

**2003-2004**

**HOUSE  
EDUCATION  
PRESCHOOL,  
ELEMENTARY &  
SECONDARY**

**COMMITTEE  
MINUTES**

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**April 3, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 421 of the Legislative Office Building on April 3, 2003, at 11:05 a.m. Representative Edith Warren called the meeting to order. The following Committee members were present: Vice-Chairs: Representatives Bell, Goforth and Gulley; Members: Representatives Blackwood, Carney, Glazier, Gorman, Jeffus, C. Johnson, L. Johnson, Lucas, McGee, Preston, Walend, Walker and Womble. Shirley Iorio and Robin Johnson, Staff Counsel, were in attendance. A Visitor Registration list is attached and made part of these minutes (**See Attachment**).

The Chair asked members to introduce themselves and introduced the Sergeant-At-Arms, Martha Parrish and Bryan Doherty. She then introduced John Tate with the Board of Education; Otha Tucker, Director of the State Office of Charter Schools; and Linda Suggs, Legislative Liaison with Department of Public Instruction. The following bills were considered:

**HB 31, entitled, A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.** Representative Allred was recognized and stood to explain his bill concerning removing the cap of charter schools. This explanation was followed by a question and answer discussion of the performances of charter schools compared to public schools. Otha Tucker explained that charter schools were not performing at the same level as public schools; but after five years, the gap between the two was closing. Representative Gully pointed out that charter schools have a higher number of at-risk and dropout students and do a better job with these students than public schools.

**HB32, entitled, A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.** Representative Gorman was recognized and explained his bill, identical to HB 31. From this time forward, both bills were discussed together. Discussion followed regarding the number of charter school students who had moved to public schools, charter schools providing more flexibility for children and providing a choice for parents. Robin Johnson, Staff Counsel, summarized and compared the original years of charter schools with the charter schools at the present time, five years later. Linda Suggs, Legislative Liaison with Department of Public Instruction, explained the position of DPI that the cap for charter schools should be raised, but not eliminated because of the amount of state support required, the need for greater assistance from the state, and the need for technical assistance from the state. The state has a capacity question with the removal of the cap. Otha Tucker suggested a raise in the cap of 10% of successfully operating schools. Rand Coble with the Center of Public Schools and Mike McLaughlin, Director, did a study on Charter Schools for *NC Insight* who published the results. Copies of the results were distributed to committee

members and a copy of this publication is attached to these minutes (See Attachment – *North Carolina Insight*). Mr. McLaughlin stated that charter schools as a whole were not performing as well as public schools. There were three key weaknesses: 1) academic performance; 2) racial diversity; and 3) physical management.


More information was requested concerning the growth and progress of students in a charter school compared to the growth and progress of students in public schools. More information was requested also on the criteria for acceptance of charter schools, restrictions of acceptance, and guidelines for acceptance.


No motions were made and no votes taken. The Chair requested that these two identical bills be held over for further discussion until the next meeting while the requested information could be researched.

There being no further business, the Chair adjourned the meeting at 11:55 a.m.

Respectfully submitted,

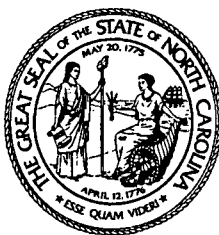
  
Representative Edith B. Warren  
Chair

  
Representative Jerry C. Dockham  
Chair

  
Nancy S. Willis  
Assistant to the Committee

ATTACHMENTS:

Agenda  
HB 31, HB 32  
Bill Summaries  
*N.C. Insight*  
Visitor Registration Form



## **HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION**

**April 3, 2003  
Room 421 LOB  
11:00 AM**

### **AGENDA**

#### **OPENING REMARKS**

**Representative Jerry Dockham, Chair  
Representative Edith Warren, Chair**

#### **AGENDA ITEMS**

<b>HB 31</b>	<b>Remove Cap on Charter Schools</b>	<b>Rep. Allred ✓</b>
<b>HB 32</b>	<b>Remove Cap on Charter Schools</b>	<b>Rep. Gorman</b>
<b>HB 102</b>	<b>School Calendar Flexibility/Alamance Co. And Bordsen</b>	<b>Reps. Allred</b>
<b>HB 601</b>	<b>Encourage Early College Attendance And Ross</b>	<b>Reps. Glazier</b>

#### **ADJOURNMENT**



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**H**

**1**

**HOUSE BILL 31**

Short Title: Remove Cap on Charter Schools.

(Public)

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Sponsors: Representatives Allred; Blust, Gillespie, and Gulley.

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Referred to: Education.

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February 17, 2003

- 1                                   A BILL TO BE ENTITLED  
2   AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.  
3   The General Assembly of North Carolina enacts:  
4       **SECTION 1.** G.S. 115C-238.29D(b) is repealed.  
5       **SECTION 2.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**H**

**1**

**HOUSE BILL 32**

Short Title: Remove Cap on Charter Schools.

(Public)

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Sponsors: Representatives Gorman; McHenry, Gulley, Miner, K. Williams, and  
Blust.

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Referred to: Education.

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February 17, 2003

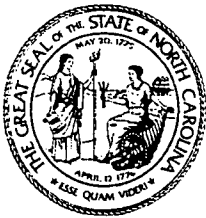
A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-238.29D(b) is repealed.

**SECTION 2.** This act is effective when it becomes law.



# HOUSE BILL 31: Remove Cap on Charter Schools.

## BILL ANALYSIS

**Committee:** House Education Subcommittee  
on Preschool, Elementary &  
Secondary Education

**Date:** April 3, 2003

**Version:** First

**Introduced by:** Rep. Allred  
**Summary by:** Robin Johnson  
Committee Counsel

**SUMMARY:** *The bill would allow an unlimited number of charter schools – both statewide and within local school administrative units. The bill would become effective when it becomes law.*

**CURRENT LAW:** The State Board of Education may authorize no more than 100 charter schools statewide. Each year, the Board may authorize a maximum of five charter schools in any one local school administrative unit. At this time, there are 95 charter schools in North Carolina.

Charter schools are public schools. Currently, any person, group of persons, or nonprofit corporation may apply for a charter to establish a charter school or to convert an existing public school to a charter school. Application for preliminary approval is made to the local board of education of the local school administrative unit where the school will be located, the board of trustees of a UNC constituent institution, or the State Board of Education. If the charter is granted, the charter school is accountable to the entity that grants preliminary approval. (In the majority of cases, this is the State Board of Education.)

