it adopts contain no content-based censorship of American history based on religious references.

Section 3 directs the State Board of Education to provide each school superintendent a copy of the act. Each school superintendent shall ensure that school personnel know about the act.

Senate Bill 442 would take effect when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 196

Short Title: Three Strikes for Disruptive Students. (Public)

Sponsors: Senators Shaw of Guilford; Albertson, Allran, Ballantine, Blust, Carpenter, Carrington, Clark, Cochrane, Conder, East, Forrester, Foxx, Garwood, Hartsell, Horton, Hoyle, Kerr, Kincaid, Ledbetter, Martin of Pitt, McDaniel, Odom, Page, Perdue, Rand, Rucho, Soles, Warren, and Webster.

Referred to: Education/Higher Education.

February 20, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REMOVAL OF DISRUPTIVE STUDENTS FROM THE CLASSROOM OR SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-391 reads as rewritten:

"**§ 115C-391. Corporal punishment, suspension, or expulsion of pupils.**

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any ~~student,~~ student or removing any chronically disruptive student from the classroom or the school, or in disciplining any student if the offensive behavior could result in suspension, expulsion, ~~or~~ the administration of corporal ~~punishment.~~ punishment, or the removal of any student from the classroom or the school.

(a1) The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;

(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;

(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

(a2) The policies that shall be adopted for the removal of any chronically disruptive student from the classroom or the school shall include at a minimum the following conditions:

(1) A teacher may remove from the classroom a student whose conduct is chronically disruptive to the learning environment. When a teacher removes a student the third time for chronically disruptive behavior, the principal shall not return the student to that teacher's classroom. The principal shall either:

a. Suspend the student from the school; or

b. Assign the student to another teacher's classroom within the school with the consent of that classroom's teacher. If that teacher removes the student from the classroom one time for chronically disruptive behavior, the principal shall suspend the student from the school.

(2) When a principal suspends a student from school pursuant to subdivision (1) of this subsection, the local board of education shall remove the student from the school pursuant to subsection (d2) of this section and the student shall not return to the school.

(a3) The board shall publish all the policies mandated by ~~this subsection~~ subsections (a), (a1), (a2), and (a3) of this section and make them available to each student and his parent or guardian at the beginning of each school year. Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; or

(4) For the protection of persons or property.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended

pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) Notwithstanding G.S. 115C-378, a local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older whose behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The local board of education's decision to expel a student under this section shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's presence in school no longer constitutes a threat to the safety of other students or employees, the board shall readmit the student to a school in that local school administrative unit on a date the board considers appropriate. Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.

(d1) A local board of education shall suspend for 365 days any student who brings a weapon, as defined in G.S. 14-269.2(b) and (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 which includes, but is not limited to, the procedures set out in G.S. 115C-112 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.

(d2) Notwithstanding G.S. 115C-378, a local board of education shall not return a student who has been suspended from school pursuant to subsection (a2) of this section to the school from which the student was suspended. The local board shall reassign the student to another school, place the student in an alternative program, or expel the student.

A local board of education's decision to expel a student under this section shall be based on clear and convincing evidence of the chronically disruptive behavior. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is

subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's behavior will no longer be chronically disruptive to the learning environment, the board shall readmit the student to another school or an alternative program in that local school administrative unit on a date the board considers appropriate.

The local board shall have no obligation to provide transportation to any other school or alternative program to which the student is assigned.

(e) A decision of a local board under subsection (c), (d), ~~or (d1)~~ (d1), or (d2) 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) Local boards of education shall, no later than December 1, ~~1993~~, 1997, reevaluate and update their policies related to school safety so they reflect changes authorized by the ~~1993~~ 1997 General Assembly. In particular, boards shall ensure they have clear policies governing the conduct of students, which state the consequences of chronically disruptive behavior, violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school-sponsored functions. The State Board shall develop guidelines to assist local boards in this process.

(g) Notwithstanding the provisions of this section, the policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations."

Section 2. This act is effective when it becomes law and applies on and after January 1, 1998.

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TO: Senator Lee and Senator Winner, Cochairs, House Education
FROM: Dr. Jim Watts, Education Specialist
Robin S. Johnson, Committee Counsel
DATE: April 3, 1997
RE: **SB 196 - Three Strikes for Disruptive Students**

Senate Bill 196 amends G.S. 115C-391 to require local school boards to develop policies to remove chronically disruptive students from the classroom and school.

The legislation adds a new subsection (a2) that requires that the new local board policies shall include, at the minimum, that if a teacher removes a student from the classroom three times for disruptive behavior, the principal must suspend the student or send the student to another classroom. If the student is assigned to another classroom and the student is removed one time the student shall be suspended.

G.S. 115C-391 (a3) is amended to require that the new policies be included in the annual required notice to parents of school discipline policies.

New subsection (d2) provides that if the student is suspended, the local school board may not return the student to the school, but rather must send the student to another school, place the student in an alternative program, or expel the student. If the student is expelled the decision to expel must be based on clear and convincing evidence of chronically disruptive behavior. Prior to the expulsion, the school board must consider alternative program placement for the student. Further allows the expelled student an opportunity to appeal the decision of the board to expel at any time after the first of July that is at least six months after the board's decision to expel. Provides that the local board is not obligated to provide transportation to any other school or alternative program to which the student is assigned.

Effective when the bill becomes law and applies on and after January 1, 1998.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

Concerns about the legislation that will need to be addressed:

- Definition of disruptive behavior - It will have to be narrowly defined so that everyone is clear on what is meant by disruptive behavior.
- Due process for all students - Requires a clear and fair appeal process, plus the staff to handle all the appeals. Due process will involve teacher personnaly and probably open up teachers for law suits.
- Due process for Exceptional Children - We will find ourselves knee deep in due process hearings involving change of placements.
- Development of IEP's for Exceptional Children - What do we do if a teacher refuses to accept a EC student because of previous behavior problems? The EC issues throw up major red flags.
- Problem of inconsistent application of this proposed law.
- Potential for specific groups of racially/gender identifiable students to be impacted by this legislation.
- Documentation would become overwhelming for teachers.
- Need to change the current responsibilities under law of the principal to assign students.

- Need for additional facilities to house students placed out of school, with staff to be added as the numbers grow during the course of the year. Transportation becomes issue because you have to transport EC students. What about others?
- Need for massive teacher staff development for behavior management methods and the necessary time and funds to accomplish this task.
- Who will we get to teach the students in the additional alternative programs and how will they be funded during the school year if we are to maintain class size restrictions during the year?
- Do the teachers at the alternative programs have the right to put out and if so, what happens to those students then.
- Public feeling would be intense on both sides of the issue and pits the have's and have not's against each other.

Teacher personal liability?

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TO: Senator Shaw
FROM: Kory Goldsmith, Staff Attorney KJG
Jim Watts, Education Specialist
DATE: April 2, 1997
RE: S.B. 196 - Three Strikes for Disruptive Students

You requested information in response to comments by John Wright, Assistant Superintendent of the Guilford County School System regarding SB 196. In particular, you wanted information regarding the legal definition of "disruptive behavior" and "chronic disruptive behavior".

1. **Definitions of "disruptive behavior" and "chronic disruptive behavior"**

(a) Neither the bill nor the statute the bill amends (G.S. 115C-391) define either term. However, **the statute charges local boards of education with the responsibility of adopting policies governing the conduct of students.** See G.S. 115C-391(a). Furthermore, the amendments to G.S. 115C-391(f) direct local boards to reevaluate and update their policies to reflect the changes in this bill. The updated policies must clearly state the consequences of chronically disruptive behavior. **Clearly, this is an issue to be defined by each local board of education. Therefore, it is a matter of local control.**

(b) Local boards of education are not without legal guidance when crafting a definition.

(1) Black's Law Dictionary defines `disruptive conduct' as "disorderly or contemptuous conduct" and refers the reader to the term `contempt' which is defined as "a willful disregard or disobedience of a public authority". Webster's New Collegiate Dictionary defines `disrupt' as "to break apart; to throw into disorder; to cause to breakdown. Black's definition of `chronic' relates to diseases, but Webster's definitions include: "marked by long duration or frequent recurrence"; "constantly vexing"; and "habitual".

(2) North Carolina law makes it a **criminal offense** to disrupt, disturb, or interfere with the teaching of students. G.S. 14-288.4(a)(6). North Carolina courts have interpreted this to mean **"a *substantial interference* with, disruption of and confusion of the operation of the school in its program of instruction and training of students there enrolled."** In Re Eller, 331 N.C. 714 (1992). In the Eller case, the North Carolina Supreme Court held that a student hitting a radiator once or twice which made a loud sound and caused students to turn around and the teacher to interrupt her lecture did not constitute, as a matter of law, a substantial interference with the operation of the classroom. Id. at 718.

A local board would not have to adopt the Eller definition of "disruptive conduct" but could use it for a reference and then determine when conduct is chronic. One of the most interesting things about Eller, is that the court rejected the school's attempt to rely on evidence that the student had 34 referrals for misconduct in one year and twice been assigned to the in-school suspension program. Id. At 718, note 2. In another case relating to the same

statute, a pattern of 22 teacher referrals of a student was not considered by the court. See In re Grubb, 103 N.C. App. 452 (1991). **It is clear that the criminal law has not been interpreted to address repeated disruptive conduct.**
(c) The legislation could be amended to direct the **State Board of Education to adopt guidelines** for implementing the new law.

2. **Due process concerns** - Mr. Wright also raises several points related to due process. **The law already requires local boards to adopt policies that are consistent with constitutional requirements.** At the same time the board adopts policies regarding "chronic disruptive behavior", it will have to adopt procedural policies regarding enforcement of the policy.

3. **Exceptional Children** - Federal law requires that **school systems**, not particular teacher provide services to exceptional children. Therefore, **one teacher's refusal to accept a chronically disruptive student does not necessarily violate federal requirements, especially because only a teacher in the original school has the right to refuse the student.** The bill also allows the local board to place the student in an alternative setting. There is, however, disagreement between the courts and the U.S. Department of Education regarding whether an exceptional student has to be provided services if they have been expelled for behavior not related to their exceptional status. **This issue would have to addressed on a case-by-case basis, and should be reflected in the local board's policy.**

4. **Change in current law regarding principal responsibility to assign students** - G.S. 115C-288(a) gives to principals the authority to grade and classify students. The proposed amendments to 115C-391 address a specific group of students. When the two statutes are read together **the more recent, specific amendments modify the older general law**. It would not be necessary to amend the principal's statutory duties.

5. **Impact on specific groups of students (racial/gender)** - Current data on students subject to short-term and long term suspensions show a higher percentage of black male students than other groups within the school population. It is possible that similar distribution patterns will continue as a result of this Act.

6. **Documentation required by teachers** - The process of documentation of disciplinary actions by local teachers, including referrals, is a matter of local board and school discretion. The establishment of a process, including the efficiency and demand on teacher time by the process is a matter of local board policy and school practice. According to G.S. 115C-391 (a2)(1) in the legislation, students are referred at the discretion of the teacher. This positive action indicates that teachers are concerned enough by the student conduct to initiate the process.

7. **Need for additional facilities** - The legislation will result in the need for additional spaces for students in alternative programs. However, pulling students from the regular program will create space in the home schools. Nearly all North Carolina school units currently have access to alternative programs for secondary students. However, it is important to note that there are few alternative schools for elementary students and space will have to be created for those children.

8. **Staff development** - Although the legislation does not require staff development, it does require that local boards reevaluate and update their local policies related to chronically

disruptive students (G.S. 115C-391 f). There will be a need for staff development in order that teachers and principals implement the legislation and local board policies in a consistent fashion.

9. **Alternative school funding demands** - The students that are placed in alternative schools are funded as part of the regular ADM count. Funding for those students will, in effect, follow the student. The placement of students in alternative schools will create some administrative problems in the shifting of staff and resources during the course of a school year. It should also be noted that alternative schools tend to be small with small class sizes and, as a result, there will be some resultant funding problems due to economies of scale.

10.**Alternative school ability to deal with problem students** - students that are chronically disruptive may be expelled under the legislation.

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
April 23, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Wh	NCAE
John Wilson	NCAE
Amy Mathot	NC Law Project
John Bacon & crew	UNC-TV
Stephen Harris	Governor Easley
David Gantt	B. Co. Commission
Karen Gale	Gov's Office
Curt W	
K. Bonnquist	NCASA

VISITOR REGISTRATION SHEET

Ed. Higher Ed. 4-23-97

Name of Committee Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
DG Martin	UNC
Sarah Stewart	AFT/NC
Susan Harmon	WCPSS
Ann Morris	Public School Forum of NC
Paula Wolf	Covenant w/NC's Children
Claire Gibbons	Governor's Office
Jan Coates	NCASA
Sandra Miller	NCASA
Henry Johnson	DPI
Anne Bagnal	SBE
Lew Powell	NCAICU
Martha Livengood	YAIO-DOA
Harriett Southerland	YAIO-DOA
Brian Washington	NCAE
Hal Weaver	TAP/AP
Deborah Ross	ACLU
Joyce Peters	FEBC
John Rustic	NCFPC
Robert Whitt	SPA, NT
Clifton B. Metcalf	UOC GA
Jan Owens	OSPL
Leanne Winner	EdNC
Bob Berlow	NCSBA

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
APRIL 24, 1997

The Senate Committee on Education/Higher Education met on April 24, 1997 in Room 414 Legislative Office Building at 8:00 a.m. Senator Lee presided.

Before the Committee were the following:

SB 19 NO SOCIAL PROMOTIONS. Senator Perdue brought the bill before the Committee and offered a Proposed Committee Substitute (A738) and moved adoption. Motion carried. During discussion, Senator Lucas offered an amendment which was adopted as Amendment 1. Senator Winner offered Amendments 2 and 3 which were also adopted. On a motion by Senator Lucas, the PCS with amendments would incorporated into a new PCS and given a favorable report.

SB 5 EDUCATION GOVERNANCE CHANGES. Senator Winner explained the bill, which was given a favorable report on a motion by Senator Hartsell.

SB 958 STUDENTS ELIGIBLE TO ATTEND SCHOOL. The bill sponsor, Senator Hartsell, brought the bill before the Committee. Senator Garwood offered PCS A739 and moved adoption. Motion carried. On a motion by Senator Hartsell, Amendments 1 and 2 were adopted. Senator Horton moved that PCS A739, with amendments, be incorporated into a new PCS and given a favorable report. Motion carried.

SB 1011 TIME FOR INITIAL ENTRY INTO KINDERGARTEN. Senator Foxx, sponsor, explained the bill. Senator Perdue offered a PCS (SRJ-001) which was adopted. On a motion by Senator Horton , PCS SRJ-001 was given a favorable report.

SB 616 LIMIT APPEALS TO SCHOOL BOARDS. Senator Horton explained the bill. Senator Rucho offered a PCS (SRH-001) which was adopted. Senator Foxx moved for a favorable report. Following discussion, no action was taken.

The meeting was adjourned at 9:00 a.m.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Thursday, April 24, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **5** Education Governance Changes
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **19** No Social Promotions Permitted
Draft Number: PCS 8685
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **1011** Time for Initial Entry Into Kindergarten
Draft Number: PCS 7768
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE April 24, 1997

S. B. No. 19 Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCSA738

Rep.) Lucas
)
Sen.)

moves to amend the bill on page 4, line 22

( ) WHICH CHANGES THE TITLE

by deleting the quotation marks; and on page 4, lines 26-27, by inserting between the lines:

"Section 4. The State Board of Education may expend from funds appropriated to it to local school administrative units funds to develop the assessment instruments for kindergarten, first, and second grades.";

and by renumbering the remaining section

SIGNED Jeanne Lucas

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE April 24, 1997

S. B. No. 19 Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCSA 738

Rep.)
) Winner
Sen.)

1 moves to amend the bill on page 2, line 22

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "may" & by substituting

4 "shall".

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SIGNED Leslie Winner

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE April 24, 1997

S. B. No. 19 Amendment No. 3
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCSA738

Rep.)
) Winner
Sen.)

1 moves to amend the bill on page 3, line 9
2 ( ) WHICH CHANGES THE TITLE
3 by inserting between "students" and "must" the following:
4 "are expected to meet that year and"
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SIGNED Leslie Winner

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 19
Proposed Committee Substitute S19-PCSA738

Short Title: No Social Promotions Permitted. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT STUDENTS MASTER THE BASICS AT ONE GRADE LEVEL BEFORE THEY ARE PROMOTED TO THE NEXT GRADE LEVEL.

Whereas, some students in North Carolina receive social promotions; that is, they are promoted to the next grade level before they master the basics at their grade level; and

Whereas, a student who has not mastered the basics at one grade level is unlikely to succeed at the next grade level; and

Whereas, it is imperative that the promotion standards we set for our students are high enough to provide them with the skills and knowledge they need to be successful as citizens and in the workplace; and

Whereas, it is imperative that the promotion standards we set for our students are high enough to ensure that a high school diploma means that a student has the skills and knowledge we should expect of a high school graduate; and

Whereas, it is imperative that every North Carolina school identify students who are lagging behind these high standards and help them meet these standards along with their age-level peers; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-174.11 reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for ~~First~~ Kindergarten, First, and Second Grades. -- The State Board of Education shall adopt and provide to the local school

administrative units developmentally appropriate individualized assessment instruments in reading, writing, and mathematics consistent with the Basic Education Program for ~~the~~ kindergarten and first and second grades, rather than standardized tests. These instruments shall be used to assist teachers in determining student progress and improving classroom instruction.

Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for kindergarten and first and second grade students, and shall not use standardized tests.

(a1) Student Performance Benchmarks for Grades Four and Eight.

(1) The State Board of Education shall establish student performance benchmarks in reading, writing, and mathematics for students in grades four and eight. In establishing these benchmarks, the State Board of Education shall take into consideration the grade-level student performance expectations outlined in the ABC's Plan, the standard course of study, the recommendations of the North Carolina Education Standards and Accountability Commission, and the benchmarks established for grades four and eight by the National Assessment of Educational Progress (NAEP). The benchmarks shall include State test scores, a standardized student performance checklist, and other information the State Board of Education deems appropriate.

The State Board of Education ~~may~~ shall also establish grade-level standards for students in kindergarten through third grade and in fifth grade through seventh grade that can be used to identify students who may not meet the benchmarks.

(2) The State Board of Education shall adopt rules and guidelines to ensure that students who do not successfully meet the student performance benchmarks at grades four and eight shall not be promoted. These rules may provide for (i) alternative ways for students to demonstrate that they have met the benchmarks and for (ii) waivers of this requirement for narrowly defined classes of students including children with special needs. Local boards of education shall provide these students with intensive, accelerated instructional support to assist them in meeting the benchmarks for their grade level.

(3) The State Board of Education shall also develop rules and guidelines for providing technical assistance to local school administrative units to ensure compliance with this subsection. These rules and guidelines shall:

a. Identify for local boards of education the existing State and federal funds they can use to identify students who may not meet the student performance benchmarks and to provide services to students who may not or have not met the benchmarks;

b. Identify options for incorporating strategies for implementing this subsection into local school improvement plans; and

c. Advise local boards of education to commit the resources necessary to comply with this subsection.

(4) At the beginning of each school year, local boards of education shall notify parents of children in kindergarten through eighth grade of the student performance benchmarks in reading, writing, and mathematics that students must meet in grades four and eight.

(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 grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the tenth 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 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.

(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.

(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 2. Prior to June 1, 1998, the State Board of Education shall:

(1) Establish student performance benchmarks for grades four and eight in accordance with G.S. 115C-174.11(a1), as enacted in Section 1 of this act;

(2) Conduct research on and develop information on the best methods for providing accelerated learning for students that are at risk of not meeting the fourth and eighth grade benchmarks and provide this information to local school administrative units;

(3) Identify current resources available and additional resources necessary to implement these best methods;

(4) Develop a comprehensive plan to assist local school administrative units in providing appropriate educational opportunities for students that are at risk of not meeting the fourth and eighth grade benchmarks; and

(5) Evaluate the impact of this act on exceptional students and establish guidelines to assist local school administrative units in developing appropriate individualized education programs for exceptional students who are at risk of not meeting the fourth and eighth grade benchmarks."

Section 3. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on July 15, 1998, on its progress in implementing this act. The State Board shall report on November 15, 2000, on the impact of this legislation on the public schools and on student achievement.

Section 4. This act is effective when it becomes law. Section 1 of this act applies to all school years beginning with the 1999-2000 school year.

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To: Senators Lee and Winner, Cochairs, Senate Education Committee

From: Jim Watts, Education Specialist

Re: **Summary - SB 19 - No Social Promotions**

Date: April 23, 1997

Section 1 Amends 115C-174.11 to require the State Board of Education to develop reading writing and mathematics assessments for kindergarten and first grade that will assist teachers in determining student progress and improving classroom instruction. Further requires local boards to use these assessments.

Further amends 115C-174.11 to add a new subsection (a1) that:

(1) Requires the State Board of Education to establish student performance benchmarks in reading, writing and mathematics for students in grades four and eight. In developing these benchmarks the State Board shall take into consideration the ABC's plan, standard course of study, recommendations of the Standards and Accountability Commission and NAEP benchmarks. The benchmarks shall include State test scores and student performance checklists. Provides that the State Board may develop benchmarks for grades K-3 and 5-7 in order to identify students that may not meet the benchmarks.

(2) Directs the State board to adopt rules and guidelines to ensure the students that don't meet the benchmarks at grades four and eight shall not be promoted. The rules may provide for alternative ways for students to demonstrate that they have met the benchmarks and waivers for children with special needs. Local boards are directed to provide students with instructional support in order to meet the benchmarks.

(3) Directs the State board of Education to develop rules, guidelines and technical assistance for local school units to comply with the Act including to: **a)** identify existing funds that can be used for students that may not or have not met the benchmarks; **b)** identify options to incorporate implementation strategies into local improvement plans and; **c)** advise local boards to commit the resources necessary to comply.

Section 2 requires that the State Board of Education establish the benchmarks for grades four and eight as enacted in section 1. Further requires that the State Board conduct research on the best methods to accelerate learning for students at-risk of not meeting the benchmarks and distribute that information to local school units, identify additional and available resources necessary to implement these best methods and develop a comprehensive plan to assist local units in assisting local boards to provide appropriate educational opportunities for students not meeting the benchmarks.

Section 3 Requires the State Board to report progress on the implementation of the Act on July 15, 1998 and the impact of the legislation on student achievement on November 15, 2000.

Effective when the Act becomes law. Section 1 becomes effective beginning with the 1999-2000 school year.

Reported version

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 19
Proposed Committee Substitute S19-PCS8685

Short Title: No Social Promotions Permitted. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT STUDENTS MASTER THE BASICS AT ONE GRADE LEVEL BEFORE THEY ARE PROMOTED TO THE NEXT GRADE LEVEL.

Whereas, some students in North Carolina receive social promotions; that is, they are promoted to the next grade level before they master the basics at their grade level; and

Whereas, a student who has not mastered the basics at one grade level is unlikely to succeed at the next grade level; and

Whereas, it is imperative that the promotion standards we set for our students are high enough to provide them with the skills and knowledge they need to be successful as citizens and in the workplace; and

Whereas, it is imperative that the promotion standards we set for our students are high enough to ensure that a high school diploma means that a student has the skills and knowledge we should expect of a high school graduate; and

Whereas, it is imperative that every North Carolina school identify students who are lagging behind these high standards and help them meet these standards along with their age-level peers; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-174.11 reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for ~~First~~ Kindergarten, First, and Second Grades. -- The State Board of Education shall adopt and provide to the local school

administrative units developmentally appropriate individualized assessment instruments in reading, writing, and mathematics consistent with the Basic Education Program for ~~the~~ kindergarten and first and second grades, rather than standardized tests. These instruments shall be used to assist teachers in determining student progress and improving classroom instruction.

Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for kindergarten and first and second grade students, and shall not use standardized tests.

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(1) The State Board of Education shall establish student performance benchmarks in reading, writing, and mathematics for students in grades four and eight. In establishing these benchmarks, the State Board of Education shall take into consideration the grade-level student performance expectations outlined in the ABC's Plan, the standard course of study, the recommendations of the North Carolina Education Standards and Accountability Commission, and the benchmarks established for grades four and eight by the National Assessment of Educational Progress (NAEP). The benchmarks shall include State test scores, a standardized student performance checklist, and other information the State Board of Education deems appropriate.

The State Board of Education shall also establish grade-level standards for students in kindergarten through third grade and in fifth grade through seventh grade that can be used to identify students who may not meet the benchmarks.

(2) The State Board of Education shall adopt rules and guidelines to ensure that students who do not successfully meet the student performance benchmarks at grades four and eight shall not be promoted. These rules may provide for (i) alternative ways for students to demonstrate that they have met the benchmarks and for (ii) waivers of this requirement for narrowly defined classes of students including children with special needs. Local boards of education shall provide these students with intensive, accelerated instructional support to assist them in meeting the benchmarks for their grade level.

(3) The State Board of Education shall also develop rules and guidelines for providing technical assistance to local school administrative units to ensure compliance with this subsection. These rules and guidelines shall:

a. Identify for local boards of education the existing State and federal funds they can use to identify students who may not meet the student performance benchmarks and to provide services to students who may not or have not met the benchmarks;

b. Identify options for incorporating strategies for implementing this subsection into local school improvement plans; and

c. Advise local boards of education to commit the resources necessary to comply with this subsection.

(4) At the beginning of each school year, local boards of education shall notify parents of children in kindergarten through eighth grade of the student performance benchmarks in reading, writing, and mathematics that students are expected to meet that year and must meet in grades four and eight.

(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 grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the tenth 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 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.

(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.

(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 2. Prior to June 1, 1998, the State Board of Education shall:

(1) Establish student performance benchmarks for grades four and eight in accordance with G.S. 115C-174.11(a1), as enacted in Section 1 of this act;

(2) Conduct research on and develop information on the best methods for providing accelerated learning for students that are at risk of not meeting the fourth and eighth grade benchmarks and provide this information to local school administrative units;

(3) Identify current resources available and additional resources necessary to implement these best methods;

(4) Develop a comprehensive plan to assist local school administrative units in providing appropriate educational opportunities for students that are at risk of not meeting the fourth and eighth grade benchmarks; and

(5) Evaluate the impact of this act on exceptional students and establish guidelines to assist local school administrative units in developing appropriate individualized education programs for exceptional students who are at risk of not meeting the fourth and eighth grade benchmarks.

Section 3. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on July 15, 1998, on its progress in implementing this act. The State Board shall report on November 15, 2000, on the impact of this legislation on the public schools and on student achievement.

Section 4. The State Board of Education may expend from funds appropriated to add to local school administrative units funds to develop the assessment instruments for kindergarten, first, and second grades.

Section 5. This act is effective when it becomes law. Section 1 of this act applies to all school years beginning with the 1999-2000 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 5

Short Title: Education Governance Changes. (Public)

Sponsors: Senators Winner; Albertson, Conder, Cooper, Gulley, Hoyle, Kinnaird, Lee, Lucas, Martin of Guilford, Odom, Perdue, Plyler, Rand, Shaw of Cumberland, Soles, Warren, Weinstein, and Wellons.

Referred to: Education/Higher Education.

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO CHANGE THE COMPOSITION OF THE STATE BOARD OF EDUCATION AND MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE STATE BOARD OF EDUCATION, AND TO MAKE CORRESPONDING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Section 4(1) of Article IX of the Constitution reads as rewritten:

"(1) **Board.** The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, ~~and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session.~~ nine members appointed by the Governor, three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. The General Assembly shall divide the State into eight educational districts. Of the ~~appointive members of the Board,~~ Governor's nine appointees, one shall be appointed from each of the eight educational districts and ~~three~~ one who shall serve as chair shall be appointed from the State at large. Appointments shall be for overlapping terms of ~~eight~~ four years. The General Assembly may provide by statute for any qualifications of Board members and any limitation on the number of terms a member may serve on the Board. Appointments

to fill vacancies shall be made ~~by the Governor for the unexpired terms and shall not be subject to confirmation.~~ as provided by law."

Section 2. Section 4(2) of Article IX of the Constitution reads as rewritten:

"(2) **Superintendent of Public Instruction.** The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. The Superintendent shall be appointed by the State Board of Education and shall serve at the pleasure of the State Board of Education."

Section 3. Section 7(1) of Article III of the Constitution reads as rewritten:

"(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, ~~a Superintendent of Public Instruction,~~ an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified."

Section 4. G.S. 115C-10 reads as rewritten:

"**§ 115C-10. Appointment of Board.**

(a) The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, ~~and 11~~ nine members appointed by the Governor, three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, one of which shall be upon the recommendation of the Senate Minority Leader to the President Pro Tempore, and three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of which shall be upon the recommendation of the House Minority Leader to the Speaker. ~~Governor, subject to confirmation by the General Assembly in joint session. Not~~ The Governor may appoint no more than one public school employee paid from State or local funds ~~may~~ to serve as an appointive member of the State Board of Education. The General Assembly shall not appoint any public school employees paid from State or local funds to serve as appointive members of the State Board of Education. ~~No spouse of any public school employee paid from State or local funds and no~~ No employee of the Department of Public Instruction ~~or his spouse,~~ may serve as an appointive member of the State Board of Education. ~~Of the appointive members of the State Board of Education, one shall be appointed~~ Of the Governor's nine appointments, one shall be appointed from each of the eight educational districts and ~~three~~ one, who shall serve as chair, shall be appointed ~~as members~~ from the State at large. ~~Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.~~

(b) All initial terms shall begin July 1, 1999. The nine initial members appointed by the Governor, one from each of the eight educational districts and one from the State at large who shall serve as chair, shall serve terms ending February 28, 2001.

The remainder of the initial appointive members shall serve for terms ending July 1, 2003. All subsequent terms shall be for four years.

No member shall serve more than two full four-year terms in succession. Resignation from a term of office does not constitute a break in service for the purpose of this subsection. Members appointed for a term to begin July 1, 1999, and to end February 28, 2001, may be reappointed for two additional successive terms.

(c) Appointments to fill vacancies in positions filled by the Governor shall be made by the Governor for the unexpired terms. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and appointments to fill vacancies in those positions shall be made in accordance with G.S. 120-122.

~~The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by him and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments.~~"

Section 5. G.S. 115C-11(a) reads as rewritten:

"(a) Presiding Officer. -- The chair shall be appointed by the Governor from the State at large. The State Board of Education shall elect from its membership a ~~chairman and~~ vice-chairman. A majority of the Board shall constitute a quorum for the transaction of business. Per diem and expenses of the appointive members of the Board shall be provided by the General Assembly. The chairman of the Board shall preside at all meetings of the Board. In the absence of the chairman, the vice-chairman shall preside; in the absence of both the chairman and the vice-chairman, the Board shall name one of its own members as chairman pro tempore."

Section 6. G.S. 115C-18 reads as rewritten:

"**§ 115C-18. ~~Election~~ Appointment of Superintendent of Public ~~Instruction.~~ Instruction; salary.**

The Superintendent of Public Instruction shall be ~~elected by the qualified voters of the State in 1972 and every four years thereafter at the same time and places as members of the General Assembly are elected. His term of office shall be four years and shall commence on the first day of January next after election and continue until his successor is elected and qualified.~~

~~If the office of the Superintendent of Public Instruction is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of North Carolina. When a vacancy occurs in the office and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the occurrence of a vacancy in the office for any of the~~

~~causes stated herein, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina to fill the vacancy and is qualified.~~

~~The time of the election of the Superintendent of Public Instruction shall be in accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the General Statutes.~~

~~The election, term and induction into office of the Superintendent of Public Instruction shall be in accordance with the provisions of G.S. 147-4.~~ appointed by the State Board of Education and shall serve at the pleasure of the State Board of Education. The salary of the Superintendent shall be set by the State Board of Education."

Section 7. G.S. 115C-19 reads as rewritten:

"**§ 115C-19. Chief administrative officer of the State Board of Education.**

As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. ~~As secretary and chief administrative officer of the State Board of Education, the Superintendent manages on a day-to-day basis the administration of the free public school system, subject to the direction, control, and approval of the State Board. Subject to the direction, control, and approval of the State Board of Education, the Superintendent of Public Instruction shall carry out the duties prescribed under G.S. 115C-21.~~ The Board shall define the specific duties of the Superintendent as secretary and chief administrative officer of the Board. The Superintendent of Public Instruction shall perform these duties and any other duties that the Board may assign to the Superintendent."

Section 8. G.S. 115C-20 is repealed.

Section 9. G.S. 115C-21 is repealed.

Section 10. G.S. 120-123 is amended by adding a new subdivision to read:

"(68) The State Board of Education, as established in G.S. 115C-10."

Section 11. G.S. 147-3(c) reads as rewritten:

"(c) The general civil executive officers of this State are as follows:

(1) A Governor;
(2) A Lieutenant Governor;
(3) Private secretary for the Governor;
(4) A Secretary of State;
(5) An Auditor;
(6) A Treasurer;
(7) An Attorney General;
~~(8) A Superintendent of Public Instruction;~~
(9) The members of the Governor's Council;
(10) A Commissioner of Agriculture;
(11) A Commissioner of Labor;
(12) A Commissioner of Insurance."

Section 12. G.S. 147-4 reads as rewritten:

"**§ 147-4. Executive officers -- election; term; induction into office.**

The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, ~~a Superintendent of Public Instruction,~~ an Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who shall be elected for a term of four years, by the qualified electors of the State, at the same time and places, and in the same manner, as members of the General Assembly are elected. Their term of office shall commence on the first day of January next after their election and continue until their successors are elected and qualified. The persons having the highest number of votes, respectively, shall be declared duly elected, but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the General Assembly. Contested elections shall be determined by a joint ballot of both houses of the General Assembly in such manner as shall be prescribed by law."

Section 13. G.S. 147-11.1 reads as rewritten:

"**§ 147-11.1. Succession to office of Governor; Acting Governor.**

(a) Lieutenant Governor. --

(1) The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(b) President of Senate, Speaker of the House and Other Officers. --

(1) If, by reason of failure to qualify, death, resignation, or removal from office, there is neither a Governor nor a Lieutenant Governor to discharge the powers and duties of the office of Governor, then the President of the Senate shall, upon his resignation as President of the Senate and as Senator, become Governor.

(2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Governor, there is no President of the Senate, or the President of the Senate fails to qualify as Governor, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative, become Governor.

(3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Governor, there is no Speaker of the House of Representatives, or the

Speaker of the House of Representatives fails to qualify as Governor, then that officer of the State of North Carolina who is highest on the following list, and who is not under disability to serve as Governor, shall, upon his resignation of the office which places him in the order of succession, become Governor: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(c) Acting Governor Generally. --

(1) If, by reason of absence from the State or physical or mental incapacity, there is neither a Governor nor a Lieutenant Governor qualified to discharge the powers and duties of the office of Governor, then the President of the Senate shall become Acting Governor.

(2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Acting Governor, there is no President of the Senate, or the President of the Senate fails to qualify as Acting Governor, then the Speaker of the House of Representatives shall become Acting Governor.

(3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Acting Governor, there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives fails to qualify as Acting Governor, then that officer of the State of North Carolina who is highest on the following list, and who is not under disability to serve as Acting Governor, shall become Acting Governor: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(d) Governor Serving under Subsection (c). -- An individual serving as Acting Governor under subsection (c) of this section shall continue to act for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified, except that:

(1) If his tenure as Acting Governor is founded in whole or in part upon the absence of both the Governor and Lieutenant Governor from the State, then he shall act only until the Governor or Lieutenant Governor returns to the State; and

(2) If his tenure as Acting Governor is founded in whole or in part upon the physical or mental incapacity of the Governor or Lieutenant Governor, then he shall act only until the removal of the incapacity of the Governor or Lieutenant Governor.

(e) Officers to Which Subsections (b), (c) and (d) Applicable. -- Subsections (b), (c), and (d) of this section shall apply only to such officers as are eligible to the office of Governor under the Constitution of North Carolina, and only to officers who are

not under impeachment by the House of Representatives at the time they are to become Governor or Acting Governor.

(f) Compensation of Acting Governor. -- During the period that any individual serves as Acting Governor under subsection (c) of this section, his compensation shall be at the rate then provided by law in the case of the Governor."

Section 14. G.S. 163-1 is amended by deleting the entries in the table for "Superintendent of Public Instruction".

Section 15. G.S. 163-8 reads as rewritten:

"**§ 163-8. Filling vacancies in State executive offices.**

If the office of Governor or Lieutenant Governor shall become vacant, the provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified."

Section 16. G.S. 163-278.27(b) reads as rewritten:

"(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, ~~State Superintendent of Public Instruction,~~ State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior

court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys of the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside."

Section 17. The amendments set out in Sections 1, 2, and 3 of this act shall be submitted to the qualified voters of the State at a statewide general election on November 3, 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments to make the Superintendent of Public Instruction an appointee of the State Board of Education, rather than an elected position, to change the composition of the State Board of Education, and to change the length of terms for members of the State Board of Education."

Section 18. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1, 2, and 3 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The Secretary of State shall enroll the amendments so certified among the permanent records of that office. The amendments shall become effective as follows:

(1) The amendment set out in Section 1 of this act shall become effective upon such certification except that the term of office of all members of the State Board of Education who were appointed to the State Board of Education prior to July 1, 1999, and were serving as members on June 30, 1999, shall expire on July 1, 1999.

(2) The amendments set out in Sections 2 and 3 of this act shall become effective the later of January 1, 2001, and the date that those sections are precleared under section 5 of the Voting Rights Act of 1965.

Section 19. Sections 4 through 16 of this act become effective only if the constitutional amendments set out in Sections 1, 2, and 3 of this act are approved by the voters. If the constitutional amendments are approved by the voters:

(1) Sections 4, 5, and 10 of this act shall become effective July 1, 1999: Provided, however, the General Assembly and the Governor may appoint members to the State Board of Education in accordance with Section 4 of this act, prior to July 1, 1999, for terms of office beginning July 1, 1999.

(2) Sections 6, 7, 8, 9, and 11 through 16 of this act shall become effective on the later of January 1, 2001, and the date that those sections are precleared under section 5 of the Voting Rights Act of 1965.

Section 20. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: April 23, 1997
RE: Summary SB 5 - Education Governance Changes.

Section 1 amends Section 4(1) of Article IX of the North Carolina Constitution by modifying the composition of the State Board of Education. Under the proposed changes, the total number of appointed members would increase from 11 to 15. The number appointed by the Governor would decrease from 11 to 9. Eight would be appointed one each from the eight educational districts. The ninth gubernatorial appointment would serve as the chairman of the State Board. The gubernatorial appointments would no longer be subject to confirmation by the General Assembly in Joint Session. In addition to the Governor's appointments, the General Assembly would appoint six members, three upon the recommendation of the President Pro Tempore of the Senate and three upon the recommendation of the Speaker of the House. The term of office would be reduced from eight to four years and the General Assembly would have the authority to adopt statutory qualifications and term limits for the members. Appointments to fill vacancies would be filled according to law. **Provided the voters approve this constitutional amendment, it would become effective the Secretary of State's certification. All members of the board appointed prior to June 30, 1999 would serve until July 1, 1999 at which time their terms would expire.**

Section 2 amends Section 4(2) of Article IX of the North Carolina Constitution to provide that the Superintendent of Public Instruction shall be appointed by the State Board of Education and shall serve at the pleasure of the Board. **Section 3** amends Section 7(1) of Article III of the North Carolina Constitution to remove the Superintendent of Public Instruction from the list of state-wide elective officers. **Provided the voters approve these constitutional amendments, they would become effective the later of July 1, 2001 and the date the sections are precleared under section 5 of the Voting Rights Act of 1965.**

Section 4 amends G.S. 115C-10 to reflect in statute the proposed constitutional changes in the composition and the appointment process for the State Board of Education. Appointments shall be made in accordance with G.S. 120-121. Of the appointments recommended by the President Pro Tempore of the Senate, one shall be upon the recommendation of the Senate Minority Leader. Of the appointments recommended by the Speaker of the House, one shall be upon the recommendation of the House Minority Leader. The initial term of office for the gubernatorial appointees would begin July 1, 1999 and end February 28, 2001. Those individuals would be eligible to serve two additional, four-year terms. The initial term of office for the appointments

by the General Assembly would also begin July 1, 1999, and would expire July 1, 2003. No member could serve more than two full four year terms in succession. The Governor shall fill vacancies in positions filled by the Governor. Vacancies created by members appointed by the General Assembly would be fill according to the procedure in G.S. 120-122. **Section 4** amends G.S. 115C-11(a) to provide that the State Board Chair shall be appointed by the Governor. **Sections 4 and 5 become effective if the constitutional amendments are approved, in which case, the sections become effective July 1, 1999.**

Section 6 amends G.S. 115C-18 to provide that the Superintendent of Public Instruction shall be appointed by the Board, shall serve at the Board's pleasure, and the Board shall set the Superintendent's salary. **Section 7** provides that the Board shall define the Superintendent's specific duties, and that the Superintendent shall perform those duties as well as any others the Board assigns to the Superintendent. **Section 8** repeals G.S. 115C-20 which provides that the Superintendent's office shall be located in Raleigh and also sets the Superintendent's salary. **Section 9** repeals G.S. 15C-21 which lists the Superintendent's powers and duties. **Provided the voters approve the constitutional amendments, Sections 6-9 would become effective the later of July 1, 2001 and the date the sections are precleared under section 5 of the Voting Rights Act of 1965.**

Section 10 amends G.S. 120-123 by prohibiting members of the General Assembly from serving on the State Board of Education. **Section 10 becomes effective if the constitutional amendments are approved, in which case, the section becomes effective July 1, 1999.**

Section 11 amends G.S. 147-3(c) by removing the Superintendent from the list of general civil executive officers. **Section 12** amends G.S. 147-4 to remove the Superintendent from being a member of the Executive Department. **Section 13** amends G.S. 147-11.1 to remove the Superintendent from the line of succession to become Governor or Acting Governor. **Section 14** amends G.S. 163-1 by deleting the entries regarding the Superintendent from the listing of various State offices and when the primary and general election for those offices will be held. **Section 15** amends G.S. 163-8 by removing the Superintendent from the list of offices the Governor may fill in the event of a vacancy. **Section 16** amends G.S. 163-278.27(b) by removing the Superintendent from the election laws. **Provided the voters approve the constitutional amendments, Sections 11-16 would become effective the later of July 1, 2001 and the date the sections are precleared under section 5 of the Voting Rights Act of 1965.**

Section 17 provides that Section 1-3 shall be submitted to the qualified voters of the State at a statewide general election on November 3, 1998. It also contains the language that would appear on the ballot.

Section 18 provides the procedure the Secretary of State shall follow to amend the constitution if the amendments if a majority of the votes are in favor of the amendments. It also provides the effective dates for the amendments. (See Sections 1-3 above).