Charter schools are exempt from most laws and regulations applicable to traditional public schools. Charter schools must provide 180 days of instruction; traditional schools must have 180 days and 1000 hours of instruction. Teachers in traditional schools must be certified or working towards certification; in charter schools, at least 75% of teachers in grades K-5 and at least 50% of teachers in grades 6-12 must hold certificates. Charter schools are not subject to class size reduction requirements, the standard course of study, the State salary schedules for teachers and principals, or the laws governing career status for teachers (aka "tenure"). Charter schools receive the State's average per pupil funding for each student, including funds for children with special needs, and local per pupil funding, but these schools are not required to spend the funds for the specific purposes for which they are allocated (*See attached G.S. 115C-238.29H*).

**BILL ANALYSIS:** The bill would repeal G.S. 115C-238.29D(b) (*see attached*), which sets the limits on the number of charter schools statewide and on the number of charter schools approved each year in each local school administrative unit.

The bill would take effect when it becomes law.

H31-SMRH-001

# HOUSE BILL 31

Page 2

## **G.S. 115C-238.29D(b)**

(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than 100 charter schools statewide. If more than five charter schools in one local school administrative unit or more than 100 schools statewide meet the standards for final approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located.

## **G.S. 115C-238.29H. State and local funds for a charter school.**

(a) The State Board of Education shall allocate to each charter school:

- (1) 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 for the allocation for children with limited English proficiency;
- (2) An additional amount for each child attending the charter school who is a child with special needs; and
- (3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with special needs leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with special needs enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with special needs.

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities or equipment. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year.

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE ACTUARIAL NOTE  
RETIREMENT**

**BILL NUMBER:** House Bill 31

**SHORT TITLE:** Remove Cap on Charter Schools

**SPONSOR(S):** Representative Allred

**SYSTEM OR PROGRAM AFFECTED:** Teachers' & State Employees' Retirement System

**FUNDS AFFECTED:** General Fund, Highway Fund and Receipt Fund

**BILL SUMMARY:** Under the existing law, a maximum number of charter schools cannot exceed 100. This bill will remove the cap and allows as many as are approved by the State Board of Education.

**EFFECTIVE DATE:** When it becomes law.

**ESTIMATED IMPACT ON STATE:** Retirement System Actuary: Buck Consultants estimates the cost to be negligible.

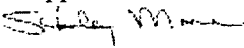
General Assembly Actuary: Hartman & Associates estimates no significant cost but points out that the potential exist for antiselection.

**ASSUMPTIONS AND METHODOLOGY: Teachers' & State Employees' Retirement System**

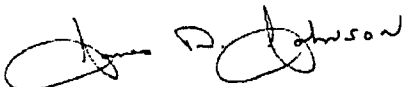
The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2001, actuarial valuation of the fund. The data included 297,252 active members with an annual payroll of \$9.5 billion and 112,482 retired members in receipt of annual pensions totaling \$1.83 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.25%, (b) salary increase rate of 6.25%, (c) the George B. Buck Mortality Tables for deaths in service and after retirement and (d) rates of separation from active service based on System experience. The actuarial cost method used was the entry age normal method with open-end unfunded accrued liability and a frozen unfunded liquidation period of nine years. Detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from Stanley Moore.

**SOURCES OF DATA:** System Actuary - Buck Consultant, Inc.  
General Assembly Actuary - Hartman & Associates, LLC

**FISCAL RESEARCH DIVISION (919) 733-4910.** The above information is provided in accordance with North Carolina General Statute 120-114 and applicable Rules of the North Carolina Senate and House of Representatives

**PREPARED BY:** Stanley Moore 

**APPROVED BY:** James D. Johnson, Director, Fiscal Research Division



**DATE:** March 21, 2003

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE ACTUARIAL NOTE**

**BILL NUMBER:** House Bill 31

**SHORT TITLE:** Remove Cap on Charter Schools

**SPONSOR(S):** Rep. Allred

**SYSTEM OR PROGRAM AFFECTED:** Teachers' and State Employees' Comprehensive Major Medical Plan.

**FUNDS AFFECTED:** State General Fund, State Highway Fund, other State employer receipts, premium payments for dependents by active and retired teachers and State employees, premium payments for coverages selected by eligible former teachers and State employees, and premium payments for coverages selected by firefighters, rescue squad workers, and members of the National Guard.

**BILL SUMMARY:** The bills repeals the State's statute that limits the number of charter schools that the State board of Education may approve to no more than 100 statewide nor more than five in one public school local administrative unit.

**EFFECTIVE DATE:** When it becomes law.

**ESTIMATED IMPACT ON STATE:** Aon Consulting, the consulting actuary for the Teachers' and State Employees' Comprehensive Major Medical Plan, estimates that enactment of the bill would result in no additional cost to the Plan for the 2003-05 biennium. Aon Consulting bases this estimate on the fact that it has not been given any information that the current statewide limit of 100 charter schools would be exceeded during the 2003-05 biennium.

Hartman & Associates, consulting actuary for the General Assembly's Fiscal Research Division, estimates that the financial impact on the Plan would not be significant upon enactment of the bill. However, despite favorable claims experience by charter school employees in the Plan for the last three fiscal years, Hartman & Associates does note that the potential exists for future antiselection when optional enrollments are provided in health plans.

**ASSUMPTIONS AND METHODOLOGY:** The Comprehensive Major Medical Plan for Teachers and State Employees is divided into two programs. From October 1982 through June 1986, the Plan only had a self-funded indemnity type of program which covered all employees, retired employees, eligible dependents of employees and retired employees, and eligible former employees and their eligible dependents authorized to continue coverage past a termination of employment other than for retirement or disability purposes. A prepaid program of coverage by health maintenance organizations (HMOs) was offered in July 1986, as an alternative to the Plan's self-insured indemnity program. The benefits of the self-insured indemnity type of program are spelled out in Part 3 of Article 3 of Chapter 135 of the North Carolina General Statutes (i.e., \$350 annual deductible, 20% coinsurance up to \$1,500 annually, etc. paid by the program's members). HMOs are required to offer benefits that are comparable to those provided by the self-insured indemnity program. Beginning in July 2000, firefighters, rescue squad workers, and members of the National Guard and their eligible dependents were allowed to voluntarily participate in the Plan on a fully contributory basis, provided they were ineligible for any other type of group health benefits and had been without such benefits for

at least six months. Employer-paid non-contributory premiums are only authorized for the indemnity program's coverage for employees and retired employees. All other types of premium in the indemnity program are fully contributory, except for job-sharing public school teachers who are authorized partially contributory premiums at 50% of non-contributory rates. The Plan's Executive Administrator has set the premium rates for firefighters, rescue squad workers, and members of the National Guard and their families at 20% more than the comparable rates charged for employees, retired employees, and their families. Premiums paid by employers to HMOs are limited to like amounts paid to the indemnity program with employees and retired employees paying any HMO amounts above the indemnity program's non-contributory rates. Both types of coverage continue to be available in the Plan; however none of the HMOs with certificates of authority to transact business in North Carolina have offered to participate in the Plan since September 30, 2001. The Plan's employees and retired employees select the type of program that they wish for themselves and their dependents during the months of August and September of each year for coverage beginning in October. The demographics of the Plan as of December 31, 2002, include:

	<u>Self-Insured Indemnity Program</u>	<u>Alternative HMOs</u>	<u>Plan Total</u>
<u>Number of Participants</u>			
Active Employees	280,065	-0-	280,065
Active Employee Dependents	137,841	-0-	137,841
Retired Employees	117,225	-0-	117,225
Retired Employee Dependents	18,999	-0-	18,999
Former Employees & Dependents with Continued Coverage	2,535	-0-	2,535
Firefighters, Rescue Squad Workers, National Guard Members & Dependents	7	-0-	7
Total Enrollments	556,672	-0-	556,672
<u>Number of Contracts</u>			
Employee Only	313,439	-0-	313,439
Employee & Child(ren)	40,978	-0-	40,978
Employee & Family	44,710	-0-	44,710
Total Contracts	399,127	-0-	399,127
<u>Percentage of Enrollment by Age</u>			
29 & Under	26.9%	-0-%	26.9%
30-44	20.9	-0-	20.9
45-54	20.9	-0-	20.9
55-64	16.2	-0-	16.2
65 & Over	15.1	-0-	15.1
<u>Percentage of Enrollment by Sex</u>			
Male	38.3%	-0-%	38.3%
Female	61.7	-0-	61.7



Assumptions for the Self-Insured Indemnity Program: For the fiscal year beginning July 1, 2002, the self-insured program started its operations with a beginning cash balance of \$91.6 million. Receipts for the year are estimated to be \$1.371 billion from premium collections and \$7 million from investment earnings for a total of \$1.378 billion in receipts for the year. Disbursements from the self-insured program are expected to be \$1.335 billion in claim payments and \$38 million in administration and claims processing expenses for a total of \$1.373 billion for the year beginning July 1, 2002. For the fiscal year beginning July 1, 2002, the self-insured indemnity program is expected to have a net operating gain of approximately \$5 million for the year. Without reserving an additional \$15 million for implementation of the claims data and privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPPA) that take effect on and after April 14, 2003, the Plan's self-insured indemnity program is expected to have an available beginning cash balance of \$96 million for the fiscal year beginning July 1, 2003. The self-insured indemnity program is nonetheless assumed to be unable to carry out its operations for the 2003-2005 biennium without increases in its current premium rates or a reduction in existing benefits or payments to health care providers or both. This assumption is further predicated upon the fact that the program's cost containment strategies (hospital DRG reimbursements, discounts on hospital outpatient services, pre-admission hospital testing, pre-admission hospital inpatient certification with length-of-stay approval, hospital bill audits, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, Medicare benefit "carve-outs", cost reduction contracts with participating physicians and other providers, a prescription drug benefit manager with manufacturer rebates from formularies, and fraud detection) are maintained and improved where possible. Current non-contributory premium rates are \$186.04 monthly for employees whose primary payer of health benefits is Medicare and \$244.38 per month for employees whose primary payer of health benefits is not Medicare. Fully contributory premium amounts for employee and child(ren) contracts are \$115.78 monthly for children whose primary payer of health benefits is Medicare and \$152.32 monthly for other covered children, and \$277.68 per month for family contracts whose dependents have Medicare as the primary payer of health benefits and \$365.36 per month for other family contract dependents. Claim cost trends are expected to increase 12% annually. Total enrollment in the program is expected to increase less than 1% annually over the next two years. The number of enrolled active employees is expected to show no increase over the next two years, whereas the growth in the number of retired employees is assumed to be 5% per year. The program is expected to have a 2% decrease in the number of active employee dependents per year whereas the number of retiree dependents is expected to increase 2% per year. Investment earnings are based upon a 4.5% return on available cash balances. The self-insured indemnity program maintains a claim stabilization reserve for claim cost fluctuations equal to 7.5% of annual claim payments without reserving additional funds for incurred but unreported claims.

Assumptions for the Indemnity Plan's Coverage of Charter School Employees: The 1996 Session of the General Assembly specified that charter schools, as private non-profit corporations within a local public school administrative unit, are employing units under the Teachers' and State Employees' Comprehensive Major Medical Plan. As such, employees of charter schools are eligible for membership in the Plan when they are "deemed to be public employees and members of a State-Supported Retirement System." The U. S. Department of the Treasury issued a letter ruling in January 1998, which allowed charter school employees to participate in the State Retirement System without adversely affecting the qualification of the System as a governmental retirement plan. Consequently, charter school employees became eligible for benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan on February 1, 1998, upon participation in the State Retirement System. The 1998 Session of the General Assembly, effective October 30, 1998, acted to no longer require membership in the State Retirement System for participation in the State's Major Medical Plan. Furthermore, boards of directors of charter schools have to make irrevocable elections to join the Plan, and if elected, all employees of the charter schools are eligible for coverage under the Plan, including its HMO alternatives. Charter schools approved by the State Board of Education in 1997

and 1998 had to make an election by the end of November 1998. Charter schools approved after 1998 have 30 days after the date that a charter is granted to make an election. Of the number of charter schools approved by the State Board of Education, the following reflects the number that are still in operation:

<u>Year Approved</u>	<u>Number Approved</u>	<u>Number in Operation</u>
1997	35	27
1998	32	21
1999	26	19
2000	17	16
2001	9	8
2002	4	2
Total	123	93

Of the four charter schools approved in 2002, two expect to become fully operational sometime in 2003.

Of the 93 charter schools that are fully operational, 40 were participating in the Teachers' and State Employees' Comprehensive Major Medical Plan on January 31, 2003. Only 25 of these 40 schools were participating in the Teachers' and State Employees' Retirement System. These 40 schools had a total of 1,115 active employees on December 31, 2002. However, only 718 (64%) of these employees were participating in the Plan on January 31, 2003. Of these 718 employees, 538 had Employee Only coverage, 99 had Employee & Child(ren) coverage with 178 dependent children enrolled, and 81 had Employee & Family coverage with 232 spouses and dependent children enrolled. The Plan also had nine retired employees who had retired from a charter school. All of these retired employees had Employee Only coverage.