Section 19 provides that Sections 4-16 become effective only if the voters approve the constitutional amendments. It also provides specific effective dates for the various sections.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 958
Proposed Committee Substitute S958-PCSA739

Short Title: Students Eligible to Attend School. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW STUDENTS WHO RESIDE WITH DOMICILIARIES OF A LOCAL SCHOOL ADMINISTRATIVE UNIT TO ATTEND THE PUBLIC SCHOOLS OF THAT UNIT WITHOUT THE PAYMENT OF TUITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-366 is amended by adding the following new subsection to read:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of:

a. The death, serious illness, or incarceration of a parent or legal guardian, abandonment

b. The ~~relinquishment~~ by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,

c. Abuse or neglect by the parent or legal guardian, or

d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student;

(2) The student has maintained a satisfactory scholastic record;

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 958

Short Title: Students Eligible to Attend School. (Public)

Sponsors: Senators Hartsell; Lucas and Winner.

Referred to: Education/Higher Education.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW STUDENTS WHO RESIDE WITH DOMICILIARIES OF A LOCAL SCHOOL ADMINISTRATIVE UNIT TO ATTEND THE PUBLIC SCHOOLS OF THAT UNIT WITHOUT THE PAYMENT OF TUITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-366 is amended by adding the following new subsection to read:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of:

a. The death, serious illness, or incarceration of a parent or legal guardian,

b. The relinquishment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,

c. Abuse or neglect by the parent or legal guardian, or

d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student;

(2) The student has maintained a satisfactory scholastic record;

(3) The student is not currently under a term of suspension or expulsion from a school for conduct that could have led to a

suspension or expulsion from the local school administrative unit; and

(4) The adult with whom the student resides and the student's parent, guardian, or legal custodian have completed and signed an affidavit that:

a. Confirms the qualifications set out in this subsection establishing the student's residency,

b. Attests that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit, and

c. Attests that the adult with whom the student is residing has been given and accepts responsibility for educational decisions for the child, including receiving notices of discipline under G.S. 115C-391, attending conferences with school personnel, granting permission for school-related activities, and in connection with student records.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the adult with whom the student is living shall attest to that fact or shall present a court order that verifies the information in the affidavit.

Upon receipt of the affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit.

If it is found that the information contained in the affidavit is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit is guilty of a Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

The affidavit shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information on the affidavit."

Section 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. S958-PCSA739

H. B. No. _____ DATE April 24, 1997

S. B. No. _____ Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Hartsell
Sen.)

1 moves to amend the bill on page ~~2~~ 1, line 14
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the word "relinquishment"
4 and substituting "abandonment".
5
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18
19

SIGNED Hartsell

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. S958-PCSA739

H. B. No. _____ DATE April 24, 1997

S. B. No. _____ Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Hartsell
)
Sen.)

moves to amend the bill on page 2, line 22 ~~through~~ that line;

( ) WHICH CHANGES THE TITLE

by deleting ~~page 2~~ that line;

and on page 2, line 1, by deleting the number "(3)" and ~~inserting the~~ substituting the number "(2)";

and on page 2, line 5, by deleting the number "(4)" and substituting the number "(3)".

SIGNED ~~J. Hartsell~~

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: April 22, 1997
RE: Summary SB 958 (Proposed Committee Substitute) - Students Eligible to Attend School.

Background: Under current law, a child is entitled to attend the public schools of a local school administrative unit free of charge if the child: (1) turned 5 by October 16; (2) is under the age of 21; (3) has not complete a standard high school course of study; and (4) is domiciled in that particular local school administrative unit. Domicile is defined as where a person actually resides and where that person intends to remain permanently. A minor's domicile is presumed to be that of the minor's parents. Residence is defined as the place where a person lives. It may be temporary or permanent. There are several additional categories of children who are entitled to attend the public schools in a particular local school unit free of charge. These categories include: children in foster or group homes; homeless children; children with special needs; children of students, employees or faculty members of a college or university; children residing with a legal custodian; and children residing on a military base if the federal government provides sufficient federal impact funds. A local board may admit and may charge tuition to the following students: school age children who are not domiciliaries of North Carolina; children who are domciliaries of North Carolina but do not reside in that particular school unit; children whose residence in a unit is incidental to their parent's service in the General Assembly; children who reside on a military base if the federal government does not provide sufficient impact funds; and children who are 21 years of age or older at the time they wish to enroll. The tuition may not exceed the amount of per pupil local funding for that school unit.

The U.S. Supreme Court has held that residence requirements that are appropriately defined and uniformly applied further the substantial state interest in assuring that services provided for its residents are enjoyed only by its residents. In Martinez v. Bynum, the Court upheld a Texas statute that required a student's parent, guardian, or other person having lawful control of the student to reside in the school district at the time the student applies for admission.

Section 1 amends G.S. 115C-366 by adding a new subsection that allows a student who is not a domiciliary of a local school administrative unit to that unit without the payment of tuition. In order to qualify under this subsection, a number of conditions must be satisfied.

1. The student must reside with an adult who is a domiciliary of the unit.

2. The student must reside with the adult as the result of: (i) the death, serious illness, or incarceration of the parent of legal guardian; (ii) the parent or legal guardian relinquishing complete control of the student; (iii) the parent of legal guardian abused or neglected the student; or (iv) the parent or legal cannot provide adequate care and supervision for the student.

3. The student maintained a satisfactory scholastic record.

4. The student is not under a term of suspension or expulsion that would constitute grounds for suspension or expulsion in the unit.

5. The adult with whom the student resides and the student's parent or legal guardian each complete an affidavit that confirms the student's qualifications, attests that the student's claim of residency is not primarily for the purpose of attending a particular unit, and attests that the adult with whom the student resides has been given and accepts responsibility for educational decisions related to the child. If the parent of legal guardian of the student is unable, unavailable or unwilling to sign an affidavit, the adult with whom the student lives may attest to that fact in their affidavit.

Once the local board receives the required information, it must admit the student pending the results of any further investigation of the information provided. If the local board finds that any of the information contained in either affidavit is false, the board may remove the student from school. The board must provide an appeal of the decision to remove the student and must notify the person that signed the affidavit of the appeals procedure. A person that knowingly and willfully provides false information on the affidavit is guilty of committing a Class 1 misdemeanor and must pay the local board the local cost of educating the student during the period of enrollment. Affidavits must include a statement regarding the penalty for providing false information.

The act is effective upon becoming law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1011
Proposed Committee Substitute S1011-PCSRJ-001
LINE NUMBERS MAY CHANGE AFTER ADOPTION
23-APR-97 08:19:30

Short Title: Time for Initial Entry Into Kindergarten. (Public)

Sponsors:

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL BOARDS TO ADMIT OTHERWISE ELIGIBLE CHILDREN TO KINDERGARTEN AFTER THE FIRST MONTH OF SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

~~A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of his/her birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year.~~ A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of five on or before October 16 of that school year; or

(2) The child did not reach the age of five on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of five on or before October 16 of that school year; or

(2) The child did not reach the age of five on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

The initial point of entry into the public school system shall be at the kindergarten ~~level: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in the schools of this State regardless of whether such child has passed the fifth anniversary of his birth before October 16.~~ level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under ~~the provisions of~~ G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school ~~shall have the authority to~~ may require the parents of any child presented for admission for the first time to ~~such~~ that school to furnish a certified copy of the child's birth ~~certificate of such child,~~ certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth."

Section 2. G.S. 115C-81(f) reads as rewritten:

"(f) Establishment and Maintenance of Kindergartens. --

(1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this subsection.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who ~~has passed the fifth anniversary of his birth on or before October 16 of the year in which he enrolls~~ meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by ~~his~~ the child's parent or guardian shall attend kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program."

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 16, 1997
RE: **Proposed Committee Substitute for SB 1011. (S1011-PCSRJ-001)**
Time For Initial Entry Into Kindergarten.

Currently G.S. 115C-364 (Admission requirements.) requires that a child enrolling for kindergarten must be (1) five years old on or before October 16 of that school year and (2) enrolled during the first month of that school year. If a child has been attending school in another state and then becomes a resident of North Carolina, the child is eligible for enrollment in kindergarten regardless of whether or not the child turned five years old before October 16.

Section 1 amends G.S. 115C-364 by changing the admission requirements for kindergarten enrollment. A child shall be enrolled in kindergarten during the first 120 days of the school year, if:

1. the child turned five years old on or before October 16 of that school year, or
2. the child did not turn five years old on or before October 16 of that school year but had been attending school in another state in accordance with that state's laws or rules before moving to North Carolina.

After the first 120 days of the school year, a local board may allow a child to enroll in kindergarten if:

1. the child turned five years old on or before October 16 of that school year, or
2. the child did not turn five years old on or before October 16 of that school year but had been attending school in another state in accordance with that state's laws or rules before moving to North Carolina.

Section 2 makes technical and conforming changes.

Senate Bill 1011 would take effect when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 1011

Short Title: Time for Initial Entry Into Kindergarten. (Public)

Sponsors: Senators Foxx; Albertson, Allran, Blust, Carpenter, Carrington, Clark, Cochrane, Conder, Dalton, Garwood, Hartsell, Horton, Jenkins, Jordan, Kerr, Kincaid, Kinnaird, Ledbetter, Lee, Lucas, Martin of Pitt, Martin of Guilford, McDaniel, Miller, Page, Phillips, Reeves, Rucho, Shaw of Guilford, Soles, Webster, Weinstein, and Wellons.

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL BOARDS TO ADMIT OTHERWISE ELIGIBLE CHILDREN TO KINDERGARTEN AFTER THE FIRST MONTH OF SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

~~A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of his/her birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year.~~ A child who reaches the age of five on or before October 16 of the school year in which the child is presented for enrollment is entitled to initial entry into the public schools. A child who did not reach the age of five on or before October 16 of the school year in which the child is presented for enrollment but who attended school in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina also is entitled to initial entry into the public schools. The initial point of entry into the public school system shall be at the kindergarten ~~level. Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in~~

~~the schools of this State regardless of whether such child has passed the fifth anniversary of his birth before October 16.~~ level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under ~~the provisions of~~ G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school ~~shall have the authority to~~ may require the parents of any child presented for admission for the first time to ~~such~~ that school to furnish a certified copy of the child's birth ~~certificate of such child,~~ certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth."

Section 2. This act is effective when it becomes law.

Reported

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1011
Proposed Committee Substitute S1011-PCS7768

Short Title: Time for Initial Entry Into Kindergarten. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL BOARDS TO ADMIT OTHERWISE ELIGIBLE CHILDREN TO KINDERGARTEN AFTER THE FIRST MONTH OF SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

~~A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of his/her birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year.~~ A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of five on or before October 16 of that school year; or

(2) The child did not reach the age of five on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of five on or before October 16 of that school year; or

(2) The child did not reach the age of five on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

The initial point of entry into the public school system shall be at the kindergarten ~~level: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in the schools of this State regardless of whether such child has passed the fifth anniversary of his birth before October 16.~~ level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under ~~the provisions of~~ G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school ~~shall have the authority to~~ may require the parents of any child presented for admission for the first time to ~~such~~ that school to furnish a certified copy of the child's birth ~~certificate of such child,~~ certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth."

Section 2. G.S. 115C-81(f) reads as rewritten:

"(f) Establishment and Maintenance of Kindergartens. --

(1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this subsection.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such

allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who ~~has passed the fifth anniversary of his birth on or before October 16 of the year in which he enrolls~~ meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by ~~his~~ the child's parent or guardian shall attend kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

DRAFT

S D

S616-PCSRH-001
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 616
THIS IS A DRAFT 23-APR-97 11:44:42
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Limit Appeals to School Boards. (Public)

Sponsors:

Referred to: Education/Higher Education.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT APPEALS TO LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. -- An appeal shall lie from the ~~decision~~ following decisions of all school personnel to the appropriate local board of ~~education.~~ education:

(1) The suspension, dismissal, or demotion of career teachers and career school administrators, as provided by G.S. 115C-325, and the nonrenewal of a probationary teacher's contract;

(2) The expulsion or suspension of students for more than 10 days, as provided by G.S. 115C-391.

(3) The assignment of students to schools as provided by G.S. 115C-369; and

(4) Any other decision which by statute specifically provides for a right of appeal to the local board of education.

In all such appeals it shall be the duty of the board of education to see that a proper notice is given to all parties

concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one's character or right to teach.

All other decisions of school personnel are final and are not subject to appeal or judicial review: however, a local board of education may, in its discretion, grant a hearing regarding any decision of school personnel within a local school administrative unit."

Section 2. This act is effective when it becomes law and applies to decisions of school personnel made on or after August 1, 1997.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel
DATE: April 23, 1997
RE: **Proposed Committee Substitute for SB 616: LIMIT APPEALS TO SCHOOL BOARDS (S616-PCSRH-001)**

The Proposed Committee Substitute for Senate Bill 616 would amend GS 115C-45(c) to limit the appeals that may be made to a local board from the decisions of school personnel. Under current law, there is no limit. Any decision made by school personnel can be appealed to the local board. Senate Bill 616 would allow appeals to local boards from decisions concerning:

- The suspension, dismissal, or demotion of career teachers and administrators, as provided in G.S. 115C-325
- The nonrenewal of a probationary teacher's contract
- The expulsion or suspension of students for more than 10 days, as provided in G.S. 115C-391
- The assignment of students to school under G.S. 115C-369, which sets out the procedure for appealing student assignments
- Any other decision for which a right of appeal is specifically provided by statute.

All other decisions would be final and not subject to appeal or judicial review, except that local boards are given discretion to grant hearings regarding any other decisions.

Any decision in an action of a local board affecting one's character or right to teach may be appealed to superior court.

The act is effective when it becomes law and applies to decisions of school personnel made on or after Aug. 1, 1997.

S616-SMRH-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

EDUCATION/HIGHER EDUCATION

AGENDA

APRIL 30, 1997

SB 616	Limit Appeals to School Boards: Sen. Horton
SB 995	Notify Parents/Class Size Exemptions: Sen. Lucas
SB 1058	Student BOG Member: Sen. Kinnaird
SB 1066	Identify/Remediate At-Risk Students: Sen. Martin
SB 983	Clarify Bd. Of Gov. Conflicts: Sen. Dalton
SB 196	Three Strikes for Disruptive Students: Sen. Shaw
SB 765	Adequate Funding/Alt. Schools: Sen. Dannelly

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, April 30, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, April 30, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Sixteen of the members of the Committee attended the meeting, including the Co-Chair, Senator Howard Lee, who presided in Senator Winner's absence. Senator Lee introduced , Shaudy Escamoty, a page from Raleigh, sponsored by Senator Eric Reeves, and Sara Brubaker, sponsored by Senator Carrington.

Senator Lee introduced Senator Lucas to speak on her bill, SB995, Short Title: Notify Parents/Class Size Exemptions. Senator Lucas withdrew her bill and called on Mr. Phillip Price to make sure the local school boards followed through on this bill.

Senator Winner arrived at the Committee meeting and called on Senator Kinnaird to speak on her bill, SB1058, Short Title: Student BOG Member. John Dervan, President of Students at UNC-Chapel Hill and on the Board of Governors, spoke in favor of the bill. Mr. Sam Poole who spoke as a member of the Board of Governors did not endorse or speak against the bill.

Senator Garwood, Senator Martin, and Senator Dannelly endorsed the bill. Senator Lee moved a Committee Substitute be drawn and refer the bill to the Education Oversight Committee to be studied during the interim and report back to the Committee during the Short Session. The Committee voted to refer the bill to the Education Oversight Committee.

Senator Winner introduced Senator Shaw to speak on SB196, Short Title: Three Strikes for Disruptive Students. Senator Shaw withdrew his bill.

Senator Winner introduced Senator Horton to speak on SB616, Short Title: Limit Appeals to School Boards. Senator Horton moved that a Committee Substitute be adopted for discussion purposes. The Committee voted to adopt the Committee Substitute. Senator Hoyle moved the Committee vote for a favorable report on the Committee Substitute. The Committee voted for an unfavorable report as to the original bill, but favorable as to the Committee Substitute.

Senator Winner introduced Senator Martin to speak on SB1066, Short Title: Identify and Remediate At-Risk Students. Anne Berlam from the State Board of Education stated that the State Board had no problems with this bill. Senator Lucas moved for a favorable report. The Committee voted for a favorable report.

Senator Winner introduced Senator Dalton to speak on SB983, Short Title: Clarity Board of Governor Conflicts. The Committee amended the bill and referred it to the Education Oversight Committee.

Senator Winner introduced Senator Dannelly to speak on SB765, Short Title: Adequate Funding/Alt. Schools. The Committee voted for a favorable report on SB765.

The Committee was adjourned at 11:00 a.m.

Senator Leslie Winner, Co-Chair

Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Wednesday, April 30, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **765** Adequate Funding/Alternative Schools.
Sequential Referral: None
Recommended Referral: None

S.B. **1066** Identify & Remediate At-Risk Students.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **616** Limit Appeals to School Boards.
Draft Number: PCS2747
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment: Senator Winner to sign.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Wednesday, April 30, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1058** Student BOG Member.

Draft Number:	PCS1803
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 1058

Short Title: Student BOG Member. (Public)

Sponsors: Senator Kinnaird.

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE STUDENT MEMBER OF THE BOARD OF GOVERNORS SHALL HAVE THE SAME RIGHT TO VOTE AS ALL OTHER MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-6.1(b) reads as rewritten:

"(b) The student member shall have all the rights and privileges of ~~membership, except that he shall not have a vote.~~ membership."

Section 2. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 30, 1997
RE: **Senate Bill 1058. Student BOG Member.**

Section 1 amends G.S. 116-6.1(b) to allow the student member of the UNC Board of Governors to have the right to vote.

Senate Bill 1058 would take effect when it becomes law.

Currently under the provisions of G.S. 116-6, the UNC Board of Governors is composed of thirty-two voting members serving staggered four-year terms. Each long session, the General Assembly elects 16 members to the UNC Board of Governors. The Senate and the House of Representatives separately elect eight members or ½ of the number necessary to fill the vacancies on the board.

Former board chairmen and board members who are former North Carolina governors may continue to serve for a limited period as non-voting members emeriti.

Currently under the provisions of G.S. 116-6.1, the student serving as the president of the UNC Association of Student Governments (UNCASG) or his designee is a non-voting ex officio member of the UNC Board of Governors. Typically, UNCASG elects a new president each year.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 196

Short Title: Three Strikes for Disruptive Students. (Public)

Sponsors: Senators Shaw of Guilford; Albertson, Allran, Ballantine, Blust, Carpenter, Carrington, Clark, Cochrane, Conder, East, Forrester, Foxx, Garwood, Hartsell, Horton, Hoyle, Kerr, Kincaid, Ledbetter, Martin of Pitt, McDaniel, Odom, Page, Perdue, Rand, Rucho, Soles, Warren, and Webster.

Referred to: Education/Higher Education.

February 20, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REMOVAL OF DISRUPTIVE STUDENTS FROM THE CLASSROOM OR SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-391 reads as rewritten:

"**§ 115C-391. Corporal punishment, suspension, or expulsion of pupils.**

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any ~~student,~~ student or removing any chronically disruptive student from the classroom or the school, or in disciplining any student if the offensive behavior could result in suspension, expulsion, ~~or~~ the administration of corporal ~~punishment.~~ punishment, or the removal of any student from the classroom or the school.

(a1) The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;

(2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;

(3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and

(4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

(a2) The policies that shall be adopted for the removal of any chronically disruptive student from the classroom or the school shall include at a minimum the following conditions:

(1) A teacher may remove from the classroom a student whose conduct is chronically disruptive to the learning environment. When a teacher removes a student the third time for chronically disruptive behavior, the principal shall not return the student to that teacher's classroom. The principal shall either:

a. Suspend the student from the school; or

b. Assign the student to another teacher's classroom within the school with the consent of that classroom's teacher. If that teacher removes the student from the classroom one time for chronically disruptive behavior, the principal shall suspend the student from the school.

(2) When a principal suspends a student from school pursuant to subdivision (1) of this subsection, the local board of education shall remove the student from the school pursuant to subsection (d2) of this section and the student shall not return to the school.

(a3) The board shall publish all the policies mandated by ~~this subsection~~ subsections (a), (a1), (a2), and (a3) of this section and make them available to each student and his parent or guardian at the beginning of each school year. Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

(1) To quell a disturbance threatening injury to others;

(2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;

(3) For self-defense; or

(4) For the protection of persons or property.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended

pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) Notwithstanding G.S. 115C-378, a local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older whose behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The local board of education's decision to expel a student under this section shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's presence in school no longer constitutes a threat to the safety of other students or employees, the board shall readmit the student to a school in that local school administrative unit on a date the board considers appropriate. Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.

(d1) A local board of education shall suspend for 365 days any student who brings a weapon, as defined in G.S. 14-269.2(b) and (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 which includes, but is not limited to, the procedures set out in G.S. 115C-112 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.

(d2) Notwithstanding G.S. 115C-378, a local board of education shall not return a student who has been suspended from school pursuant to subsection (a2) of this section to the school from which the student was suspended. The local board shall reassign the student to another school, place the student in an alternative program, or expel the student.

A local board of education's decision to expel a student under this section shall be based on clear and convincing evidence of the chronically disruptive behavior. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is

subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's behavior will no longer be chronically disruptive to the learning environment, the board shall readmit the student to another school or an alternative program in that local school administrative unit on a date the board considers appropriate.

The local board shall have no obligation to provide transportation to any other school or alternative program to which the student is assigned.