At the end of the Plan's last three fiscal years, the active employee charter schools group had the following characteristics:

	<u>June 30, 2002</u>			<u>June 30, 2001</u>			<u>June 30, 2000</u>		
	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>
Male	141	219	360	117	183	300	77	111	188
Female	512	162	674	396	125	521	248	91	339
Total	653	381	1,034	513	308	821	325	202	527
Age 0-29	164	307	471	126	250	376	77	162	239
Age 30-44	289	45	334	225	29	254	139	18	157
Age 45-54	157	19	176	127	24	151	93	18	111
Age 55-64	40	10	50	32	4	36	15	3	18
Age 65+	3	0	3	3	1	4	1	1	2
Total	653	381	1,034	513	308	821	325	202	527
Individual Contract	485	0	485	382	0	382	237	0	237
Parent/Child Contract	90	162	252	65	116	181	42	79	121
Family Contract	78	219	297	66	192	258	46	123	169
Total	653	381	1,034	513	308	821	325	202	527

A comparison of the active employee charter school group with the Plan's overall active employee group reveals the following percentages of total group membership over the last three fiscal years:

	<u>Charter School Group</u>			<u>Total Health Plan Group</u>		
	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>
	<u>Employees</u>	<u>Dependents</u>	<u>Group</u>	<u>Employees</u>	<u>Dependents</u>	<u>Group</u>
Age 0-29	24.5%	80.6%	45.5%	12.5%	45.5%	12.5%
Age 30-44	43.6%	10.0%	31.0%	37.3%	31.0%	37.3%
Age 45-54	25.8%	7.2%	18.8%	34.7%	18.8%	34.7%
Age 55-64	5.7%	1.8%	4.2%	14.4%	4.2%	14.4%
Age 65+	0.5%	0.3%	0.4%	1.1%	0.4%	1.1%
Individual Contract	73.9%	0.0%	46.2%	73.2%	46.2%	73.2%
Parent/Child Contract	13.1%	39.8%	23.1%	14.5%	23.1%	14.5%
Family Contract	13.0%	60.2%	30.7%	12.3%	30.7%	12.3%

The active employee charter schools' group compares favorably with the Plan's overall active employee group in these respects and has had a favorable underwriting experience during the last three fiscal years.

#### **SOURCES OF DATA:**

- Actuarial Note, Hartman & Associates, House Bill 31, March 25, 2003, original of which is on file in the General Assembly's Fiscal Research Division.
- Actuarial Note, Aon Consulting, House Bill 31, March 17, 2003, original of which is on file with the Comprehensive Major Medical Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.
- Charter School Approval and Employee Data provided by the Office of Charter Schools, North Carolina Department of Public Instruction.
- Charter School Retirement System Participation & Retiree Data provided by the Retirement Systems Division, North Carolina Department of State Treasurer.

**TECHNICAL CONSIDERATIONS:** None.

**FISCAL RESEARCH DIVISION:** (919) 733-4910

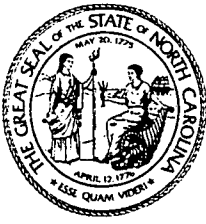
**PREPARED BY:** Sam Byrd



**APPROVED BY:** James D. Johnson, Director Fiscal Research Division



**DATE:** March 26, 2003



## HOUSE BILL 32: Remove Cap on Charter Schools.

### BILL ANALYSIS

**Committee:** House Education Subcommittee  
on Preschool, Elementary &  
Secondary Education

**Introduced by:** Rep. Gorman *Robert*  
**Summary by:** Robin Johnson  
Committee Counsel

**Date:** April 3, 2003

**Version:** First

**SUMMARY:** *The bill would allow an unlimited number of charter schools – both statewide and within local school administrative units. The bill would become effective when it becomes law.*

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Charter schools are public schools. Currently, any person, group of persons, or nonprofit corporation may apply for a charter to establish a charter school or to convert an existing public school to a charter school. Application for preliminary approval is made to the local board of education of the local school administrative unit where the school will be located, the board of trustees of a UNC constituent institution, or the State Board of Education. If the charter is granted, the charter school is accountable to the entity that grants preliminary approval. (In the majority of cases, this is the State Board of Education.)

Charter schools are exempt from most laws and regulations applicable to traditional public schools. Charter schools must provide 180 days of instruction; traditional schools must have 180 days and 1000 hours of instruction. Teachers in traditional schools must be certified or working towards certification; in charter schools, at least 75% of teachers in grades K-5 and at least 50% of teachers in grades 6-12 must hold certificates. Charter schools are not subject to class size reduction requirements, the standard course of study, the State salary schedules for teachers and principals, or the laws governing career status for teachers (aka "tenure"). Charter schools receive the State's average per pupil funding for each student, including funds for children with special needs, and local per pupil funding, but these schools are not required to spend the funds for the specific purposes for which they are allocated (*See attached G.S. 115C-238.29H*).

**BILL ANALYSIS:** The bill would repeal G.S. 115C-238.29D(b) (*see attached*), which sets the limits on the number of charter schools statewide and on the number of charter schools approved each year in each local school administrative unit.

The bill would take effect when it becomes law.

H32-SMRH-001

# HOUSE BILL 32

Page 2

## G.S. 115C-238.29D(b)

(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than 100 charter schools statewide. If more than five charter schools in one local school administrative unit or more than 100 schools statewide meet the standards for final approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located.

## G.S. 115C-238.29H. State and local funds for a charter school.

(a) The State Board of Education shall allocate to each charter school:

- (1) 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 for the allocation for children with limited English proficiency;
- (2) An additional amount for each child attending the charter school who is a child with special needs; and
- (3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with special needs leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with special needs enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with special needs.

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities or equipment. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year.

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE ACTUARIAL NOTE**

**BILL NUMBER:** House Bill 32

**SHORT TITLE:** Remove Cap on Charter Schools

**SPONSOR(S):** Rep. Gorman

**SYSTEM OR PROGRAM AFFECTED:** Teachers' and State Employees' Comprehensive Major Medical Plan.

**FUNDS AFFECTED:** State General Fund, State Highway Fund, other State employer receipts, premium payments for dependents by active and retired teachers and State employees, premium payments for coverages selected by eligible former teachers and State employees, and premium payments for coverages selected by firefighters, rescue squad workers, and members of the National Guard.

**BILL SUMMARY:** The bill repeals the State's statute that limits the number of charter schools that the State board of Education may approve to no more than 100 statewide nor more than five in one public school local administrative unit.

**EFFECTIVE DATE:** When it becomes law.

**ESTIMATED IMPACT ON STATE:** Aon Consulting, the consulting actuary for the Teachers' and State Employees' Comprehensive Major Medical Plan, estimates that enactment of the bill would result in no additional cost to the Plan for the 2003-05 biennium. Aon Consulting bases this estimate on the fact that it has not been given any information that the current statewide limit of 100 charter schools would be exceeded during the 2003-05 biennium.

Hartman & Associates, consulting actuary for the General Assembly's Fiscal Research Division, estimates that the financial impact on the Plan would not be significant upon enactment of the bill. However, despite favorable claims experience by charter school employees in the Plan for the last three fiscal years, Hartman & Associates does note that the potential exists for future antiselection when optional enrollments are provided in health plans.

**ASSUMPTIONS AND METHODOLOGY:** The Comprehensive Major Medical Plan for Teachers and State Employees is divided into two programs. From October, 1982, through June, 1986, the Plan only had a self-funded indemnity type of program which covered all employees, retired employees, eligible dependents of employees and retired employees, and eligible former employees and their eligible dependents authorized to continue coverage past a termination of employment other than for retirement or disability purposes. A prepaid program of coverage by health maintenance organizations (HMOs) was offered in July 1986 as an alternative to the Plan's self-insured indemnity program. The benefits of the self-insured indemnity type of program are spelled out in Part 3 of Article 3 of Chapter 135 of the North Carolina General Statutes (i.e., \$350 annual deductible, 20% coinsurance up to \$1,500 annually, etc. paid by the program's members). HMOs are required to offer benefits that are comparable to those provided by the self-insured indemnity program. Beginning in July 2000, firefighters, rescue squad workers, and members of the National Guard and their eligible dependents were allowed to voluntarily participate in the Plan on a fully contributory basis, provided they were ineligible for any other type of group health benefits and had been without such benefits for

at least six months. Employer-paid non-contributory premiums are only authorized for the indemnity program's coverage for employees and retired employees. All other types of premium in the indemnity program are fully contributory, except for job-sharing public school teachers who are authorized partially contributory premiums at 50% of non-contributory rates. The Plan's Executive Administrator has set the premium rates for firefighters, rescue squad workers, and members of the National Guard and their families at 20% more than the comparable rates charged for employees, retired employees, and their families. Premiums paid by employers to HMOs are limited to like amounts paid to the indemnity program with employees and retired employees paying any HMO amounts above the indemnity program's non-contributory rates. Both types of coverage continue to be available in the Plan; however, none of the HMOs with certificates of authority to transact business in North Carolina have offered to participate in the Plan since September 30, 2001. The Plan's employees and retired employees select the type of program that they wish for themselves and their dependents during the months of August and September of each year for coverage beginning in October. The demographics of the Plan as of December 31, 2002, include:

	<u>Self-Insured Indemnity Program</u>	<u>Alternative HMOs</u>	<u>Plan Total</u>
<u>Number of Participants</u>			
Active Employees	280,065	-0-	280,065
Active Employee Dependents	137,841	-0-	137,841
Retired Employees	117,225	-0-	117,225
Retired Employee Dependents	18,999	-0-	18,999
Former Employees & Dependents with Continued Coverage	2,535	-0-	2,535
Firefighters, Rescue Squad Workers, National Guard Members & Dependents	7	-0-	7
Total Enrollments	556,672	-0-	556,672
<u>Number of Contracts</u>			
Employee Only	313,439	-0-	313,439
Employee & Child(ren)	40,978	-0-	40,978
Employee & Family	44,710	-0-	44,710
Total Contracts	399,127	-0-	399,127
<u>Percentage of Enrollment by Age</u>			
29 & Under	26.9%	-0-%	26.9%
30-44	20.9	-0-	20.9
45-54	20.9	-0-	20.9
55-64	16.2	-0-	16.2
65 & Over	15.1	-0-	15.1
<u>Percentage of Enrollment by Sex</u>			
Male	38.3%	-0-%	38.3%
Female	61.7	-0-	61.7

Assumptions for the Self-Insured Indemnity Program: For the fiscal year beginning July 1, 2002, the self-insured program started its operations with a beginning cash balance of \$91.6 million. Receipts for the year are estimated to be \$1.371 billion from premium collections and \$7 million from investment earnings for a total of \$1.378 billion in receipts for the year. Disbursements from the self-insured program are expected to be \$1.335 billion in claim payments and \$38 million in administration and claims processing expenses for a total of \$1.373 billion for the year beginning July 1, 2002. For the fiscal year beginning July 1, 2002, the self-insured indemnity program is expected to have a net operating gain of approximately \$5 million for the year. Without reserving an additional \$15 million for implementation of the claims data and privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPPA) that take effect on and after April 14, 2003, the Plan's self-insured indemnity program is expected to have an available beginning cash balance of \$96 million for the fiscal year beginning July 1, 2003. The self-insured indemnity program is nonetheless assumed to be unable to carry out its operations for the 2003-2005 biennium without increases in its current premium rates or a reduction in existing benefits or payments to health care providers or both. This assumption is further predicated upon the fact that the program's cost containment strategies (hospital DRG reimbursements, discounts on hospital outpatient services, pre-admission hospital testing, pre-admission hospital inpatient certification with length-of-stay approval, hospital bill audits, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, Medicare benefit "carve-outs", cost reduction contracts with participating physicians and other providers, a prescription drug benefit manager with manufacturer rebates from formularies, and fraud detection) are maintained and improved where possible. Current non-contributory premium rates are \$186.04 monthly for employees whose primary payer of health benefits is Medicare and \$244.38 per month for employees whose primary payer of health benefits is not Medicare. Fully contributory premium amounts for employee and child(ren) contracts are \$115.78 monthly for children whose primary payer of health benefits is Medicare and \$152.32 monthly for other covered children, and \$277.68 per month for family contracts whose dependents have Medicare as the primary payer of health benefits and \$365.36 per month for other family contract dependents. Claim cost trends are expected to increase 12% annually. Total enrollment in the program is expected to increase less than 1% annually over the next two years. The number of enrolled active employees is expected to show no increase over the next two years, whereas the growth in the number of retired employees is assumed to be 5% per year. The program is expected to have a 2% decrease in the number of active employee dependents per year whereas the number of retiree dependents is expected to increase 2% per year. Investment earnings are based upon a 4.5% return on available cash balances. The self-insured indemnity program maintains a claim stabilization reserve for claim cost fluctuations equal to 7.5% of annual claim payments without reserving additional funds for incurred but unreported claims.