(e) A decision of a local board under subsection (c), (d), ~~or (d1)~~ (d1), or (d2) 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) Local boards of education shall, no later than December 1, ~~1993,~~ 1997, reevaluate and update their policies related to school safety so they reflect changes authorized by the ~~1993~~ 1997 General Assembly. In particular, boards shall ensure they have clear policies governing the conduct of students, which state the consequences of chronically disruptive behavior, violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school-sponsored functions. The State Board shall develop guidelines to assist local boards in this process.

(g) Notwithstanding the provisions of this section, the policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations."

Section 2. This act is effective when it becomes law and applies on and after January 1, 1998.

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TO: Senator Lee and Senator Winner, Cochairs, House Education
FROM: Dr. Jim Watts, Education Specialist
Robin S. Johnson, Committee Counsel
DATE: April 3, 1997
RE: **SB 196 - Three Strikes for Disruptive Students**

Senate Bill 196 amends G.S. 115C-391 to require local school boards to develop policies to remove chronically disruptive students from the classroom and school.

The legislation adds a new subsection (a2) that requires that the new local board policies shall include, at the minimum, that if a teacher removes a student from the classroom three times for disruptive behavior, the principal must suspend the student or send the student to another classroom. If the student is assigned to another classroom and the student is removed one time the student shall be suspended.

G.S. 115C-391 (a3) is amended to require that the new policies be included in the annual required notice to parents of school discipline policies.

New subsection (d2) provides that if the student is suspended, the local school board may not return the student to the school, but rather must send the student to another school, place the student in an alternative program, or expel the student. If the student is expelled the decision to expel must be based on clear and convincing evidence of chronically disruptive behavior. Prior to the expulsion, the school board must consider alternative program placement for the student. Further allows the expelled student an opportunity to appeal the decision of the board to expel at any time after the first of July that is at least six months after the board's decision to expel. Provides that the local board is not obligated to provide transportation to any other school or alternative program to which the student is assigned.

Effective when the bill becomes law and applies on and after January 1, 1998.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 616

Short Title: Limit Appeals to School Boards. (Public)

Sponsors: Senator Horton.

Referred to: Education/Higher Education.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT APPEALS TO LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. -- An appeal shall lie from the ~~decision~~ following decisions of all school personnel to the appropriate local board of ~~education.~~ education:

(1) The suspension, dismissal, or demotion of career teachers and career school administrators, as provided by G.S. 115C-325;

(2) The suspension of students for more than 10 days, as provided by G.S. 115C-391(c), (d), and (d1);

(3) The assignment of students to schools as provided by G.S. 115C-369; and

(4) Any other decision which by statute specifically provides for a right of appeal to the local board of education.

In all such appeals it shall be the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one's character or right to teach.

All other decisions of school personnel are final and are not subject to appeal or judicial review: Provided, however, a local board of education may, in its discretion, grant a hearing regarding any decision of school personnel within a local school administrative unit."

Section 2. This act is effective when it becomes law and applies to decisions of school personnel made on or after August 1, 1997.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel
DATE: April 23, 1997
RE: **Proposed Committee Substitute for SB 616:**
LIMIT APPEALS TO SCHOOL BOARDS (S616-PCSRH-001)

The Proposed Committee Substitute for Senate Bill 616 would amend GS 115C-45(c) to limit the appeals that may be made to a local board from the decisions of school personnel. Under current law, there is no limit. Any decision made by school personnel can be appealed to the local board. Senate Bill 616 would allow appeals to local boards from decisions concerning:

- The suspension, dismissal, or demotion of career teachers and administrators, as provided in G.S. 115C-325
- The nonrenewal of a probationary teacher's contract
- The expulsion or suspension of students for more than 10 days, as provided in G.S. 115C-391
- The assignment of students to school under G.S. 115C-369, which sets out the procedure for appealing student assignments
- Any other decision for which a right of appeal is specifically provided by statute.

All other decisions would be final and not subject to appeal or judicial review, except that local boards are given discretion to grant hearings regarding any other decisions.

Any decision in an action of a local board affecting one's character or right to teach may be appealed to superior court.

The act is effective when it becomes law and applies to decisions of school personnel made on or after Aug. 1, 1997.

S616-SMRH-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

favorable

D

S616-PCSRH-003
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 616
THIS IS A DRAFT 29-APR-97 14:19:09
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Limit Appeals to School Boards. (Public)

Sponsors:

Referred to: Education/Higher Education.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT APPEALS TO LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. -- ~~An appeal shall lie from the decision~~ A person may appeal any one or more of the following decisions of all school personnel to the appropriate local board of ~~education.~~ education:

(1) The discipline of a student taken under G.S. 115C-391.

(2) An action, inaction, or decision that is claimed to violate federal law.

(3) An action, inaction, or decision that is claimed to substantially interfere with a student's ability to receive an education.

(4) A decision that may be appealed under G.S. 115C-305.

(5) Any other decision which by statute specifically provides for a right of appeal to the local board of education.

In addition, a local board of education may, in its discretion, grant a hearing regarding any decision of school personnel within a local school administrative unit.

In all ~~such~~ appeals to the board it ~~shall be~~ is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon ~~such~~ appeals to the board in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one's character or right to teach.

This subsection shall not affect the rights of appeal under G.S. 115C-305."

Section 2. G.S. 115C-305 reads as rewritten:

"**§115C-305. Appeals to board of education and to superior court.**

~~Appeals to the local board of education or to the superior court shall lie from~~ School officials and school employees have a right to appeal the decisions of all school personnel, including decisions affecting character or the right to teach, as provided in G.S. ~~115C-45(c).~~ 115C-45(c), to the local board of education or to superior court."

Section 3. This act is effective when it becomes law and applies to decisions of school personnel made on or after August 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 1066

Short Title: Identify & Remediate At-Risk Students. (Public)

Sponsors: Senator Martin of Guilford.

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO DETERMINE WHICH GROUPS OF STUDENTS ARE LIKELY TO SCORE BELOW BENCHMARKS ON STATEWIDE TESTS AND TO RECOMMEND WAYS TO FOCUS RESOURCES ON ADDRESSING THE NEEDS OF THOSE STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education shall analyze the results of end-of-grade and end-of-course tests by gender, race, and economic status of students to identify those groups of students who are statistically performing below the State benchmark on these tests. The State Board shall also consider ways to focus resources to address the needs of those students.

The State Board of Education shall report the results of this study to the Joint Legislative Education Oversight Committee prior to November 15, 1998.

Section 2. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Dr. Jim Watts, Education Specialist

RE: **Summary - SB 1066 - Identify/Remediate At-Risk Students**

DATE: April 30, 1997

The legislation directs the State Board of Education to analyze the results of State tests by gender, race and economic status of students to identify those that are performing below the State benchmarks on these tests. The legislation further directs the State Board to consider ways to focus resources to address the needs of those students.

The legislation requires the State Board to report the results of this study to Education Oversight by November 15, 1998.

Effective when the legislation becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 983

Short Title: Clarify Bd. of Gov. Conflicts. (Public)

Sponsors: Senator Dalton.

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY PROVISIONS REGARDING SPOUSAL CONFLICTS OF INTEREST FOR MEMBERS OF THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-7(b) reads as rewritten:

"(b) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution ~~or spouse of any such member, officer or employee~~ may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution ~~or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee~~ shall be deemed thereupon to resign from his membership on the Board of Governors.

From and after July 1, 1997, no spouse of any member of the General Assembly, elected officer of the State, or officer or full-time employee of any constituent institution may be a member of the Board of Governors. If the spouse of any member of the Board of Governors is elected or appointed to the General Assembly, is elected to a State office, or becomes an officer or employee of any constituent institution, then the member shall be deemed thereupon to resign from his or her membership on the Board of Governors."

Section 2. This act is effective when it becomes law and applies to elections of the Board of Governors on and after ~~January~~ 1, 1999.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel
DATE: April 29, 1997
RE: Summary SB 983 - Clarify Board of Governors Conflicts.

Background: G.S.116-7(b) currently provides that the following persons may not serve on the Board of Governors: (1) a member of the General Assembly; (2) an officer of the State; (3) an employee of the State; (4) an officer of a constituent institution; or (5) an employee of a constituent institution. Furthermore, no person whose **spouse** holds any of those positions may serve on the Board. A member of the Board of Governors is deemed to resign immediately if the member **or the member's spouse** becomes: (1) a member of the General Assembly; (2) an officer of the State; (3) an employee of the State; (4) an officer of a constituent institution; or (5) an employee of a constituent institution.

Section 1 amends G.S. 116-7(b) regarding the types of positions one spouse may not hold if the other spouse is a member of the Board of Governors. A person may not become a member of the Board of Governors if that person's spouse is: (1) a member of the General Assembly; (2) an officer of a constituent institution; (3) an employee of a constituent institution; or (4) is an "elected officer of the State". A member of the Board of Governors must resign if the member's spouse is elected or appointed to any of those positions. The difference between the current law and the proposed amendment is that a person could serve on the Board of Governors if member's spouse was an employee of the State (but not a constituent institution), or an appointed officer of the State (but not a constituent instituion).

The bill does not define the term "elected officer of the State". "Elective", as used in G.S. 128-1.1 which addresses dual office holding, means filled by an election of the people. There is no statutory definition of public office or public officer. The North Carolina courts have found that an office is a delegation to an elected or appointed individual of some of the sovereign functions of the government, to be exercised for the benefit of the public. Courts generally look at all the facts and circumstances when determining whether an individual is a public officer. In particular, courts look at the following criteria:

1. Was the position created by election or appointment, not by a contract of employment?
2. Is the individual required to take an oath or post a bond before assuming the duties of the position?
3. Does the statute or constitution that creates the position designate it as an office?
4. Would the individual be liable for misfeasance, malfeasance, or nonfeasance?

5. Are executive, legislative, or judicial functions been delegated to the individual, and would the exercise of those powers bind the rights of others?

6. Are the duties conferred on the individual permanent, i.e. for a specified period of time, or occasional or incidental?

7. Is the individual largely independent of the control of others or have the power of direction, supervision, and control?

8. Is the position created by a constitution or by a legislative enactment?

At a minimum, elected officers of the State would probably include: members of the Council of State; judges on the Supreme Court and the Court of Appeals; Superior and District Court judges; and District Attorneys. The term may apply to other elected individuals, but that would have to be determined on a case-by-case basis.

The act is effective when it becomes law and applies to elections for the Board of Governors on and after January 1, 1999.

S983-SMRC-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 765

Short Title: Adequate Funding/Alternative Schools. (Public)

Sponsors: Senators Dannelly; Albertson, Ballance, Gulley, Hoyle, Jenkins, Jordan, Kerr, Lucas, Martin of Pitt, Martin of Guilford, Odom, Perdue, Rucho, Soles, and Winner.

Referred to: Appropriations.

April 9, 1997

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE LOCAL BOARDS OF EDUCATION TO DEDICATE ADEQUATE FUNDING TO STUDENTS IN ALTERNATIVE SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall also adopt guidelines to encourage local boards of education to dedicate at least as much funding, on average, to students in alternative schools as to all students in the local school administrative unit.

The State Board of Education shall provide technical support to local school administrative units to assist them in

developing and implementing plans for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation."

Section 2. The State Board of Education shall report to the Joint Legislative Education Oversight Committee in August 1997, and in March 1998, on the implementation of this act.

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: April 30, 1997
RE: **Senate Bill 765. Adequate Funding/Alternative Schools.**

Section 1 amends G.S. 115C-12(24) by directing the State Board of Education to adopt guidelines encouraging local boards to provide funding for students in alternative schools at least as much, on average, as for all other students.

Section 2 directs the State Board of Education to report to the Joint Legislative Education Oversight Committee in August 1997 and in March 1998 on the implementation of the act.

Senate Bill 765 is effective when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 995

Short Title: Notify Parents of Class-size Exceptions. (Public)

Sponsors: Senator Lucas.

Referred to: Education/Higher Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO NOTIFY PARENTS OF CLASS-SIZE EXCEPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-301 reads as rewritten:

"**§ 115C-301. Allocation of teachers; class size.**

(a) Request for Funds. -- The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(b) Allocation of Positions. -- The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

(c) Maximum Class Size. -- The average class size for each grade span in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to students. At the end of the second school month and for the remainder of the school year, the size of an individual class shall not exceed the allotment ratio by more than three students. At no time may the General Assembly appropriate funds for higher unit-wide class averages than those for which State funds were provided during the 1984-85 school year.

(d) Maximum Teaching Load. -- Students shall be assigned to classes so that from the 15th day of the school year through the end of the school year the number of students for whom teachers in grades 7 through 12 are assigned teaching

responsibilities during the course of the day is no more than 150 students, except as provided in subsection (g) of this section.

(e) Alternative Maximum Class Sizes. -- The State Board of Education, in its discretion, may set higher maximum class sizes and daily teaching loads for classes in music, physical education, and other similar subjects, so long as the effectiveness of the instructional programs in those areas is not thereby impaired.

(f) Second Month Reports. -- At the end of the second month of each school year, each local board of education, through the superintendent, shall file a report for each school within the school unit with the State Board of Education. The report shall be filed in a format prescribed by the State Board of Education and shall include the organization for each school, the duties of each teacher, the size of each class, the teaching load of each teacher, and such other information as the State Board may require. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that occur at that time.

(g) Waivers and Allotment Adjustments. -- Local boards of education shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request allotment adjustments or waivers from the standards set out above. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions or grant waivers for the excess class size or daily load.

(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and

(2) If the local board cannot organizationally correct the exception.

All allotment adjustments and waivers submitted under this provision shall be reported to the Director of the Budget and to the General Assembly by May 15 of each year.

(h) State Board Rules. -- The State Board of Education shall adopt rules necessary for the implementation of class size and teaching load provisions.

~~(i) Penalty for Noncompliance. -- If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance.~~

(j) Notification of Parents of Class-Size Exceptions. -- At the beginning of the fourth month of the school year, local boards of education shall notify parents in writing of class-size exceptions affecting their children, whether or not the State Board of Education has granted waivers for the exceptions."

Section 2. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
April 30, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Donny Hunter	NCCCS
[signature]	NCAICU
John Rostic	NCFPC
Gene Causby	E - EBC
Terry Cantrell	WRAL-TV
D.G. Martin	UNC
Sam Poole	UNC Bd. of Gov
Amy Mallon	NC Ed. Law Project
Harriet Dise	NCAE
Bill Nilson	NCAE
Claire Gibbons	Governor's office
Ann Balam	SBE

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
April 30, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Philip Price	DPI
Paula Wolf	Covenant w/NC's Children
Helen Lipman	Mecklenburg Co.
Tony M. Stewart	Superintendent, Burke Co. Schools
Jan Smith	NCASA
Sarah Stewart	AFT/NC
Amy Van Dostum	PENC
Pam Seamans	United Way of NC & Covenant w/ NC's Children
AL DEITCH	DOA/YAO
[illegible]	SOA/YAO

AGENDA
EDUCATION/HIGHER EDUCATION
MAY 14, 1997

HB 1152 Board of Community Colleges Election Date (Rayfield)

HB 1054 Confirm State Board of Education Appointments 2 (Russell)

HB 1098 Special Education Mediation (Preston)

HB 1099 Kindergarten Entry/Gifted (Preston)

REVIEW OF COMMUNITY COLLEGE BOARD NOMINATIONS AND ADOPTION OF BALLOT FOR ELECTION TO BE HELD ON WEDNESDAY, MAY 21, 1997

MINUTES
SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
MAY 14, 1997

The Senate Committee on Education/Higher Education met at 10:00 a.m. on May 14, 1997 in Room 414 Legislative Office Building. Senator Lee presided.

Before the Committee were the following:

HJR 1054 CONFIRMATION MEMBERS STATE BOARD OF EDUCATION. Following explanation, the bill was given a favorable report on a motion by Senator Hoyle.

HB 1152 BOARD OF COMMUNITY COLLEGES ELECTION DATE. On a motion by Senator Warren, the bill was given a favorable report.

HB 1098 SPECIAL EDUCATION MEDIATION. Senator Winner explained the bill in the absence of the sponsor, Representative Preston. On a motion by Senator Hoyle, the bill was given a favorable report.

HB 1099 KINDERGARTEN ENTRY/GIFTED. Before the Committee was PCSRJ-002. Following discussion, the PCS was given a favorable report on a motion by Senator Forrester. (The bill was reported as PCS 7310)

Senator Lee reviewed for the Committee the process for nominating candidates for election to the State Board of Community Colleges on Wednesday, May 21, 1997. Senator Kerr nominated Dr. Herman Porter and spoke in favor of the re-election of Dr. Porter to the Board. Senator Bob Martin and Senator Hoyle nominated Mr. Jeff Nelson and Senator Martin reviewed for the Committee the qualifications of Mr. Nelson. Senator Lee placed in nomination, in the absence of Senator Basnight, the name of Anne-Marie Knighton. Senator Forrester moved that all three of the names before the Committee be sent forward for consideration by the Senate. Motion carried. Staff was instructed to prepare a report to the Senate including each of the three candidates for consideration.

Howard Lee
Senator Howard Lee
Committee Chairman

Judy Britt
Judy Britt
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
SENATOR LEE, Co-Chair
SENATOR WINNER, Co-Chair

Wednesday, May 14, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

FAVORABLE

H.J.R. **1054** CONFIRMATION MEMBERS STATE BOARD OF EDUCATION
Sequential Referral: NONE
Recommended Referral: NONE

H.B.(CS) **1098** SPECIAL EDUCATION MEDIATION
Sequential Referral: NONE
Recommended Referral: NONE

H.J.R. **1152** SET DATE / BOARD OF COMMUNITY COLLEGES ELECTIONS
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1)**1099** KINDERGARTEN ENTRY/GIFTED STUDENTS
Draft Number: PCS 7310
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1054

Sponsors: Representatives Russell, Shubert; Davis and Hightower.

Referred to: Rules, Calendar and Operations of the House.

April 21, 1997

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2005;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Upon the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

Section 2. This resolution is effective upon ratification.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel RSJ
DATE: May 12, 1997
RE: **HOUSE JOINT RESOLUTION 1054: State Board of Education Confirmation**

House Joint Resolution 1054 provides for the General Assembly to meet in joint session, upon the call of the Speaker and the President Pro Tempore. The purpose of the joint session is to act on a separate joint resolution that provides for the confirmation of the Governor's appointments of new members to the State Board of Education.

Section 4(1) of Article IX of the NC Constitution directs the Governor to appoint 11 members to the State Board of Education for overlapping terms of eight years. Eight members represent the eight educational districts set out in G.S. 115C-65 and three members are at-large. These appointments are subject to confirmation by the General Assembly in joint session. G.S. 115C-10 requires the Governor to submit the names of his appointees to the presiding officers of each chamber, on or before the 60th legislative day, and the General Assembly, pursuant to joint resolution, to meet in joint session to consider the appointments. Tuesday, April 22, 1997, is the 48th legislative day.

This year there are three vacancies: (1) Jay M. Robinson, at-large; (2) Evelyn Bruton Monroe, 4th Education District, which includes Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, and Scotland Counties; and (3) Barbara M. Tapscott, 5th Education District, which includes Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, and Stokes Counties. There is no limit on the number of terms an individual may serve. **This year the following individuals are ineligible for appointment to the State Board:**

(1) Public school employees[1] paid from State or local funds and their spouses;
(2) Employees of the Department of Public Instruction and their spouses; and
(3) Individuals who already hold two appointive offices in State or local government or who hold one elective[2] and one appointive State or local office.

H1054-SMRH-001

[1] Only one public school employee may serve as an appointed member of the Board; currently, Eddie Davis, a public school teacher, is a member of the Board.

[2] The term 'elective' means filled by an election of the people.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1152

Sponsors: Representatives Rayfield; Bonner, Bowie, Brawley, Brown, Cansler, Capps, Dickson, Eddins, Grady, Gulley, Hardy, Morris, Reynolds, Saunders, Sexton, and Watson.

Referred to: Rules, Calendar and Operations of the House.

April 22, 1997

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers held on Wednesday, May 21, 1997. At that time the House of Representatives shall elect two members to the State Board each for a term of six years beginning July 1, 1997; the Senate shall elect two members to the State Board each for a term of six years beginning July 1, 1997.

Section 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

Section 3. This resolution is effective upon ratification.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KG
DATE: May 13, 1997
RE: Summary HJR 1152 - Joint Resolution Setting the Date for the House of Representatives and the Senate to Elect Members to the State Board of Community Colleges.

House Joint Resolution 1152 provides that the House and the Senate shall each hold elections on May 21, 1997, to elect new members to the State Board of Community Colleges. Each chamber will elect two persons to serve six year terms beginning July 1, 1997. The resolution also provides that the nomination and election shall be held according to the procedure provided in G.S. 115D-2.1(b)(4)f.

G.S. 115D-2.1 provides for the structure to the State Board of Community Colleges. There are 20 members on the Board: the Lieutenant Governor; the State Treasurer; 10 members appointed by the Governor (4 at-large and 1 from each of the 6 Trustee Association Regions).; and 8 members appointed by the General Assembly (4 by the Senate and 4 by the House). The members elected by the General Assembly serve for 6 years, and the terms are staggered. This year the Senate and the House of Representatives must each elect 2 members.