Assumptions for the Indemnity Plan's Coverage of Charter School Employees: The 1996 Session of the General Assembly specified that charter schools, as private non-profit corporations within a local public school administrative unit, are employing units under the Teachers' and State Employees' Comprehensive Major Medical Plan. As such, employees of charter schools are eligible for membership in the Plan when they are "deemed to be public employees and members of a State-Supported Retirement System." The U. S. Department of the Treasury issued a letter ruling in January 1998, which allowed charter school employees to participate in the State Retirement System without adversely affecting the qualification of the System as a governmental retirement plan. Consequently, charter school employees became eligible for benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan on February 1, 1998, upon participation in the State Retirement System. The 1998 Session of the General Assembly, effective October 30, 1998, acted to no longer require membership in the State Retirement System for participation in the State's Major Medical Plan. Furthermore, boards of directors of charter schools have to make irrevocable elections to join the Plan, and if elected, all employees of the charter schools are eligible for coverage under the Plan, including its HMO alternatives. Charter schools approved by the State Board of Education in 1997



and 1998 had to make an election by the end of November 1998. Charter schools approved after 1998 have 30 days after the date that a charter is granted to make an election. Of the number of charter schools approved by the State Board of Education, the following reflects the number that are still in operation:

<u>Year Approved</u>	<u>Number Approved</u>	<u>Number in Operation</u>
1997	35	27
1998	32	21
1999	26	19
2000	17	16
2001	9	8
2002	4	2
Total	123	93

Of the four charter schools approved in 2002, two expect to become fully operational sometime in 2003.

Of the 93 charter schools that are fully operational, 40 were participating in the Teachers' and State Employees' Comprehensive Major Medical Plan on January 31, 2003. Only 25 of these 40 schools were participating in the Teachers' and State Employees' Retirement System. These 40 schools had a total of 1,115 active employees on December 31, 2002. However, only 718 (64%) of these employees were participating in the Plan on January 31, 2003. Of these 718 employees, 538 had Employee Only coverage, 99 had Employee & Child(ren) coverage with 178 dependent children enrolled, and 81 had Employee & Family coverage with 232 spouses and dependent children enrolled. The Plan also had nine retired employees who had retired from a charter school. All of these retired employees had Employee Only coverage.

At the end of the Plan's last three fiscal years, the active employee charter schools group had the following characteristics:

	<u>June 30, 2002</u>			<u>June 30, 2001</u>			<u>June 30, 2000</u>		
	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>	<u>Employees</u>	<u>Dependents</u>	<u>Total</u>
Male	141	219	360	117	183	300	77	111	188
Female	512	162	674	396	125	521	248	91	339
Total	653	381	1,034	513	308	821	325	202	527
Age 0-29	164	307	471	126	250	376	77	162	239
Age 30-44	289	45	334	225	29	254	139	18	157
Age 45-54	157	19	176	127	24	151	93	18	111
Age 55-64	40	10	50	32	4	36	15	3	18
Age 65+	3	0	3	3	1	4	1	1	2
Total	653	381	1,034	513	308	821	325	202	527
Individual Contract	485	0	485	382	0	382	237	0	237
Parent/Child Contract	90	162	252	65	116	181	42	79	121
Family Contract	78	219	297	66	192	258	46	123	169
Total	653	381	1,034	513	308	821	325	202	527

A comparison of the active employee charter school group with the Plan's overall active employee group reveals the following percentages of total group membership over the last three fiscal years:

	<u>Charter School Group</u>			<u>Total Health Plan Group</u>		
	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>	<u>Percent of</u>
	<u>Employees</u>	<u>Dependents</u>	<u>Group</u>	<u>Employees</u>	<u>Dependents</u>	<u>Group</u>
Age 0-29	24.5%	80.6%	45.5%	12.5%	45.5%	12.5%
Age 30-44	43.6%	10.0%	31.0%	37.3%	31.0%	37.3%
Age 45-54	25.8%	7.2%	18.8%	34.7%	18.8%	34.7%
Age 55-64	5.7%	1.8%	4.2%	14.4%	4.2%	14.4%
Age 65+	0.5%	0.3%	0.4%	1.1%	0.4%	1.1%
Individual Contract	73.9%	0.0%	46.2%	73.2%	46.2%	73.2%
Parent/Child Contract	13.1%	39.8%	23.1%	14.5%	23.1%	14.5%
Family Contract	13.0%	60.2%	30.7%	12.3%	30.7%	12.3%

The active employee charter schools' group compares favorably with the Plan's overall active employee group in these respects and has had a favorable underwriting experience during the last three fiscal years.

**SOURCES OF DATA:**

- Actuarial Note, Hartman & Associates, House Bill 32, March 25, 2003, original of which is on file in the General Assembly's Fiscal Research Division.
- Actuarial Note, Aon Consulting, House Bill 32, March 17, 2003, original of which is on file with the Comprehensive Major Medical Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.
- Charter School Approval and Employee Data provided by the Office of Charter Schools, North Carolina Department of Public Instruction.
- Charter School Retirement System Participation & Retiree Data provided by the Retirement Systems Division, North Carolina Department of State Treasurer.