G.S. 115D-2.1(b)(4)f. provides the election procedure for the General Assembly. In the Senate, the President Pro Tempore must designate the committee that will be responsible for receiving and screening the nominations. Senator Basnight has chosen the Senate Committee on Education/Higher Education. The committee must screen the nominees for any statutory disabilities. **No member of the General Assembly, no officer or employee of the State, and no officer or employee of an institution under the jurisdiction of the State Board of Community Colleges and no spouse of any of any of those persons is eligible to serve on the Board. Persons who have been employed by the Department of Community Colleges within the last 5 years are also ineligible to serve on the Board.**

The committee must give a verbal vote on each nominee. Nominees receiving a majority of the vote of the members of the committee present and voting shall be listed as candidates. If enough nominees are submitted to the committee, the committee's ballot must list at least two persons for each seat to be filled.

On May 21, 1997, Senator Lee will report the list of nominees with the term of office listed for each nominee. The statute prohibits additional floor nominations. To be elected to the State Board, a candidate must receive the votes of a majority of all Senate members present and voting .

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1098
Committee Substitute Favorable 4/24/97

Short Title: Special Education Mediation. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCEDURE FOR MEDIATION OF SPECIAL EDUCATION DISPUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-116(b) reads as rewritten:

"(b) Mediation. -- ~~Mediation of disputes or disagreements regarding the identification of children with special needs and the provision of special education for children with special needs prior to formal administrative review is encouraged. If a request for formal administrative review has not been filed, the superintendent, upon the request of a parent, guardian, or surrogate parent, shall meet, or designate an assistant or associate superintendent to meet, with the parent, guardian, or surrogate parent to attempt to resolve the dispute or disagreement. The meeting shall be informal and the General Assembly intends that the meeting shall be nonadversarial, as required by G.S. 150B-22.~~

It is the policy of this State to encourage local educational agencies and parents, guardians, surrogate parents, custodians, and eligible students to seek informal resolution of disputes or disagreements regarding the identification of children with special needs and the provision of special education and related services before filing a request for a formal administrative review of the matter. To that end, the following provisions apply to the mediation of these disputes:

(1) Purpose. -- The purpose of mediation is to clarify the concerns of the parents and to resolve disputes.

(2) Definitions. -- As used in this subsection, the following terms have the following meanings:

a. 'Dispute' means a disagreement between the parties that is subject to review under subsection (c) of this section.

b. 'Mediation' means an informal process conducted by a mediator with the objective of helping parties voluntarily settle their dispute.

c. 'Mediator' means a neutral person who acts to encourage and facilitate a resolution of a dispute.

d. 'Parents' means parents, guardians, surrogate parents, custodians, and eligible students.

e. 'Parties' means the local educational agency and the parents.

(3) Nonadversarial. -- The mediation shall be informal and nonadversarial as provided in G.S. 150B-22.

(4) Rules of procedure. -- The mediator is encouraged to follow applicable procedures provided in G.S. 7A-38.1, G.S. 7A-38.2, and applicable rules adopted by the Supreme Court under G.S. 7A-38.1. The mediator may establish other procedures to facilitate an informal resolution of the dispute. The mediator shall not render a decision or judgment as to the merits of the dispute.

(5) Request for mediation. -- Before a request for formal administrative review is filed, mediation shall commence upon the request of either party, so long as the other party consents.

(6) Selection of mediator. -- The parties shall agree to the selection of the mediator. The Exceptional Children Division of the Department of Public Instruction shall maintain a list of mediators who are certified or trained in resolving disputes under this subsection.

(7) Notice of right to mediation. -- The local educational agency shall notify parents of their right to request mediation under this subsection.

(8) Time periods tolled. -- Notwithstanding G.S. 150B-23, time periods related to the filing of a formal administrative review or the taking of any other action with respect to the dispute, including any applicable statutes of limitations, are tolled upon the filing of a request for mediation under this subsection until the mediation is completed or the mediator declares an impasse.

(9) Good cause for continuance. -- A good faith effort by both parties to mediate the dispute is presumed to constitute good cause for a continuance so long as the administrative law judge does not find that the time delay for mediation would likely result in irreparable harm to one of the parties or to the child.

(10) Inadmissibility of negotiations. -- Evidence of statements made and conduct occurring in a mediation shall not be subject to discovery

and shall be inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediation. Mediators shall not be compelled in any civil proceeding to testify or produce evidence concerning statements made and conduct occurring in a mediation.

(11) Mediator's fees. -- If mediation is requested before a request for formal administrative review is filed, the local educational agency shall pay the mediator's fees for one mediation session. If resolution is not reached in that session, the parties must agree to continue the mediation. The local educational agency shall pay any mediator fees for subsequent mediation sessions unless the parties agree otherwise.

(12) Mediated settlement conference after a request for administrative review. -- In addition to mediation as provided by this subsection, the parties may participate in a mediated settlement conference as provided by G.S. 150B-23.1.

(13) Promotion of other settlement procedures. -- The parties may agree to use other dispute resolution methods or to use mediation in other circumstances, including after a request for formal administrative review is filed, to the extent permitted under State and federal law."

Section 2. This act is effective when it becomes law.

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TO: Senator Lee and Senator Winner, Cochairs, Senate Education
FROM: Robin S. Johnson, Committee Counsel RSJohnson
DATE: May 12, 1997
RE: **HB 1098: SPECIAL EDUCATION MEDIATION (2nd Edition)**

HOUSE BILL 1098 amends G.S. 115C-116(b) to clarify the procedure for mediation of special education disputes. Both federal and State law entitle children with special needs (i.e., disabilities) to a free, appropriate, public education. Consequently, there are a great deal of due process protections given to these children, including the right of parents to contest actions and decisions concerning their children. G.S. 115C-116(c) authorizes parents, guardians, and surrogate parents to request an administrative review or hearing concerning (i) the child has or has not been identified as having special needs; (ii) the child's individualized education plan is not appropriate to meet the child's needs; (iii) the child's individualized education plan is not being implemented; or (iv) the child is otherwise being denied a free, appropriate education, to which the child is entitled under both federal and State law. Local educational agencies may request an administrative review or hearing when parents refuse to consent to the evaluation of a student or for the purpose of developing a free appropriate educational program for the child. The current G.S. 115C-116(b) encourages mediation of these disagreements before a request is filed for a formal administrative review of the dispute. This mediation, which is between the superintendent and the parent, guardian or surrogate parent, is to be an informal, nonadversarial meeting. In this context, `nonadversarial' means a proceeding where sworn testimony is not taken and witnesses cannot be cross-examined.

House Bill 1098 will require an informal and nonadversarial mediation before a formal request for an administrative review is filed if both the local educational agency and the parents agree. They must jointly select the mediator. The Exceptional Children Division of the Department of Public Instruction will be required to keep a list of mediators who are certified or trained in resolving this type of dispute, but the parties may choose a mediator who is not on that list. The local educational agency shall pay any fees for the first mediation session. The parties may jointly agree to continue the mediation, and the local educational agency shall pay any mediation fees unless the parties agree otherwise. Until the mediation is completed or the mediator declares an impasse, the 60-day time period for filing the request for the formal administrative review is tolled.

The changes provide that statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any proceeding or action on the same claim. Furthermore, mediators may not be compelled in any civil proceeding to testify or produce evidence concerning these statements or conduct.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

The bill further also provides that parties may participate in a mediated settlement conference after a request is filed for the administrative review and before the hearing. In addition, the bill authorizes the parties to agree to use other dispute resolution methods or mediation in other circumstances, including after the request for administrative review is filed, to the extent permitted under State and federal law.

H1098-SMRH-002

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1099
Proposed Senate Committee Substitute H1099-PCSRJ-002
LINE NUMBERS MAY CHANGE AFTER ADOPTION
13-MAY-97 17:29:37

Short Title: Kindergarten Entry/Gifted Students. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCHOOL PRINCIPALS TO ADMIT CERTAIN GIFTED STUDENTS TO KINDERGARTEN REGARDLESS OF THEIR BIRTH DATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of ~~his/her~~ the child's birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year.

The initial point of entry into the public school system shall be at the kindergarten level: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of ~~such~~ that state before moving to and becoming a resident of North Carolina, ~~such~~ the child ~~will be~~ is eligible for enrollment in the schools of this State regardless of whether ~~such~~ the child has passed the fifth anniversary of ~~his~~ the child's birth before October 16. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity

can be more appropriately served in the first grade rather than in kindergarten, the principal may act under the provisions of G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school shall have the authority to require the ~~parents~~ parent or guardian of any child presented for admission for the first time to ~~such~~ a school to furnish a certified copy of the birth certificate of ~~such~~ the child, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth."

A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding.

Section 2. G.S. 115C-81(f) reads as rewritten:

"(f) Establishment and Maintenance of Kindergartens. --

(1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this subsection.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best

continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who has passed the fifth anniversary of ~~his~~ the child's birth on or before October 16 of the year in which he enrolls or who otherwise meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by ~~his~~ the child's parent or guardian shall attend kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1099
Committee Substitute Favorable 4/24/97

Short Title: Kindergarten Entry/Gifted Students. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCHOOL PRINCIPALS TO ADMIT CERTAIN GIFTED STUDENTS TO KINDERGARTEN REGARDLESS OF THEIR BIRTH DATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

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A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of ~~his/her~~ the child's birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year.

A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter a public school if the child is presented for enrollment during the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding.

The initial point of entry into the public school system shall be at the kindergarten level: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of ~~such~~ that state before moving to and becoming a resident of North Carolina, ~~such~~ the child ~~will be~~ is eligible for enrollment in the schools of this State regardless of whether ~~such~~ the child has passed the fifth anniversary of ~~his~~ the child's birth before October 16. If the

principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under the provisions of G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school shall have the authority to require the ~~parents~~ parent or guardian of any child presented for admission for the first time to ~~such~~ a school to furnish a certified copy of the birth certificate of ~~such~~ the child, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth."

Section 2. G.S. 115C-81(f) reads as rewritten:

"(f) Establishment and Maintenance of Kindergartens. --

(1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this subsection.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who has passed the fifth anniversary of ~~his~~ the child's birth on or before October 16 of the year in which he enrolls or who otherwise meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by ~~his~~ the child's parent or guardian shall attend kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a

county or city board of education which will operate such a program."

Section 3. This act is effective when it becomes law.

Reported version

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1099
Committee Substitute Favorable 4/24/97
Proposed Senate Committee Substitute H1099-PCS7310

Short Title: Kindergarten Entry/Gifted Students. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCHOOL PRINCIPALS TO ADMIT CERTAIN GIFTED STUDENTS TO KINDERGARTEN REGARDLESS OF THEIR BIRTH DATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

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The initial point of entry into the public school system shall be at the kindergarten level: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of ~~such~~ that state before moving to and becoming a resident of North Carolina, ~~such~~ the child ~~will be~~ is eligible for enrollment in the schools of this State regardless of whether ~~such~~ the child has passed the fifth anniversary of ~~his~~ the child's birth before October 16. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under the provisions of G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school shall have the authority to require the ~~parents~~ parent

or guardian of any child presented for admission for the first time to ~~such~~ a school to furnish a certified copy of the birth certificate of ~~such~~ the child, which shall be furnished by the register of deeds of the county having on file the record of the birth of ~~such~~ the child, or other satisfactory evidence of date of birth.

A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

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(1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this subsection.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who has passed the fifth anniversary of ~~his~~ the child's birth on or before October 16 of the year in which he enrolls or who otherwise meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by ~~his~~ the child's parent or guardian shall attend kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which

does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program."

Section 3. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education
FROM: Sara Kamprath, Legislative Analyst
DATE: May 14, 1997
RE: **HB 1099. Kindergarten Entry/Gifted Students** (2nd Edition)

Section 1 would amend G.S. 115C-364 to allow a child who turned four years old on or before April 16 of that school year to enter kindergarten if:

1. the child is enrolled during the first month of the school year, and
2. the school principal determines that the child is gifted and is mature enough to justify admission to the school.

The principal's determination is based on information supplied by the child's parent or guardian. The State Board of Education is directed to establish guidelines for the principal to use when making his determination.

Section 2 makes technical and conforming changes.

The act would take effect when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

Ed/Higher Ed — May 14, 1997

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JoAnn Morris	Public School Forum
Jane Stevens	AFT/NC
Stephen J. Gunnells	NCJCDC
Ann Bellamy	SBE
Bill Wilson	NCAE
BL Barlow	NCSSA
Donny Hunt	NCCCS
Jerry Custer	NCECS
Hal Miller	NCACCT
Jarrell Harris	DPI
Linda Robinson	N.C. Assn. for Gifted & Talented

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Helen Lippman	Meck County
Susan Harrison	WCPSS
Tim Mousel	NCAICLU
[illegible]	NCOA
Karen Garr	Governor's Office
[illegible]	NCASA
Douglas Blum	United Way of NC
Paula Wolf	Covenant with NC's Children

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, June 4, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, June 4, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Seventeen of the members of the Committee attended the meeting, including the Co-Chair, Senator Winner, who presided. Senator Winner introduced Mary Katherine Brake, a page from Beaufort, sponsored by Senator Beverly Perdue, and Carey Veine, from Franklin, sponsored by Senator Carpenter.

Senator Winner called the meeting to order and introduced Senator Lee to speak on the Committee Substitute for HB746, Short Title: Higher Education Admission Standards. After explaining the Committee Substitute, Senator Lee moved for the Committee Substitute to be adopted by the Committee for discussion. The Committee voted to adopt same. After considerable discussion, Senator Gulley moved for a favorable report on the Committee Substitute for HB746. The Committee voted for a favorable report on the Committee Substitute for HB746.

The Committee was adjourned at 10:46 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Thursday, June 5, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. **746** Higher Ed. Admissions Study.

Draft Number:	PCS7325
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 746*

Short Title: Higher Ed. Admission Requirements. (Public)

Sponsors: Representatives Russell, Black; Aldridge, Barbee, Beall, Berry, Bonner, Capps, Clary, Cole, Creech, Culp, Daughtry, Davis, Decker, Dedmon, Eddins, Fox, Grady, Gulley, Hensley, R. Hunter, Hurley, Ives, Jarrell, McCrary, McMahan, Mercer, Moore, Mosley, Nichols, Preston, Ramsey, Rogers, Saunders, Sexton, Shubert, Smith, Sutton, Tallent, Thompson, Tolson, Warner, Warwick, Wilkins, C. Wilson, G. Wilson, and Yongue.

Referred to: Education.

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE UNIFORM HIGHER EDUCATION ADMISSION REQUIREMENTS FOR NONPUBLIC SCHOOL STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.6. Admission requirements for Article 39 students.**

If the transcript of an individual applying for admission to a constituent institution from a school lawfully operating under Article 39 of Chapter 115C of the General Statutes reflects that the applicant has met the Board of Governor's minimum admission requirements, the applicant shall not be required to take additional tests as a condition of application for admission. This section shall not be construed to preclude the constituent institutions from requiring that applicants from schools lawfully operated under Article 39 of Chapter 115C of the General Statutes take, as a condition of admission, the same college entrance exams that are required of all applicants for admission."

Section 2. This act is effective when it becomes law.

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

H746-CSRC-007
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 746
THIS IS A DRAFT 4-JUN-97 08:30:34
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Higher Ed. Admissions Study. (Public)

Sponsors:

Referred to: Education

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO REVIEW AND ADOPT A POLICY REGARDING UNIFORM HIGHER EDUCATION ADMISSIONS REQUIREMENTS FOR NONPUBLIC SCHOOL STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Governors of The University of North Carolina shall review the admissions procedures, practices, and requirements of the constituent institutions regarding applicants from non-public schools lawfully operated under Article 39 of Chapter 115C of the General Statutes. The Board of Governors shall consult with representatives from non-public schools, including representatives of non-public schools operated under Parts 1 and 3 of Article 39 of Chapter 115C of the General Statutes, while conducting the review.

Section 2. Prior to September 15, 1997, the Board of Governors shall report to the Joint Legislative Education Oversight Committee the results of the review and its

recommendations for a policy regarding uniform admissions requirements for applicants from non-public schools lawfully operated under Article 39 of Chapter 115C of the General Statutes. The recommended policy shall take into consideration the results of the review and consultation required under Section 1 of this act.

Section 3. The Board of Governors, after consultation with representatives from non-public schools, including representatives of non-public schools operated under Parts 1 and 3 of Article 39 of Chapter 115C of the General Statutes, and after taking into consideration comments received from the Joint Legislative Education Oversight Committee, shall adopt a policy regarding uniform admissions requirements for applicants from non-public schools lawfully operated under Article 39 of Chapter 115C of the General Statutes. The policy shall not arbitrarily differentiate between applicants based upon whether the applicant attended a public or a lawfully operated non-public school. The Board of Governors shall report the policy to the Joint Legislative Education Oversight Committee prior to November 21, 1997.

Section 4. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee
FROM: Kory Goldsmith, Committee Counsel KJG
DATE: June 4, 1997
RE: Summary, Proposed Committee Substitute H746-CSRC-007 - Higher Education Admissions Study.

Section 1 directs the Board of Governors (BOG) to review the admissions practices, procedures, and requirements of the constituent institutions in relation to applicants from non-public schools. The BOG shall consult with representatives of non-public schools during the process.

Section 2 directs the BOG to report its findings and a proposed policy regarding the uniform admission requirements to the Joint Legislative Education Oversight Committee by September 15, 1997. The recommended policy shall take into consideration the results of the review and consultation required under Section 1.

Section 3 directs the BOG, after consultation with representatives from the non-public schools and after taking into consideration comments from the Joint Legislative Education Oversight Committee, to adopt a policy regarding the uniform admission requirements. The BOG shall report the adopted policy to Education Oversight by November 21, 1997.

The act is effective upon becoming law.

Background: . All applicants for admission a UNC constituent institutions must meet the Minimum Admission Requirements (MAR) as set by the BOG. Admissions officers evaluate a student's transcript to determine if those requirements have been met. The BOG and the State Board of Education have developed a uniform high school transcript for North Carolina public schools. The transcript is designed to provide, among other things, uniform course designations that align with the BOG's MAR.

Students applying from home schools, private schools, or schools with unconventional grading practices may present transcripts that do not clearly indicate that a student has met the MAR. Prior to February of 1997, The University of North Carolina did not have a uniform, system-wide policy regarding the procedures an admission officer could use if questions arose regarding whether a student had met the MAR. Some constituent institutions did not have a policy, some dealt with the issue on a case-by-case basis, and at least one had a policy that required additional tests and minimum test scores of all students applying from a home school, a non-accredited school, or a school with unconventional grading practices.

On February 20, 1997, President Spangler adopted a uniform, system-wide policy for addressing questions regarding whether a student from home school, a non-accredited school, or

a school with a nontraditional grading system has met the MAR. The policy is permissive in that it allows admission officers discretion regarding whether to require additional tests. It is prescriptive in that it limits the tests that may be required and temporarily prohibits the establishment of minimum test scores.

H746-SMRC-003

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
June 4, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charles Robb	UNC General Administration
Meredith Miller	UNC General Administration
Melissa Ray	Gov's Office
Karen Garr	Gov's Office
[illegible]	NCAICU
[illegible]	UNC
[illegible]	UDC
Brian Washington	NCAE
Joe Haas	NCCSA
Emmett Floyd	East Carolina
[illegible]	Public School Forum
Sarah Stewart	AFT/NC

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
June 4, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stephen Jenkins	NC JCDC
John Kostic	NCFTC
Helen Lipsman	Mech. Co.
Leslie Bewaagen	NCCBI
Jeanne Ford	Senator Rammand's office
Dorothy Hunter	NCCCS
Hal Miller	NCACCT
William B. Reingold	District Court Judge
Roger Burroughs	Forsyth Co.
Leanne E Winner	EC&HS
Joyce Peters	EEBC

EDUCATION/HIGHER EDUCATION

AGENDA

June 11, 1997

HB 769 DROPOUT PREVENTION/DRIVERS LICENSE
Representative Wilma Sherrill

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, June 11, 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, June 11, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Sixteen of the members of the Committee attended the meeting, including the Co-Chair, Senator Lee, who presided. Senator Lee introduced Abbey Moines and Kate Canniest from pages from Greenville, sponsored by Senator Warren. Also, Bobby Guthrie II from Gastonia, sponsored by Senator Hoyle and Mark Grigg, sponsored by Senator Rand.

Senator Lee introduced Senator Winner to speak on HB1099, Short Title: Kindergarten Entry/Gifted Students. Senator Winner explained that this Committee Substitute was drawn to amend a technical error in the original Committee Substitute. Senator Horton moved for a favorable report. The Committee voted to give an unfavorable as to Committee Substitute Bill No. 1, but favorable as to Senate Committee Substitute Bill.

Senator Warren introduced the Principle of the Year, Mrs. Judy Bodese, who addressed the Committee.

Senator Lee introduced Representative Sherrill to speak on HB769, Short Title: Dropout Prevention/Drivers License. Senator Winner sent forth an amendment for HB769. The Committee voted to adopt the amendment. After some discussion, the Committee decided to appoint a sub-committee, Chaired by Senator Dalton, and members Senator Allran, Senator Martin, and Senator Winner, to bring a Committee Substitute back to the next meeting.

The Committee was adjourned at 10:58 a.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Howard Lee, Co-Chair
Senator Leslie Winner, Co-Chair

CORRECTED REPORT

Wednesday, June 11, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

H.B.(SCS #1)	**1099**	Kindergarten Entry/Gifted Students.	
		Draft Number:	PCS 2348
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 769
Committee Substitute Favorable 4/21/97
Committee Substitute #2 Favorable 5/7/97
Fourth Edition Engrossed 5/29/97

Short Title: Dropout Prevention/Drivers License. (Public)

Sponsors:

Referred to:

April 3, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11, as amended by Chapter 16 of the 1997 Session Laws, reads as rewritten:

"**§ 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.**

(a) Process. -- Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

(1) Level 1. -- Driving with a limited learner's permit.

(2) Level 2. -- Driving with a limited provisional license.

(3) Level 3. -- Driving with a full provisional license.

A permit or license issued under this section must have a color background or border that indicates the level of driving privileges granted by the permit or license.

(b) Level 1. -- A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

(1) Passes a course of driver education prescribed in G.S. 20-88.1 or a course of driver instruction at a licensed commercial driver training school.
(2) Passes a written test administered by the Division.
(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. -- A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The permit holder must be in possession of the permit.
(2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.
(3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.
(4) After the first six months after issuance, the permit holder may drive at any time.
(5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(d) Level 2. -- A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

(1) Has held a limited learner's permit issued by the Division for at least 12 months.
(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
(3) Passes a road test administered by the Division.
(4) Has a driving eligibility certificate or a high school diploma or its equivalent.

(e) Level 2 Restrictions. -- A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The license holder must be in possession of the license.
(2) The license holder may drive without supervision in any of the following circumstances:
   a. From 5:00 a.m. to 9:00 p.m.
   b. When driving to or from work.
   c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.

(3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver must be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but must be the person seated next to the license holder.

(4) Every person occupying the vehicle being driven by the license holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(f) Level 3. -- A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

(1) Has held a limited provisional license issued by the Division for at least six months.

(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.

(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. -- The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license.

(h) Out-of-State Exceptions. -- A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the ~~following:~~ following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

(1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.

(2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another

jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(i) Application. -- An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be the applicant's parent or guardian if the parent or guardian resides in this State and is qualified to be a supervising driver. In all other circumstances, that person must be an adult approved by the Division.

(j) Duration and Fee. -- A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ten dollars ($10.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. -- A supervising driver must be a parent or guardian of the permit holder or license holder if a parent or guardian signed the application for the permit or license. If a parent or guardian did not sign the application, the supervising driver must be the adult who signed the application. A supervising driver must be a licensed driver who has been licensed to drive for at least five years.

(l) Violations. -- It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176.

(m) Insurance Status. -- The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent, must have a driving eligibility certificate that proves the person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent. The driving eligibility certificate must be on a form approved by the Division, must be dated within 30 days of the date the person applies for a permit or license issuable under this section, and must be signed by the applicable person named below:

(1) The principal, or the principal's designee, of the public school in which the person is enrolled.
(2) The administrator, or the administrator's designee, of the private school or home school in which the person is enrolled.
(3) The designee of the board of directors of the charter school in which the person is enrolled.
(4) A representative of the community college, or the representative's designee, in which the person is enrolled. The State Board of Community Colleges shall adopt guidelines to assist community colleges in their designation of this representative."

Section 2. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c1) The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person has quit school. Notwithstanding subsection (d) of this section, the length of revocation will be at least 90 days and may last until the person's eighteenth birthday. The Division may restore a person's permit or license after the initial 90-day period, and before the person's eighteenth birthday, if the person submits to the Division one of the following:
(1) A high school diploma or its equivalent.
(2) A driving eligibility certificate as required under G.S. 20-11(n)."

Section 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(26) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. -- The State Board of Education shall issue rules defining what is equivalent to a high school diploma for the purposes of G.S. 20-11. It shall also issue rules for the procedures a person must follow and the requirements a person must meet to obtain a driving eligibility certificate. A person must be given a driving eligibility certificate if the person is making progress towards obtaining a high school diploma or its equivalent. A person may be given a driving eligibility certificate in either one of the following circumstances:
a. If a hardship would be placed on the person or the person's family if the person did not receive the certificate.
b. If it is determined that the person cannot make progress towards obtaining a high school diploma.

Rules adopted under this subdivision shall not apply to nonpublic schools not accredited by the State Board. The rules shall provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate."

Section 4. The State Board of Education, in collaboration with the Office of Non-Public Education in the Office of the Governor and with the State Board of Community Colleges, shall develop policies directing the appropriate education authorities to notify the Division of Motor Vehicles whenever a student under the age of 18 quits school before obtaining a high school diploma or its equivalent.

Section 5. The State Board of Education shall study the effectiveness of this act on the dropout rates and progress toward graduation of students under the age of 18 and shall report the results of the study to the 2000 Session of the General Assembly by filing a copy of a report with the Speaker of the House of Representatives, with the President Pro Tempore of the Senate, and with the Fiscal Research Division prior to the first day of that legislative session.

Section 6. Sections 1 and 2 of this act become effective August 1, 1998. The remainder of this act is effective when it becomes law. The rules required by Section 3 of this act shall be issued by the State Board of Education no later than March 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

Law. Re-referred

H D

HOUSE BILL 1099
Proposed Senate Committee Substitute H1099-PCSRJ-003
LINE NUMBERS MAY CHANGE AFTER ADOPTION
10-JUN-97 15:10:43

Short Title: Kindergarten Entry/Gifted Students. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SCHOOL PRINCIPALS TO ADMIT CERTAIN GIFTED STUDENTS TO KINDERGARTEN REGARDLESS OF THEIR BIRTH DATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 is amended by adding a new subsection to read:

"(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

Section 2. This act is effective when it becomes law.

EXPLANATION OF HOUSE BILL 769:
Dropout Prevention/Drivers License – 4th Edition

TO: Senate Education Committee
FROM: Robin S. Johnson, Committee Counsel
DATE: June 6, 1997
SPONSOR: Representative Sherrill

House Bill 769 seeks to encourage students to stay in school by making school enrollment a prerequisite to obtaining and keeping a permit or license to drive. The requirements of the bill would become effective August 1, 1998.

Under section 1 of the bill, a person under the age of 18 must have a driving eligibility certificate or a high school diploma or its equivalent before the person may obtain a limited learner's permit, a limited provisional license, or a full provisional license. A driving eligibility certificate is documentation certifying that the person is currently enrolled in school and is making progress towards graduation. Section 3 of the bill directs the State Board of Education to adopt rules defining what requirements a person must meet to be considered "making progress towards obtaining a high school diploma or its equivalent." Under the current administrative rules, a student athlete must pass at least five out of six courses each semester to be eligible to participate in interscholastic athletic competition. The rules concerning a driving eligibility certificate would probably be similar to these rules. These rules would apply to students in public schools, accredited nonpublic schools, charter schools, and community colleges; they would not apply to students in nonpublic schools that are not accredited by the State Board.

The bill provides that a person may be given a driving eligibility certificate even though the person may not meet the necessary requirements if the person is incapable of meeting those requirements or if denying the certificate would impose undue hardship on the person or the person's family. Some people with special needs may not be able to obtain a high school diploma. Instead, they may receive a high school certificate. The people with special needs would still need to be making adequate progress in their curriculum. The Board must adopt rules to address these exceptions and to define what is the equivalent to a high school diploma. The rules must be issued by March 1, 1998. The rules will not apply to nonpublic schools that are not accredited by the State Board (which includes home schools and other nonpublic schools).

The Division of Motor Vehicles must revoke the permit or license of a person under the age of 18 if the Division is notified by the appropriate school

authority that the person has quit school. The revocation would last for at least 90 days and could last until the person's eighteenth birthday. (The general law is that revocation is for one year.) The person's license could be restored after the 90-day period if the person submits to the Division a high school diploma or its equivalent or a driving eligibility certificate that establishes the person is back in school and is making progress towards obtaining a high school diploma or its equivalent. The restoration fee is set by statute at $25.00.

Section 4 of the bill directs the State Board of Education, in collaboration with the Office of Non-Public Education in the Office of the Governor and with the State Board of Community Colleges, to develop policies directing the appropriate authorities to notify the Division of Motor Vehicles when a student under 18 quits school before obtaining a high school diploma or its equivalent.

Section 5 of the bill directs the State Board of Education to study the effectiveness of this act on dropout rates and graduation rates. The report must be completed and submitted to the 2000 Session of the General Assembly.

ISSUE: Under present law, a person who is at least 15 years of age may be granted a limited learner's permit if the person has completed a driver's education program. A person who is at least 16 years of age may be granted a learner's permit without the necessity of completing a driver's education program. Persons with a learner's permit must drive under supervision. A person who is at least 16 years of age, but less than 18 years of age, may obtain a drivers license if the person has completed a driver's education program. A person between the ages of 16 and 18 years old who holds a driver's license, known as a provisional licensee, is not subject to any supervision restrictions.

On December 31, 1997, the graduated license provisions in House Bill 248, which has been ratified and signed by the Governor, will take effect. These provisions provide that driving privileges will be granted on a graduated basis as follows:

1) Driving for at least 12 months with a limited learners permit.
2) Driving for at least 6 months with a limited provisional license.
3) Driving until the age of 18 with a provisional license.

However, these provisions will NOT apply to any person who holds a valid North Carolina limited learner's permit, learner's permit, or drivers license issued before December 31, 1997. If House Bill 769 is enacted in its present form, it is unclear whether a person who holds a valid limited learner's permit or learner's permit license on December 31, 1997, and who applies for a drivers license after July 31, 1998, must present a driving eligibility certificate or a high school diploma or its equivalent.

VISITOR REGISTRATION SHEET

Education — 6-11-97

Name of Committee — Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Sandra W. Harvey	Pitt County Schools Greenville, NC
Mary Beth Corbin	Pitt County Schools Greenville, NC
DONNA WHITLEY	SALLIE SOUTHALL COTTEN ELEM. P.T.A. " "
Gene Causby	E-EBC
Ann Bellamy	SBE
Adriene Hill	SBE
Melissa Ray	Office of the Governor
Karen Gottovi	Gov's Office
Sarah Stewart	AFT/NC
Leslie Bevacqua	NCCBI
Phil Kirk	NCCBI
Frank Wells	Stokes County Schools
Jean Crumbley	NCASA
Ruth Sappre	NCDOT
Tony Spence	NCDMV
Susan Campbell	UNC Law
DAVA RICE	UNC-LAW
CAROLYN WALLER	UNC-LAW
[illegible]	Crest High School Shelby, N.C.
Frayda Bluestein	Institute of Government
Jeannine Bell	Institute of Government

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Nichola L. Marshall	Institute of Government
Michael P. Williams	Institute of Government
Bart Barefoot	UNC-Law
Kimberly Reed	UNC School of Law
Jeanne Ford	Senator Kinnaird
Brian Washington	NCAE
Donny Hunter	NCCCS
[illegible]	EEBC
[illegible]	NCAICU
[illegible]	[illegible]
John Austin	NCFPC
Heather Lail	OSA
Hal Miller	NCACCT
Harriett Southerland	VA10-DOT
Bob Berlam	NCSBA

EDUCATION/HIGHER EDUCATION

AGENDA

June 25, 1997

HB 769 Dropout Prevention/Drivers License
Representative Wilma Sherrill

HB 1046 NC Partnership Audit Process - Rep. Shubert

HB 1142 Tuition Waivers/Emergency Workers
Rep. Redwine

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, June 25 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, June 25, 1997, at 10:00 A.M. in Room 414 of the Legislative Office Building. Seventeen of the members of the Committee attended the meeting, including the Co-Chair, Senator Winner, who presided. Senator Winner introduced Lee Bush, from Mecklenburg County, sponsored by Senator Winner, and Jack Warren from Greenville, sponsored by Senator Warren. Also, Regina Hayes from Columbus County, sponsored by Senator Soles.

Senator Winner introduced Representative Shubert to speak on HB1046, Short Title: NC Partnership Audit Process. Representative Shubert sent forth an amendment on HB1046 and Senator Cochrane made a motion to adopt the amendment. The Committee voted in favor of the amendment. Mr. David Walker from the Smart Start Partnership explained the audit procedures and the reason it was recommended to change. Mr. Walker answered questions from the Committee.

Senator Winner introduced Mr. Jim Benson of the State Auditor's office who explained the Auditor's position on auditing the Partnership. Senator Lee made a motion to displace HB1046 to a future meeting.

The Committee was adjourned at 10:58 a.m. to reconvene at 3:00 p.m. that same day.

Senator Leslie Winner, Co-Chair

Vickie Spears, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1046

Short Title: N.C. Partnership Audit Process. (Public)

Sponsors: Representative Shubert.

Referred to: Education.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE AUDIT PROCESS FOR THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-168.12(b) reads as rewritten:

"(b) The North Carolina Partnership shall ~~be subject to~~ contract annually with an independent firm to perform a financial and compliance audit and review ~~by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the North Carolina Partnership.~~ of the North Carolina Partnership."

Section 2. The North Carolina Partnership shall choose the independent firm by competitive bid pursuant to Article 3 of Chapter 143 of the General Statutes.

Section 3. This act is effective when it becomes law and applies beginning for fiscal year 1998-99.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
HOUSE BILL 1046

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1046-ALV-1

Date_____,1997

Comm. Sub. [ ]
Amends Title [YES]

_____

moves to amend the bill on page 1, line 3, by adding at the end of the line the following: "AND THE LOCAL PARTNERSHIPS IN THE EARLY CHILDHOOD INITIATIVES PROGRAM."; and

on page 1, line 5, by inserting "(a)" after the period; and

on page 1, line 10, by adding a new subsection after the line to read:

"(b) G.S. 143B-168.14(b) reads as rewritten:

'(b) Each local partnership shall ~~be subject to~~ contract annually with an independent firm to perform a financial and compliance audit and review ~~by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits~~ of the local ~~partnerships.~~ partnership.'"; and

on page 1, line 11, by inserting between the words "Partnership" and "shall" the phrase "and each local partnership".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1046

SHORT TITLE: N.C. Partnership Audit Process

SPONSOR(S): Representative Shubert

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02
REVENUES					
EXPENDITURES:					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Office of the State Auditor, N.C. Partnership for Children, Inc.

EFFECTIVE DATE: When the bill becomes law. Applies beginning in fiscal year 1998-99.

BILL SUMMARY: *TO CHANGE THE AUDIT PROCESS FOR THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC.* Amends GS 143B-168.12(b) to require N.C. Partnership to contract annually with independent firm to perform financial and compliance audit and review (now, State Auditor conducts audit). Partnership must choose firm by competitive bid under Article. 3, General Statute Chapter 143.

ASSUMPTIONS AND METHODOLOGY: The Office of the State Auditor spends about 450 hours per year performing financial and compliance audits for the North Carolina Partnership, and about 150 hours per year providing financial-related technical assistance. The hourly billing rate for State audit work, as computed for federal reimbursement, is $50. The State Auditor, the Partnership, and the North Carolina Association of Certified Public Accountants believe that an outside accounting firm would charge a higher hourly rate than the Auditor, and would probably spend less time performing the audit work. Higher hourly rates would increase the cost to the State, whereas reduced audit hours would reduce costs to the State. In the absence of formal

estimates or bids from outside accounting firms, we cannot estimate how much more per hour an outside firm would charge, nor can we estimate how much less time the firm would spend on audit-related work.

SOURCES OF INFORMATION: State Auditor, North Carolina Partnership for Children, North Carolina Association of Certified Public Accountants.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Evan Rodewald, Mary Ellen Sylvester
APPROVED BY: Tom Covington
DATE: June 3, 1997

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
June 25, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura Stewart	AFT/NC
Brian Koehler	SOS
Rob Schofield	NCJCA
Heather Fair	OSA
Hal Miller	NCACCT
Carrie Hartley	Off. of Gov
Melissa Ray	OH. of Gov.
Karen Gaul	Gov.'s Office
Bobbie L. Walters	NC FOP
Jeff Ensminger	NC FOP

EDUCATION/HIGHER EDUCATION

AGENDA

June 25, 1997

HB 769 **Dropout Prevention/Drivers License**
Representative Wilma Sherrill

HB 1046 **NC Partnership Audit Process - Rep. Shubert**

HB 1142 **Tuition Waivers/Emergency Workers**
Rep. Redwine

SENATE COMMITTEE
ON EDUCATION/HIGHER EDUCATION

Wednesday, June 25 1997

MINUTES

The Senate Committee on Education/Higher Education met on Wednesday, June 25, 1997, at 3:00 P.M. in Room 414 of the Legislative Office Building. Seventeen of the members of the Committee attended the meeting, including the Co-Chair, Senator Winner, who presided.

Senator Winner introduced Senator Dalton who chaired the sub-committee on HB 769, Short Title: Dropout Prevention/Drivers License, to explain the sub-committee's report. The sub-committee submitted a Committee Substitute. Senator Dalton moved that the Committee adopt the Committee Substitute for purposes of discussion. After some discussion and questions the Committee voted for a favorable report as the Senate Committee Substitute, but unfavorable as to the original bill.

The Committee was adjourned at 3:48 p.m.

Leslie Winner
Senator Leslie Winner, Co-Chair

Vickie Spears
Vickie Spears, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Sen. Leslie Winner, Co-Chair
Sen. Howard Lee, Co-Chair

Thursday, June 26, 1997

SEN. WINNER,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #2)769 Dropout Prevention/Drivers License.

Draft Number:	PCS4128
Sequential Referral:	None
Recommended Referral:	Finance, then Appropriations
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: Senator Winner to sign.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 769
Committee Substitute Favorable 4/21/97
Committee Substitute #2 Favorable 5/7/97
Fourth Edition Engrossed 5/29/97

Short Title: Dropout Prevention/Drivers License. (Public)

Sponsors:

Referred to:

April 3, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11, as amended by Chapter 16 of the 1997 Session Laws, reads as rewritten:

"§ 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.

(a) Process. -- Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

(1) Level 1. -- Driving with a limited learner's permit.

(2) Level 2. -- Driving with a limited provisional license.

(3) Level 3. -- Driving with a full provisional license.

A permit or license issued under this section must have a color background or border that indicates the level of driving privileges granted by the permit or license.

(b) Level 1. -- A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

(1) Passes a course of driver education prescribed in G.S. 20-88.1 or a course of driver instruction at a licensed commercial driver training school.
(2) Passes a written test administered by the Division.
(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. -- A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The permit holder must be in possession of the permit.
(2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.
(3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.
(4) After the first six months after issuance, the permit holder may drive at any time.
(5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(d) Level 2. -- A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

(1) Has held a limited learner's permit issued by the Division for at least 12 months.
(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
(3) Passes a road test administered by the Division.
(4) Has a driving eligibility certificate or a high school diploma or its equivalent.

(e) Level 2 Restrictions. -- A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The license holder must be in possession of the license.
(2) The license holder may drive without supervision in any of the following circumstances:
   a. From 5:00 a.m. to 9:00 p.m.
   b. When driving to or from work.
   c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.

(3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver must be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but must be the person seated next to the license holder.

(4) Every person occupying the vehicle being driven by the license holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(f) Level 3. -- A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

(1) Has held a limited provisional license issued by the Division for at least six months.

(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.

(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. -- The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license.

(h) Out-of-State Exceptions. -- A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the ~~following.~~ following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

(1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.

(2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another

jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(i) Application. -- An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be the applicant's parent or guardian if the parent or guardian resides in this State and is qualified to be a supervising driver. In all other circumstances, that person must be an adult approved by the Division.

(j) Duration and Fee. -- A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ten dollars ($10.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. -- A supervising driver must be a parent or guardian of the permit holder or license holder if a parent or guardian signed the application for the permit or license. If a parent or guardian did not sign the application, the supervising driver must be the adult who signed the application. A supervising driver must be a licensed driver who has been licensed to drive for at least five years.

(l) Violations. -- It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176.

(m) Insurance Status. -- The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent, must have a driving eligibility certificate that proves the person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent. The driving eligibility certificate must be on a form approved by the Division, must be dated within 30 days of the date the person applies for a permit or license issuable under this section, and must be signed by the applicable person named below:

(1) The principal, or the principal's designee, of the public school in which the person is enrolled.
(2) The administrator, or the administrator's designee, of the private school or home school in which the person is enrolled.
(3) The designee of the board of directors of the charter school in which the person is enrolled.
(4) A representative of the community college, or the representative's designee, in which the person is enrolled. The State Board of Community Colleges shall adopt guidelines to assist community colleges in their designation of this representative."

Section 2. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c1) The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person has quit school. Notwithstanding subsection (d) of this section, the length of revocation will be at least 90 days and may last until the person's eighteenth birthday. The Division may restore a person's permit or license after the initial 90-day period, and before the person's eighteenth birthday, if the person submits to the Division one of the following:

(1) A high school diploma or its equivalent.
(2) A driving eligibility certificate as required under G.S. 20-11(n)."

Section 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(26) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. -- The State Board of Education shall issue rules defining what is equivalent to a high school diploma for the purposes of G.S. 20-11. It shall also issue rules for the procedures a person must follow and the requirements a person must meet to obtain a driving eligibility certificate. A person must be given a driving eligibility certificate if the person is making progress towards obtaining a high school diploma or its equivalent. A person may be given a driving eligibility certificate in either one of the following circumstances:

a. If a hardship would be placed on the person or the person's family if the person did not receive the certificate.
b. If it is determined that the person cannot make progress towards obtaining a high school diploma.

Rules adopted under this subdivision shall not apply to nonpublic schools not accredited by the State Board. The rules shall provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate."

Section 4. The State Board of Education, in collaboration with the Office of Non-Public Education in the Office of the Governor and with the State Board of Community Colleges, shall develop policies directing the appropriate education authorities to notify the Division of Motor Vehicles whenever a student under the age of 18 quits school before obtaining a high school diploma or its equivalent.