**TECHNICAL CONSIDERATIONS:** None.

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Sam Byrd



**APPROVED BY:** James D. Johnson



**DATE:** March 26, 2003

North  
Carolina

# Insight

\$16

JULY 2002

Vol. 20, No. 1-2



## Evaluating Charter Schools in North Carolina



## Also: How Stands the Public Behind the State's Public Schools?



## VISITOR REGISTRATION SHEET

SUBCOMMITTEE ON PRESCHOOL, ELEMENTARY  
AND SECONDARY EDUCATION

4-2-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>Judith Zakadellis</i>	<i>NC Education alliance</i>
<i>Camille Stoll</i>	<i>Kennedy Coington</i>
<i>Mike McLaughlin</i>	<i>NC Center for Public Policy Research</i>
<i>Ran Cobb</i>	<i>11</i>
<i>Sam Watts</i>	<i>10</i>
<i>Michael Houser</i>	<i>NCAE</i>
<i>Leanne Wimer</i>	<i>NCSEA</i>
<i>Amy Dobson</i>	<i>NC Statewatch.</i>
<i>Brice Fink</i>	<i>NCNW Radio</i>
<i>Roger Gerber</i>	<i>The League of Charter Schools</i>
<i>Kendall Byrum</i>	<i>Rep. Kiser</i>

# VISITOR REGISTRATION SHEET

SUBCOMMITTEE ON PRESCHOOL, ELEMENTARY  
AND SECONDARY EDUCATION

4-3-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rebecca Lantz Patrick	NC Justice Center
Jane Atkinson	DPI
Katherine Joyce	NCASA
Susan Harman	WCPSS
John Tate	SBE
Jim Dyer	SBE
Oliver Morris	Public School Forum of NC
Alvin Tamm	DPI
John Bettendorf	Bethel Hill Charter School
Pammy Mayhew	Ans
Patricia Levens	NCACE

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**April 9, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 421 of the Legislative Office Building on April 9, 2003, at 1:05 p.m. Representative Edith Warren called the meeting to order and introduced her Co-Chair, Jerry Dockham. The Chair then introduced the pages Megan Dawson and Amy McClellon, and the Sergeant-At-Arms, Brian Doherty and Martha Parrish. The following Committee members were present: Co-Chair Representative Jerry Dockham; Vice Chairs: Representatives Goforth and Gulley; Members: Representatives Carney, Glazier, Gorman, Jeffus, C. Johnson, L. Johnson, Lucas, McGee, Walend, Walker and Womble; Ex-officio: Representatives Cunningham and Eddins. Shirley Iorio and Robin Johnson, Staff Counsel, were in attendance. Representative Wood, Chair of the Education Committee, was also present. A Visitor Registration list is attached and made part of the minutes (**See Attachment**). The following bills were considered:

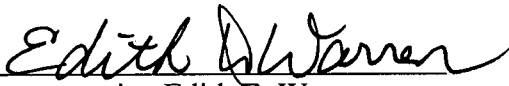
**HB 31, entitled, A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS** and **HB 32, entitled, A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS**. There was a very brief review of the discussion of these bills at the previous meeting on April 3, 2003. Representative Allred spoke on HB 31 and asked for a favorable report. Representative Gorman spoke on HB 32 and stated that he had an amendment to his bill. HB 31 was brought before the committee first. Representative Walker moved for a favorable report and a discussion followed on removing the cap on the number of charter schools. Otha Tucker with the Department of Public Instruction stated that the financial supervision and assistance for the charter schools would be inadequate if the cap were eliminated. Carolyn McKinney, with NCAE, stated their position not to extend the number of schools. Leanne Winner, with the School Board's Association, stated that they oppose unlimited cap and that the focus needs to be more on public schools rather than charter schools. Glenn Jernigan stated that the National Heritage Association does not support open removal of caps, but supports a 10 percent increase. Ed Reagan stated that the North Carolina Association of County Commissioners favors retention of cap, believing that removal of the cap is premature. Bill Brooks with the N.C. Family Policy Council favors removal of the cap on the number of charter schools. Roger Gerber, League of Charter Schools, favors lifting the cap and believes that charter schools give more flexibility to parents. Peyton Maynard with the Charlotte/Mecklenburg Board of Education favors leaving the cap. Katherine Joyce with NCASA opposed the removal of the cap.

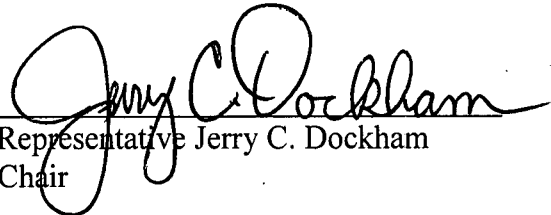
Representative Dockham proposed an amendment to raise the cap from one hundred (100) charter schools to one hundred ten (110) charter schools. Said Amendment is attached to these minutes and incorporated by reference (**See Attachments**).

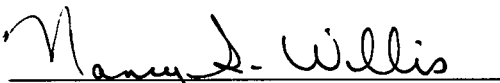
Representative Walker asked to change his previous motion to a motion for a favorable report on the proposed committee substitute and unfavorable to the original bill. The motion was seconded. The vote on the amendment was 12 to 7 in favor of the proposed committee substitute. (See Attachment) Representative Gorman, at this time, asked that HB 32 be displaced.

There being no further business, the Chair adjourned the meeting at 1:55 p.m..

Respectfully submitted,

  
Representative Edith B. Warren  
Chair

  
Representative Jerry C. Dockham  
Chair

  
Nancy S. Willis  
Assistant to the Committee

ATTACHMENTS:

Agenda  
HB 31, HB 32  
Bill Summaries  
Amendment  
Proposed Committee Substitute  
Visitor Registration Form

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representatives **Jerry Dockham and Edith D. Warren** (Chairs) for the Education Subcommittee  
on Pre-School, Elementary and Secondary Education .

☐ Committee Substitute for

**H.B. 31**

A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON  
THE NUMBER OF CHARTER SCHOOLS

REPORTED TO THE STANDING COMMITTEE ON **EDUCATION**

---

**RECOMMENDED ACTION:**

☐ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the  
Committee on

☐ With an unfavorable recommendation.

☒ With a favorable recommendation as to proposed committee substitute bill, ☒ which changes the title,  
unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative \_\_\_\_\_ for the Standing Committee on \_\_\_\_\_.

s/ \_\_\_\_\_

☐ With a favorable report.

☐ With a favorable report, as amended.

☐ With a favorable report as to the committee substitute bill ( # \_\_\_\_\_ ), ☐ which changes the title,  
unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_ ). (and recommendation  
that the committee substitute bill ( # \_\_\_\_\_ ) be referred to the Committee on \_\_\_\_\_ .)

03/26/03



**Nancy Willis (Rep. Warren)**

---

**From:** Regina Irwin (Rep. Dockham)

**Sent:** Tuesday, April 08, 2003 2:14 PM

**Subject:** EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY AND SECONDARY  
EDUCATION (4/9/03)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2003-2004 SESSION**

You are hereby notified that the **EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION** will meet as follows:

**DAY & DATE:** Wednesday, April 9, 2003

**TIME:** 1:00 PM

**LOCATION:** Room 421 LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 31 Remove Cap on Charter Schools. (Rep. Allred)**

**HB 32 Remove Cap on Charter Schools. (Rep. Gorman)**

**HB 102 School Calendar Flexibility/Alamance Co. (Rep. Allred & Rep. Bordsen)**

**HB 601 Encourage Early College Attendance. (Rep. Glazier & Rep. Ross)**

Respectfully,

Representatives Edith Warren & Jerry Dockham  
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **2:15 p.m. on April 08, 2003.**

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

4/8/2003

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

**H**

**D**

**HOUSE BILL 31**  
**PROPOSED COMMITTEE SUBSTITUTE H31-PCS45056-RH-4**

Short Title: Raise Cap on Charter Schools.