Section 5. The State Board of Education shall study the effectiveness of this act on the dropout rates and progress toward graduation of students under the age of 18 and shall report the results of the study to the 2000 Session of the General Assembly by filing a copy of a report with the Speaker of the House of Representatives, with the President Pro Tempore of the Senate, and with the Fiscal Research Division prior to the first day of that legislative session.

Section 6. Sections 1 and 2 of this act become effective August 1, 1998. The remainder of this act is effective when it becomes law. The rules required by Section 3 of this act shall be issued by the State Board of Education no later than March 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

DRAFT

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H769-PCSRH-003
PROPOSED SENATE COMMITTEE SUBSTITUTE
HOUSE BILL 769
Committee Substitute Favorable 4/21/97
Committee Substitute Favorable 5/7/97
Fourth Edition Engrossed 5/29/97
THIS IS A DRAFT 24-JUN-97 11:46:16
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Dropout Prevention/Drivers License. (Public)

Sponsors:

Referred to:

April 3, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11, as amended by Chapter 16 of the 1997 Session Laws, reads as rewritten:

"**§ 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.**

(a) Process. -- Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

(1) Level 1. -- Driving with a limited learner's permit.

(2) Level 2. -- Driving with a limited provisional license.

(3) Level 3. -- Driving with a full provisional license.

A permit or license issued under this section must have a color background or border that indicates the level of driving privileges granted by the permit or license.

(b) Level 1. -- A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

(1) Passes a course of driver education prescribed in G.S. 20-88.1 or a course of driver instruction at a licensed commercial driver training school.

(2) Passes a written test administered by the Division.

(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. -- A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The permit holder must be in possession of the permit.

(2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

(3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.

(4) After the first six months after issuance, the permit holder may drive at any time.

(5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(d) Level 2. -- A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

(1) Has held a limited learner's permit issued by the Division for at least 12 months.

(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.

(3) Passes a road test administered by the Division.

(4) Has a driving eligibility certificate or a high school diploma or its equivalent.

(e) Level 2 Restrictions. -- A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:

(1) The license holder must be in possession of the license.

(2) The license holder may drive without supervision in any of the following circumstances:

a. From 5:00 a.m. to 9:00 p.m.

b. When driving to or from work.

c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.

(3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver must be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but must be the person seated next to the license holder.

(4) Every person occupying the vehicle being driven by the license holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(f) Level 3. -- A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

(1) Has held a limited provisional license issued by the Division for at least six months.

(2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.

(3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. -- The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license.

(h) Out-of-State Exceptions. -- A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by

that state, and who becomes a resident of this State may obtain one of the ~~following:~~ following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

(1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.

(2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(i) Application. -- An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be the applicant's parent

or guardian if the parent or guardian resides in this State and is qualified to be a supervising driver. In all other circumstances, that person must be an adult approved by the Division.

(j) Duration and Fee. -- A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ten dollars ($10.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. -- A supervising driver must be a parent or guardian of the permit holder or license holder if a parent or guardian signed the application for the permit or license. If a parent or guardian did not sign the application, the supervising driver must be the adult who signed the application. A supervising driver must be a licensed driver who has been licensed to drive for at least five years.

(l) Violations. -- It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176.

(m) Insurance Status. -- The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent, must have a driving eligibility certificate. A driving eligibility certificate must meet the following conditions:

(1) The person who is required to sign the certificate under subdivision (4) of this subsection must show that he or she has determined that one of the following requirements is met:

a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.
c. The person cannot make progress towards obtaining a high school diploma or its equivalent.

(2) It must be on a form approved by the Division.
(3) It must be dated within 30 days of the date the person applies for a permit or license issuable under this section.
(4) It must be signed by the applicable person named below:
a. The principal, or the principal's designee, of the public school in which the person is enrolled.
b. The administrator, or the administrator's designee, of the nonpublic school in which the person is enrolled.
c. The person who provides the academic instruction in the home school in which the person is enrolled.
d. The designee of the board of directors of the charter school in which the person is enrolled.
e. The president, or the president's designee, of the community college in which the person is enrolled.

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 2. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c1) The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n). Notwithstanding subsection (d) of this section, the length of revocation must last until the person's eighteenth

birthday or until the Division restores the permit or license under this subsection. The Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

(1) A high school diploma or its equivalent.

(2) A driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(27) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. -- The State Board of Education shall issue rules defining what is equivalent to a high school diploma for the purposes of G.S. 20-11. These rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

The State Board also shall issue rules for the procedures a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

a. The person seeking the certificate is currently enrolled in school and is making progress towards obtaining a high school diploma or its equivalent.

b. A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.

c. The person seeking the certificate cannot make progress towards obtaining a high school diploma or its equivalent.

These rules shall provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board no longer meets the requirements for a driving eligibility certificate."

Section 4. G.S. 115D-5 is amended by adding the following new subsection to read:

"(a3) The State Board of Community Colleges shall issue rules for the procedures a person who is or was enrolled in a community college must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

(1) The person seeking the certificate is currently enrolled in school and is making progress towards obtaining a high school diploma or its equivalent.

(2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.

(3) The person seeking the certificate cannot make progress towards obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal through the grievance procedures established by the board of trustees of each community college by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a community college no longer meets the requirements for a driving eligibility certificate. The State Board also shall adopt guidelines to assist the presidents of community colleges in their designation of representatives to sign driving eligibility certificates."

Section 5. Article 39 of Chapter 115C of the General Statutes is amended by adding the following new Part:

"Part 4. Miscellaneous Requirements.

§ 115C-566. Driving eligibility certificates; requirements.

The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor, shall issue rules for the procedures a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

(1) The person seeking the certificate is currently enrolled in school and is making progress towards obtaining a high school diploma or its equivalent.

(2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.

(3) The person seeking the certificate cannot make progress towards obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate."

Section 6. The State Board of Education shall initiate and coordinate meetings with the Division of Nonpublic Education in the Office of the Governor and with the State Board of Community Colleges in order to develop coordinated rules, policies, and guidelines needed to implement this act.

Section 7. The State Board of Education shall study the effectiveness of this act on the dropout rates and progress toward graduation of students under the age of 18 and shall report the results of this study to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by November 15, 2002.

Section 8. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement this act may adopt temporary rules to implement this act. This section shall continue in effect until all rules necessary to implement this act have become effective as either temporary or permanent rules.

Section 9. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 10. Sections 1 and 2 of this act become effective August 1, 1998. The remainder of this act is effective when it becomes law. Sections 1 and 2 of this act do not apply to any person who holds a valid North Carolina limited learner's permit issued before December 1, 1997, who holds a valid North Carolina learner's permit issued before December 1, 1997, or who is a provisional licensee and holds a valid North Carolina drivers license issued before December 1, 1997.

EXPLANATION OF HOUSE BILL 769:
Dropout Prevention/Drivers License
Proposed Senate Education Committee Substitute

TO: Senate Education Committee
FROM: Robin S. Johnson, Committee Counsel
DATE: June 25, 1997
SPONSOR: Representative Sherrill

House Bill 769 seeks to encourage students to stay in school by making school enrollment a prerequisite to obtaining and keeping a permit or license to drive. The requirements of the bill would become effective August 1, 1998.

The bill provides that a person under the age of 18 must have a driving eligibility certificate or a high school diploma or its equivalent before the person may obtain a limited learner's permit, a limited provisional license, or a full provisional license. A driving eligibility certificate must be on a form approved by the Division of Motor Vehicles, must be dated within 30 days of the date when the person applies for a permit or license, and must be signed by an appropriate educational entity who indicates that he or she has determined that (i) the person is currently enrolled in school and is making progress towards graduation, (ii) a substantial hardship would be placed on the person or the person's family if the person does not receive the certificate, or (iii) the person cannot make progress towards graduation.

The bill directs the State Board of Education to adopt rules applicable to all educational entities that define what requirements a person must meet to be considered "making progress towards obtaining a high school diploma or its equivalent." Under the current administrative rules, a student athlete must pass at least five out of six courses each semester to be eligible to participate in interscholastic athletic competition. The rules concerning a driving eligibility certificate probably would be similar to these rules. The Board also must adopt rules for the procedures a person who was or is enrolled in a public school, charter school, or nonprofit school that is accredited by the Board must follow and the requirements that person must meet in order to obtain a certificate. These rules also must provide for an appeal to an appropriate educational entity because the issue of whether a certificate was properly issued or improperly denied cannot be appealed to the Division of Motor Vehicles. The State Board of Community Colleges must adopt similar rules for students who were or are enrolled in a community college. The Department of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor, must adopt similar rules for students who were or are enrolled in home schools or nonpublic schools that are not accredited by the State Board of Education. The State Board of Education must initiate and coordinate meetings with the Board of Community Colleges and the Division of Nonpublic

Education so that the rules, procedures, and guidelines needed to implement the act are coordinated. In addition, Section 8 of the bill gives temporary rulemaking authority to the agencies that must adopt rules to implement this act.

The Division of Motor Vehicles must revoke the permit or license of a person under the age of 18 if the Division is notified by the appropriate school authority that the person has quit school. The revocation would last until the person's eighteenth birthday or until the Division restores the permit or license. (The general law is that revocation is for one year.) The person's license or permit must be restored if the person submits to the Division a high school diploma or its equivalent or a driving eligibility certificate. The restoration fee is set by statute at $25.00.

Section 7 of the bill directs the State Board of Education to study the effectiveness of this act on dropout rates and graduation rates. The report must be completed and submitted to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by November 15, 2002.

The PCS adds a "savings provision" to ensure that if any of the bill's provisions are declared unconstitutional or invalid by the courts, then the other provisions of the bill will remain in effect.

CONNECTION TO GRADUATED DRIVERS LICENSES: Under present law, a person who is at least 15 years of age may be granted a limited learner's permit if the person has completed a driver's education program. A person who is at least 16 years of age may be granted a learner's permit without the necessity of completing a driver's education program. Persons with a learner's permit must drive under supervision. A person who is at least 16 years of age, but less than 18 years of age, may obtain a drivers license if the person has completed a driver's education program. A person between the ages of 16 and 18 years old who holds a driver's license, known as a provisional licensee, is not subject to any supervision restrictions.

On December 31, 1997, the graduated license provisions in House Bill 248, which has been ratified and signed by the Governor, will take effect. These provisions provide that driving privileges will be granted on a graduated basis as follows:

1) Driving for at least 12 months with a limited learners permit.
2) Driving for at least 6 months with a limited provisional license.
3) Driving until the age of 18 with a provisional license.

However, these provisions will NOT apply to any person who holds a valid North Carolina limited learner's permit, learner's permit, or drivers license issued before December 31, 1997. The PCS clarifies that House Bill 769 will not apply to those individuals, either.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 769 (Proposed Committee Substitute)

SHORT TITLE: Dropout Prevention/Drivers License

SPONSOR(S): Rep. Sherrill

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02
REVENUES					
Highway Fund	see **ASSUMPTIONS AND METHODOLOGY**				
EXPENDITURES					
Highway Fund	$72,000	see **ASSUMPTIONS AND METHODOLOGY**			
General Fund	see **ASSUMPTIONS AND METHODOLOGY**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles, State Board of Education, Community College System

EFFECTIVE DATE: Sections one and two of the act are effective August 1, 1998. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: The bill will revoke or deny a learner's permit or provisional drivers license of a person under age 18 who drops out of high school or who is not making progress toward graduation. For new licensees, the student must present to the Division of Motor Vehicles (DMV) a driving eligibility certificate issued by the school or a high school diploma. Similarly, if a license is revoked, the student must wait at least 90 days and must present to DMV a driving eligibility certificate or a high school diploma. The driving eligibility certificate "proves the person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent".

ASSUMPTIONS AND METHODOLOGY:

General Fund - Expenditure

Beginning in FY 1998-99, HB 769 could increase the General Fund budget for the public schools and for the Community College system if it is successful in encouraging students to stay in school.

There were 17,844 high school dropouts in FY 1994-95 and 18,203 dropouts in FY 1995-96. For each student who remains in public school who might have dropped out or a student who returns after dropping out, the state will incur a cost of $3,196 per ADM in FY 1997-98. (For a student with special needs, the ADM cost is $5,327.) If the approximately 18,000 potential dropouts [100%] each year remained in school, then the continuation budget for public schools would be increased by $57.5 million.

In FY 1996-97, there are 4,821 sixteen and seventeen year olds in GED or Adult High School programs that cost the state $1.6 million. This is an average of $332 per student. High school dropouts could turn to the Community College system for a GED in order to qualify for a drivers license. If all 18,000 dropouts each year attended GED classes at a Community College, then a $6 million appropriation would be needed to cover the costs.

NOTE: A question was asked in House Finance Committee about the impact of this bill on welfare payments. The sanctions already in place in the welfare system make it unlikely that a teenager will dropout to work full time and not get a driver's license. A teenage parent must be in school to receive welfare or he/she will be sanctioned and the payment reduced. In addition, the child of a welfare recipient must also be in school or the family will be sanctioned and their payment will be reduced. The teenager can work, but it must be after school.

Highway Fund - Revenue

In addition to waiting 90 days and presenting a driving eligibility certificate or a high school diploma to DMV, a high school dropout wanting to reapply for a drivers license must pay a $25 restoration fee (G. S. 20-7). The revenue from this restoration fee is deposited into the Highway Fund. No revenue estimate can be projected for this fee. If the law persuades students to remain in school, then few restoration fees would be collected. However, if the dropout rate continues at approximately 18,000 students a year, then part of those students will return to school or get a GED and qualify for license restoration.

Highway Fund - Expenditure

The Department of Transportation estimates that it will cost $72,000 in FY 1997-98 to modify the DMV computer system to accommodate the changes made by HB 769. The cost is based on 1,200 hours of programming at $60 an hour. This work must be done before the act takes effect in August 1998.

A recurring cost for DMV beginning in FY 1998-99 is postage for mailing license suspension notices to high school dropouts each year. At a dropout rate of 18,000 students a year and postage at 32 cents per notice, the maximum cost of the mailing would be $5,760 per year.

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
June 25, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenn Mercer	Public School Forum of NC
David Walker	NC Partnership for Children
Valarie Hill	NC Community College System
Adrienne Hill	SBE
Harriet Dial	NCAE
Bill Wilson	NCAE
Tony Spence	DOT/DMV
Ruth Saffir	NCDOT
Clifton Flood	NC Office of State Auditor
Jimmy Benson	"
Tom McDowell	NCAHCH
J Crutchfield	NCASA

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
June 25, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emery P. Dalesio	The Associated Press
Melissa Ray	Office of the Governor
Valerie Hix	Community Colleges
Tony Spence	DMV
[illegible]	Public School Forum
[illegible]	NCAICU
Nancy Bradley	NC Citizens for Business & Industry
Jan Cratts	NCASA - NC. Assoc. of School Administrators
Gene Causby	E - BSC (Edu'c. Everybody's Business Coalition)
Carrie Hartley	Office of Governor

SENATE EDUCATION/HIGHER EDUCATION

AGENDA

JULY 9, 1997

-- Consideration of State Board of Education Appointments

-- HB 1142 -Tuition Waivers/Emergency Workers
Representative David Redwine

-- HB 88 - State Board of Education Subpoena Power
Representative Jean Preston

-- SB 889 - American Sign Language
Senator Bill Martin

MINUTES

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION

JULY 9, 1997

The Senate Committee on Education/Higher Education met at 9:30, Wednesday, July 9, 1997, in Room 414, Legislative Office Building. Thirteen members were present.

Senator Howard Lee, Co-Chairman, presided. The following items were on the agenda for consideration:

Consideration of State Board of Education Appointments.

HB 1142 - Tuition Waivers/Emergency Workers.

HB 88 - State Board of Education Subpoena Power.

SB 889 - American Sign Language.

Appointments for the State Board of Education were considered. The appointees being considered were:

Jay M. Robinson

Evelyn Burton Monroe

John R. Lauritzen.

Jay M. Robinson and Evelyn Burton Monroe were present and spoke briefly on their behalf. John R. Lauritzen was not able to be present. Senators Bill Martin and Hamilton Horton spoke on his behalf.

Senator Dannelly moved to accept the appointees and Senator Lucas seconded. The Committee recommended by letter to Lt. Governor Wicker and Senator Marc

Basnight, President Pro Tempore, that the Senate and General Assembly confirm these appointments. Copies of resumes of appointees are attached to these minutes.

Senator Lee recognized Representative Redwine, sponsor of House Bill 1142, Tuition Waivers/Emergency Workers. After discussion, a motion was made by Senator Dalton and seconded by Senator Foxx that an unfavorable report be given to original bill and a favorable report be given to the Proposed Committee Substitute. HB 1142 was given unfavorable report as to original bill and Proposed Committee Substitute was given a favorable report.

Representative Jean Preston was recognized as sponsor of HB 88, State Board of Education Subpoena Power. After discussion motion was made by Senator Lucas and seconded by Senator Garwood that the original bill be given a favorable report. HB 88 was given a favorable report.

Senator Lee recognized Senator Bill Martin, sponsor of SB 889, American Sign Language, and after some discussion, a motion was made by Senator Horton and seconded by Senator Forrester that the original bill be given unfavorable report and Proposed Committee Substitute, as amended, be given favorable report. Senate Bill 889 was given an unfavorable report as to original bill and a favorable report as to Proposed Committee Substitute, as amended.

There being no further business, the meeting was adjourned.

Senator Howard Lee, Co-Chairman

Meredith D. Woodlief, Clerk

AMENDED REPORT

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Howard Lee, Co-Chair
Senator Leslie Winner, Co-Chair

Thursday, July 10, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **889** Study American Sign Language.

Draft Number:	PCS 8744
Sequential Referral:	None
Recommended Referral:	Rules
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1)**1142** Tuition Waivers/Emergency Workers.

Draft Number:	PCS 7346
Sequential Referral:	Appropriations
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Howard Lee, Co-Chair
Senator Leslie Winner, Co-Chair

Wednesday, July 9, 1997

SENATOR LEE,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **88** St. Bd. of Ed./Subpoena Power.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH 27611

July 9, 1997

The Honorable Dennis A. Wicker
Lieutenant Governor
State Capitol
116 West Jones Street
Raleigh, N.C. 27603

The Honorable Marc Basnight
Senate President Pro Tempore
2007 Legislative Building
Raleigh, N.C. 27601

Dear Sirs:

The Senate Education/Higher Education Committee has reviewed the credentials of the Governor's appointments to the State Board of Education, as made pursuant to General Statute 115C-10. The Senate Education/Higher Education Committee finds that Dr. Jay M.Robinson, Mr. John R. Lauritzen and Ms. Evelyn B. Monroe are all well qualified to be members of the State Board of Education. Consequently, the Committee recommends that the Senate and the General Assembly confirm these appointments.

Sincerely,

Senator Howard Lee

Senator Leslie Winner

Senate Education/Higher Education Committee Co-Chairs

Jay M. Robinson
6612 Pleasant Pines Court
Wilmington, N.C. 28403
910/256-1170

Business Address/Telephone:	**Chairman, North Carolina State Board of Education** Office of the State Board of Education Education Building, 301 North Wilmington Street Raleigh, N.C. 27601-2825 919/715-1318 919/256-1170
Date/Place of Birth:	May 8, 1929 Mitchell County, North Carolina
Married:	Elizabeth Holland on July 25, 1951
Children:	Deborah R. Emmons and Jay M. Robinson, Jr.

EDUCATION:

Bowman High School, Bakersville, N.C.
Mars Hill Junior College, Mars Hill, N.C.
Appalachian State University, B.S. - Mathematics and Physical Education
East Tennessee State, Graduate Study - Mathematics
University of North Carolina, Chapel Hill, M.A. - School Administration
Duke University, Advanced School Administration Certificate
Duke University, Ed.D. - School Administration
American Management Association, Special Management Training for School Executives
National Academy for School Executives (Six Academies)

PROFESSIONAL EXPERIENCE:

Math Teacher and Coach, Odell School	1950 - 1954
Math Teacher and Coach, Winecoff School	1954 - 1956
Principal, Winecoff School	1956 - 1962
Principal, South Stanley High School	1962 - 1964
Assistant Superintendent, Cabarrus County Schools	1964 - 1965
Superintendent, Cabarrus County Schools	1965 - 1977
Superintendent, Charlotte-Mecklenburg Schools	1977 - 1986
Vice President for Public Affairs, UNC General Administration	1986 - 1993
Vice President for Special Projects, UNC General Administration	1993 - 1994

SPECIAL AWARDS AND RECOGNITIONS:

Liberty Bell Award, Mecklenburg Bar Association, 1983
William Spurgeon III Award, Boy Scouts of America, 1983
Davidson College, Honorary Doctor of Laws 1983
Queens College, Honorary Doctor of Humane Letters, 1983
Charlotte News, Man of the Year, 1983
Silver Beaver Award, Boy Scouts of America, 1984
Honor Superintendent, N.C. Music Educators Award, 1984
Blue Ribbon Award for Excellence in School Communications, N.C. Public Relations Association, 1984
Oak Leaf Award, N.C. Council of PTAs, 1984
U.S. Delegate, 39th Session of the International Conference on Education, UNESCO, Geneva, Switzerland, 1984
Distinguished Alumni Award, Appalachian State University, 1984
Leadership for Learning Award, American Association of School Administrators, 1985

5/5/97

SPECIAL AWARDS AND RECOGNITIONS CONTINUED

Tar Heel of the Week, *The News and Observer*, Raleigh, N.C. , 1985
U.S. Delegate to the International Seminar on Schooling, Stockholm, Sweden, 1985
Johnson C. Smith University, Honorary Doctor of Humane Letters, 1986
Catawba College, Honorary Doctor of Pedagogy, 1988
Professional Educators of North Carolina, PENC 1992 Outstanding Educator Award
North Carolina Citizens for Business and Industry, Distinguished Service Award 1993
University of North Carolina Board of Governors, University Award, 1994
The Razar Walker Award, University of North Carolina - Wilmington, 1995
The National Association of State Boards of Education, Distinguished Service Award, 1996
The J. M. Robinson Distinguished Professorship in Educational Technology, Western Carolina University, 1997

Evelyn Bruton Monroe
"Ebbie"

Graduate- University of North Carolina- Greensboro. B.S.H.E.
Former teacher
Math & Science-Chapel Hill Junior High School. Chapel Hill, NC
Vocational Home Economics-Terry Sanford High School. Fayetteville. NC
Homemaker-Married to John L. Monroe. M.D. Otolatyngologist. Pinehurst Surgical Clinic
Four sons- All four attended Moore County Public Schools
John L. Monroe. Jr.. Graduate-UNC-CH Law School with honors.Lawyer. Ford & Harrison in Atlanta
Clement C. Monroe-Graduate UNC-CH School of Dentistry-Practicing Dentistry in Fayetteville will locate in the Sandhills next year.
Fred B. Monroe-Graduate Mercer University, Macon. Ga. Law Review - Began working last fall for the North Carolina Court of Appeals.
Edward C. Monroe-Graduate UNC-CH. A.B.Chemistry- Will enter the School of Dentistry at UNC-CH this fall.
Home Address- 525 Hardee Branch Road. West End. NC 27376

Member of Community Presbyterian Church

Current Volunteer Activities - 1996-97

Have served on the Moore County Vocational Advisory Council for many years. Strong advocate of tech prep and programs for the gifted.

Serves on the Joint Committee of the Moore County Board of Education and the Sandhills Community College Board of Trustees.

Trustee-Sandhills Community College- Has chaired the personnel, finance.curriculum and student committees. Co-chaired the committee for screening applications for the search committee for selection of the college president. John Dempsey. Trustee representative on the steering committee for accreditation by Southern Association of Colleges and Schools. Served on the systems planning and missions committees for the State Board of Community Colleges. Currently chairs personnel committee. Appointed to the Sandhills Community College Board by the Moore County Board of Commissioners and Board of Education. Have served for 17 years.

Member-State Board of Education- Appointed by Governor James B. Hunt in September 1995 Member of the Program Committee. Joint Liason Committee of the Education Governing Boards and Child Fatality Task Force.

Volunteer Service Beneficial to Children

Established organized volunteer program for the public schools. Shortly after the establishment of the open classroom program. responding to a request by the superintendent of schools. I wrote and established an organized volunteer program for Southern Pines Elementary Schools. Interviewed and trained volunteers for placement in the classroom for specific tasks requested by the teaching staff. The program had its beginning when teachers at the elementary school reported needing help with students during recess. After writing a play oriented physical education program for elementary children. securing approval of the plan from the principal and teachers I recruited and trained volunteers to work with youngsters during recess. Seeing a successful program the teachers soon requested other help. Volunteers were then secured to assist in many areas such as reading. special demonstrations and school plays. Volunteer program then spread throughout the county.

Moore County School Advisory Council 14 years. Served as Chairman 7 of the 14 years.

2 years-Southern Pines Elementary School
6 years-Pinehurst Middle School
6 years-Pinecrest High School

First Woman Chairman of the Moore County Recreation Commission--responsibilities of the commission included hiring the first staff with C.E.T.A. funds. establishing senior citizens centers and summer camp programs for children.

Served on a Moore County School study committee for gifted and talented.
Committee recommended the implementation of the expansion of the program from the seventh and eight graded down to the second grade.

Pinehurst Recreation Association. Chairman. Accomplishments of the association included building the little league ball field and installing lights for the softball field. The little league field was used by the Pinecrest High School girls softball team until the softball field at Pinecrest was recently completed.

Taught Red cross swimming. life saving. boating and canoeing.

Cub Scout Den Mother for 12 years. Brownson Presbyterian Church and Community Presbyterian Church.

Co-sponsored. organized and managed the Pinehurst-West End football league for 6-8th graders.

Former Sunday School teacher for first graders and teenagers. Southern Pines Methodist and Pinehurst Community Presbyterian Church.

Board of directors for the Moore County Arts Council.

Chaired the committee for raising funds for the purchase of a grand piano for Pinehurst Middle School.

Accepted the chairmanship of Pinecrest Athletic Boosters when they were $25.000 in debt. Sponsored fund-raising activities to pay off debt.

Served on the selection committee for the Z. Smith Reynolds Scholarship Foundation

Former secretary for the United Way of Moore County.

Was an active participant in the successful campaign for the passing of the 1986 local school bond for improvement of school facilities throughout the county.

Co-ordinated a pre-event nutrition program for Pinecrest wrestlers. The program was designed to help wrestlers understand when and what foods they should eat in order to have peak performance at the time of competition.

Charter member -Parents Council of the University of North Carolina. 1985-1993
Co-chaired Parents Fund Co-chaired Council

UNC-Dental Parents Fund-Raising Committee 1993

5-97

JOHN R. LAURITZEN

604 Staunton Drive
Greensboro, NC 27410
910-855-6379
gsojohn@msn.com

John R. Lauritzen is a recently retired AT&T senior executive in the Piedmont Triad. He was AT&T's Strategic Support Services Vice President and Chairman of the Board of AT&T Services Company, Inc., a locally headquarted subsidiary.

During his 35 years with AT&T, Lauritzen held engineering and general management positions in a number of locations. During the past year, he functioned as a "loaned executive" to North Carolina A&T State University where he filled roles in strategic planning and as Acting Vice Chancellor for Development and University Relations.

Lauritzen has been based in the Triad area for 13 years. He is active in the leadership of numerous civic groups, including the Greensboro Area Chamber of Commerce (1995 Chairman); the Greensboro Development Corporation; the Guilford County Economic Development Council (Vice Chairman); the Greensboro Development Corporation; the North Carolina Citizens for Business and Industry; and the YMCA (Vice Chairman).

At the national level, he is a member of the Institute of Electronics and Electrical Engineers, served as chairman of the Electronic Industries Association Government Sector, and is a member of the Electronic Industries Foundation board of directors.

Lauritzen's active support of education includes serving as chairman of the Guilford County Workforce Investment Advisory Board, co-chairman of the Guilford County Partnership for Children; chairman of the Industry Advisory Group to North Carolina A&T State University's College of Engineering; executive board member of the Piedmont Triad Center for Advanced Manufacturing and the Guilford Institute for Leadership Development; Board of Visitors member of Greensboro College and the Center for Creative Leadership; Advisory Board member of Reading Connections, Cities in Schools, and the Southeastern University and College Coalition for Engineering Education; and a member of the University of North Carolina at Greensboro Planning Council.

H 1142. TUITION WAIVERS/EMERGENCY WORKERS. *TO WAIVE TUITION FOR CHILDREN OR SPOUSES OF CERTAIN EMERGENCY WORKERS KILLED OR DISABLED IN THE LINE OF DUTY.* Amends GS Ch. 115B to provide tuition waivers at state-supported institutions of higher education, community colleges, industrial education centers and technical institutes for survivors of police officers, firefighters or volunteer firefighters who are killed in the line of duty, and for the spouses and for the children between the ages of 17 and 23 of such emergency workers who are permanently and totally disabled in the line of duty. Effective July 1, 1997; applies with respect to deaths or disabilities occurring on or after that date.
Intro. by Redwine.
Ref. to Education GS 115B

Daily Bulletin 04/29/97

H 1142. TUITION WAIVERS/EMERGENCY WORKERS. Intro. 4/21/97. House committee substitute makes the following changes to 1st edition. Designates the Industrial Comm'n as the sole agency qualified to determine disability of emergency workers for purposes of act.

Daily Bulletin 07/10/97

H 1142. TUITION WAIVERS/EMERGENCY WORKERS. Intro. 4/21/97. Senate committee substitute makes the following changes to 2nd edition. Adds definitions of "employer," "firefighter or volunteer firefighter," and "law enforcement officer."

Daily Bulletin 08/26/97

H 1142. TUITION WAIVERS/EMERGENCY WORKERS. Intro. 4/21/97. Senate committee substitute makes the following changes to 3rd edition. Rewrites amendments to GS 115B-2 (tuition waivers for senior citizens and relatives of deceased or disabled emergency workers) to provide tuition waiver for survivor of law enforcement officer (was, police officer), firefighter, volunteer firefighter, or *rescue squad worker* killed as direct result of *traumatic injury* sustained in line of duty (was, killed in line of duty), and to spouse and children (ages 17 to 23) of law enforcement officer, firefighter, volunteer firefighter, or *rescue squad worker* permanently and totally disabled as a direct result of *traumatic injury* sustained in line of duty. Rewrites definition of "law enforcement officer" to include (1) county sheriff and (2) employee or volunteer of an employer who possesses power of arrest, who has taken law enforcement oath under GS 11-11, and who is certified as law enforcement officer under GS Ch. 17C or certified as deputy sheriff under GS Ch. 17E. Defines "rescue squad worker" as "eligible rescue squad worker" under GS 58-86-30. Defines "permanently and totally disabled as direct result of traumatic injury sustained in line of duty" to include specified law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is a NC resident and suffers disabling injury while in active service or training for active service and is determined permanently and totally disabled for compensation purposes by NC Industrial Comm'n. Provides that act is effective Oct. 1, 1997 (was, July 1, 1997) and applies to deaths or disabilities occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1142
Committee Substitute Favorable 4/29/97

Short Title: Tuition Waivers/Emergency Workers. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO WAIVE TUITION FOR CHILDREN OR SPOUSES OF CERTAIN EMERGENCY WORKERS KILLED OR DISABLED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 115B reads as rewritten:

"Tuition ~~Waiver for Senior Citizens.~~ Waivers."

Section 2. G.S. 115B-1 reads as rewritten:

"**§ 115B-1. ~~Definition.~~ Definitions.**

~~As used in this Chapter, "tuition" shall mean the~~ The following definitions apply in this Chapter:

(1) Permanently and totally disabled in the line of duty. -- A person: (i) who as a law enforcement officer, firefighter, or volunteer firefighter suffered a disabling injury while in active service or training for active service, (ii) who at the time of active service or training was a North Carolina resident, and (iii) who has been determined to be permanently and totally disabled for compensation purposes by the North Carolina Industrial Commission.

(2) Survivor. -- Any person whose parent or spouse: (i) was a law enforcement officer, a firefighter, or a volunteer firefighter, (ii) was killed while in active service or training for active service or died as a result of a service-connected disability, and (iii) at the time of active service or training was a North Carolina resident. The term

does not include the widow or widower of a law enforcement officer, firefighter, or volunteer firefighter if the widow or widower has remarried.

(3) Tuition. -- The amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of textbooks."

Section 3. G.S. 115B-2 reads as rewritten:

"§ 115B-2. Tuition waiver authorized.

State-supported institutions of higher education, community colleges, industrial education centers and technical institutes, shall permit ~~legal residents of North Carolina who have attained the age of 65~~ the following persons to attend classes for credit or noncredit purposes without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution, and provided further that such persons shall be accepted by the constituent institutions of the University of North Carolina only on a spaces-available ~~basis.~~ basis:

(1) Legal residents of North Carolina who have attained the age of 65.

(2) Any person who is the survivor of a police officer, firefighter, or volunteer firefighter killed in the line of duty.

(3) The spouse of a police officer, firefighter, or volunteer firefighter who is permanently and totally disabled in the line of duty.

(4) Any child, if the child is at least 17 years old but not yet 23 years old, whose parent is a police officer, firefighter, or volunteer firefighter who is permanently and totally disabled in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying."

Section 4. G.S. 115B-5 reads as rewritten:

"§ 115B-5. Proof of eligibility.

(a) The officials of such institutions charged with administration of this Chapter may require such proof as they deem necessary to insure that ~~the~~ a person applying to the institution as a senior citizen is eligible for the benefits provided by this Chapter.

(b) The officials of such institutions charged with administration of this Chapter shall require the following proof to insure that a person applying to the institution and who requests a tuition waiver under G.S. 115B-2(2),(3), or (4) is eligible for the benefits provided by this Chapter.

(1) The parent-child relationship shall be verified by a birth certificate, legal adoption papers, or other documentary evidence deemed appropriate by the institution.

(2) The marital relationship shall be verified by a marriage certificate or other documentary evidence deemed appropriate by the institution.

(3) The cause of death of the law enforcement officer, firefighter, or volunteer firefighter shall be verified by certification from the records of the Department of State Treasurer, the appropriate city or county law enforcement agency that employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under the Department of State Auditor, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities.

(4) The permanent and total disability shall be verified by documentation deemed necessary by the institution from the North Carolina Industrial Commission."

Section 5. Chapter 115B is amended by adding a new section to read:

"**§ 115B-5A. Student to be credited for scholarship value.**

If a person obtains a tuition waiver under G.S. 115B-2(2),(3), or (4) and the person also receives a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the person in the payment of incidental expenses of the person's attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the student."

Section 6. This act becomes effective July 1, 1997, and applies to deaths or disabilities occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1142
Committee Substitute Favorable 4/29/97
Senate Education/Higher Education Committee Substitute Adopted 7/10/97

Short Title: Tuition Waivers/Emergency Workers. (Public)

Sponsors:

Referred to: Appropriations.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO WAIVE TUITION FOR CHILDREN OR SPOUSES OF CERTAIN EMERGENCY WORKERS KILLED OR DISABLED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 115B reads as rewritten:

"Tuition ~~Waiver for Senior Citizens.~~ Waivers."

Section 2. G.S. 115B-1 reads as rewritten:

"**§ 115B-1. ~~Definition.~~ Definitions.**

~~As used in this Chapter, "tuition" shall mean the~~ The following definitions apply in this Chapter:

(1) Employer. -- The State of North Carolina and its departments, agencies, and institutions; or a county, city, town, or other political subdivision of the State.

(2) Firefighter or volunteer firefighter. -- The same as provided in G.S. 58-86-25 for 'eligible firemen'.

(3) Law enforcement officer. -- A full-time paid employee or a reserve officer of an employer who is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State or serving civil processes, and who possesses the power of arrest by virtue of an oath administered under the authority of the State.

(4) Permanently and totally disabled in the line of duty. -- A person: (i) who as a law enforcement officer, firefighter, or volunteer firefighter suffered a disabling injury while in active service or training for active service, (ii) who at the time of active service or training was a North Carolina resident, and (iii) who has been determined to be permanently and totally disabled for compensation purposes by the North Carolina Industrial Commission.

(5) Survivor. -- Any person whose parent or spouse: (i) was a law enforcement officer, a firefighter, or a volunteer firefighter, (ii) was killed while in active service or training for active service or died as a result of a service-connected disability, and (iii) at the time of active service or training was a North Carolina resident. The term does not include the widow or widower of a law enforcement officer, firefighter, or volunteer firefighter if the widow or widower has remarried.

(6) Tuition. -- The amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of textbooks."

Section 3. G.S. 115B-2 reads as rewritten:

"**§ 115B-2. Tuition waiver authorized.**

State-supported institutions of higher education, community colleges, industrial education centers and technical institutes, shall permit ~~legal residents of North Carolina who have attained the age of 65~~ the following persons to attend classes for credit or noncredit purposes without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution, and provided further that such persons shall be accepted by the constituent institutions of the University of North Carolina only on a spaces-available ~~basis.~~ basis:

(1) Legal residents of North Carolina who have attained the age of 65.

(2) Any person who is the survivor of a police officer, firefighter, or volunteer firefighter killed in the line of duty.

(3) The spouse of a police officer, firefighter, or volunteer firefighter who is permanently and totally disabled in the line of duty.

(4) Any child, if the child is at least 17 years old but not yet 23 years old, whose parent is a police officer, firefighter, or volunteer firefighter who is permanently and totally disabled in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying."

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(a) The officials of such institutions charged with administration of this Chapter may require such proof as they deem necessary to insure that ~~the~~ a person applying to the institution as a senior citizen is eligible for the benefits provided by this Chapter.

(b) The officials of the institutions charged with administration of this Chapter shall require the following proof to insure that a person applying to the institution and who requests a tuition waiver under G.S. 115B-2(2),(3), or (4) is eligible for the benefits provided by this Chapter.

(1) The parent-child relationship shall be verified by a birth certificate, legal adoption papers, or other documentary evidence deemed appropriate by the institution.

(2) The marital relationship shall be verified by a marriage certificate or other documentary evidence deemed appropriate by the institution.

(3) The cause of death of the law enforcement officer, firefighter, or volunteer firefighter shall be verified by certification from the records of the Department of State Treasurer, the appropriate city or county law enforcement agency that employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under the Department of State Auditor, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities.

(4) The permanent and total disability shall be verified by documentation deemed necessary by the institution from the North Carolina Industrial Commission."

Section 5. Chapter 115B is amended by adding a new section to read:

"**§ 115B-5A. Student to be credited for scholarship value.**

If a person obtains a tuition waiver under G.S. 115B-2(2),(3), or (4) and the person also receives a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the person in the payment of incidental expenses of the person's attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the student."

Section 6. This act becomes effective July 1, 1997, and applies to deaths or disabilities occurring on or after that date.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory Goldsmith, Committee Counsel

DATE: January 20, 1998

RE: **H 88. STATE BOARD OF EDUCATION SUBPOENA POWER.**

House Bill 88 was recommended by the Joint Legislative Education Oversight Committee at the request of the State Board of Education. The Bill would allow the State Board to issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with Board proceedings to suspend or revoke certificates.

The Bill also directs the Board to adopt rules for the suspension and revocation of certificates. The Board, in fact, has rules it adopted under the authority of the State Constitution, which provides the Board is to "supervise and administer the free public school system and the educational funds provided for its support," and to "make all needed rules and regulations in relation thereto, subject to the laws enacted by the General Assembly." Attached is a copy of the Board's current rule pertaining to certificate suspension and revocation.

House Bill 88 is effective when it becomes law.

H88-SMRC-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 88*

Short Title: St. Bd. of Ed./Subpoena Power. (Public)

Sponsors: Representatives Preston, Grady, Black, McMahan, Owens, Rogers; Culp, Dockham, Moore, Mosley, Shubert, Warner, and Watson.

Referred to: Education, if favorable, Judiciary I.

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO GRANT SUBPOENA POWER TO THE STATE BOARD OF EDUCATION IN CASES INVOLVING THE SUSPENSION OR REVOCATION OF CERTIFICATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-296(d) reads as rewritten:

"(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates. In addition, the State Board ~~of Education~~ may revoke or refuse to renew a teacher's certificate when:

(1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37; and

(2) The assistance team assigned to that school under G.S. 115C-105.38 makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates."

Section 2. This act is effective when it becomes law.

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TO: Senators Lee and Winner, Cochairs, Senate Education/Higher Education Committee

FROM: Kory Goldsmith, Committee Counsel

DATE: January 20, 1998

RE: **S 889 (Proposed Comm. Subst.) - Study American Sign Language**

The proposed committee substitute to S889 would authorize the Commission on Children with Special Needs to study whether American Sign Language (ASL) should be recognized as the modern language of choice by many deaf, hard-of-hearing, and hearing North Carolina Citizens. As part of the study, the Commission may examine whether ASL should be taught for credit as a modern language, and whether there should be any certification requirements for teaching ASL for credit. The Commission would report any findings or recommendations to the General Assembly and to the Joint Legislative Education Oversight Committee prior to May 1, 1998.

The act would be effective upon becoming law.

S889-SMRC-001(PCS)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 889
Senate Education/Higher Education Committee Substitute Adopted 7/10/97

Short Title: Study American Sign Language. (Public)

Sponsors:

Referred to: Rules and Operations of the Senate.

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA AND THE STATE BOARD OF COMMUNITY COLLEGES TO STUDY THE QUALIFICATIONS NEEDED TO TEACH AMERICAN SIGN LANGUAGE AND MAKE RECOMMENDATIONS TO THE APPROPRIATIONS SUBCOMMITTEES ON EDUCATION AND HUMAN RESOURCES AND TO THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall study methods to assure that faculty members teaching American Sign Language are highly qualified and competent. The Board of Governors and the State Board of Community Colleges shall report their findings and recommendations prior to March 1, 1998, to the Appropriations Subcommittees on Education and Human Resources and to the Joint Legislative Education Oversight Committee.

Section 2. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
JULY 9, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jane Stewart	AFT/NC
Cynthia Jenshanko	2113 Cameron St. Suite 218 GACPD Raleigh, NC 27605-1233
Emery P. Dalesio	The Associated Press
Melissa O Kay	Office of the Governor
Adriene Hill	SBE
Christina Carpenter	SBE
William Breeze	NC Med Bd.
Lynda McCulloch	Gov's office
Weaver Rogers	SBE Exec. Director
Edgar S. Monroe	SBE
Harriet Dail	NCAE
Bill Wilson	NCAE

VISITOR REGISTRATION SHEET

SENATE COMMITTEE ON EDUCATION/HIGHER EDUCATION
JULY 9, 1997

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joyce Robinson	SBE
Hal Miller	NCACCT
Joyce Peters	EEBC
Gene Causby	E-EBC
Hugh Thrower	TAP/HD
Cindy J. Decker-Pickell	NC Assoc. of the Deaf & NC America Sign Language Teacher Assoc.
J Craig Green	DSD/HH