(Public)

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Sponsors:

---

Referred to:

---

February 17, 2003

1                                   A BILL TO BE ENTITLED  
2   AN ACT TO RAISE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.  
3   The General Assembly of North Carolina enacts:

4                   **SECTION 1.** G.S. 115C-238.29D(b) reads as rewritten:

5       "(b) The State Board shall authorize no more than five charter schools per year in  
6   one local school administrative unit. The State Board shall authorize no more than ~~100~~  
7   110 charter schools statewide. If more than five charter schools in one local school  
8   administrative unit or more than ~~100~~ 110 schools statewide meet the standards for final  
9   approval, the State Board shall give priority to applications that are most likely to  
10  further State education policies and to strengthen the educational program offered in the  
11  local school administrative units in which they are located."

12                   **SECTION 2.** This act is effective when it becomes law.

# NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. ~~52~~ 31

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE \_\_\_\_\_

Rep. )

~~of~~ Dodham

Sen. )

1 moves to amend the bill on page 1, line \_\_\_\_\_

2 ( ☒ ) WHICH CHANGES THE TITLE

3 by amending the short title to read:

4 "Raise cap on Charter Schools."

5 & on page 1, line 2, by deleting "REMOVE"

6 & by substituting "RAISE";

7 & on page 1, line 4, by rewriting the line  
to read:

9 "SECTION 1. G.S. 115C-238.29 D (b) reads as  
rewritten:

11 ~~(b)~~ (b) The State Board (...) The State Board  
shall authorize no more than ~~100~~ 110  
Charter Schools statewide. (...)"

SIGNED

*Jerry Dodham*

ADOPTED X

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

**H**

**1**

**HOUSE BILL 32**

Short Title: Remove Cap on Charter Schools.

(Public)

Sponsors: Representatives Gorman; McHenry, Gulley, Miner, K. Williams, and Blust.

Referred to: Education.

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON THE NUMBER OF CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-238.29D(b) is repealed.

**SECTION 2.** This act is effective when it becomes law.

# **Charters get short shrift, official says**

Author: T. Keung Hui; Staff Writer Edition: Final

Section: News Page: B1

RALEIGH -- North Carolina's charter schools are doing better academically than they are given credit for and are actually in better shape than traditional schools to deal with new federal testing requirements, the state's charter school director said Saturday.

**Otho Tucker, director of the state Office of Charter Schools**, told participants at the Triangle Charter Fair that charter students have seen faster improvement than traditional school students on state tests. Tucker added that 60 percent of charter schools, compared with 45 percent of the state's public schools, might be in line to meet the new federal No Child Left Behind Act testing standards. "We don't hear enough at times about the good things charter schools are doing," Tucker said.

Charter schools are privately run, taxpayer-funded schools that are free from some key policies and regulations that govern traditional schools. The first charter school opened in North Carolina in 1997, and now there are 95 schools with 20,416 students. The state has set a limit of 100 charter schools, which advocates of charters want to lift but traditional public school leaders want to leave in place.

"Traditional public schools have not embraced you, and they probably never will," Tucker said.

Critics frequently point to a state-sponsored study released in 2001 that found student performance in charters lagged behind that of peers at traditional schools. The study tracked the students from before they entered charters through the schools' third year. But Tucker said critics should keep in mind that charter school operators were busy getting open in the first year. Since then, he said, charter students have seen improvement that equals or exceeds traditional schools.

Critics also have pointed out that 11 charter schools made the state's list of low-performing schools last year. But Tucker said nine of those 11 charter schools served students such as dropouts and abused children that would make them alternative schools if they were traditional schools. He pointed out that the state wouldn't call them low-performing if they were alternative schools.

In addition to the opportunities to network and recruit students and teachers, Brandon Smith, headmaster of East Wake Academy and a fair organizer, said it was good hearing from Tucker. Smith said there were 23 charters in the Triangle. "We work so hard for the children that it's good at times to get a pep talk," Smith said.

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## Weekly Policy Update

A weekly update for the members of the Education Leaders Council

DECEMBER 20, 2002

### National News Digest

## A Chance to Learn

Bob Herbert  
*New York Times*  
December 16, 2002

GASTON, N.C.— The first thing you notice about the school is how quiet it is. The kids are absorbed in their studies and except for the low roar of conversation in the cafeteria during lunch, or the enthusiastic screeching of band practice, you hardly hear a sound.

The Gaston College Preparatory School in this rural town just across the border from Virginia is housed in a new low-rise building on land that until recently was a peanut and soybean farm. Farm equipment outlets and a cotton field or two line the roads leading to the school.

There are only two grades, fifth and sixth. A seventh and eighth grade will be added over the next two years.

I wanted to visit Gaston College Prep because I'd heard it was a remarkable school. It's in a region that is struggling economically and is not known for its academic excellence. Most of the students at

the school are black and nearly all of them are poor. Most of the other schools available to them are burdened with problems that show no signs of easing.

At Gaston Prep, which the kids call G.C.P., the atmosphere is almost idyllic. The children are well behaved and the classroom work is intense. "We don't have any fighting here, or any of that picking-on-people stuff," said Shanequa High, a sixth-grader whose reading ability improved dramatically in just one year, and who was the lead dancer in the school's production of "The Lion King" last year.

Another student, 12-year-old Paris Gatling, said, "We're here to work, and we work hard."

Gaston Prep is one of 15 KIPP schools in the United States. KIPP is short for the Knowledge Is Power Program, an effort that began in Houston and has grown into one of the most energetic and academically sound public school programs in the nation.

# The League of Charter Schools

*serving independent public schools of choice*

200 Stags Trail  
Chapel Hill, NC 27516  
919 967-1029 phone & fax  
[www.charterleague.org](http://www.charterleague.org)  
[locs@bellsouth.net](mailto:locs@bellsouth.net)

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## North Carolina's Charter Schools Pass Accountability Test

Data released by The Department of Public Instruction prove what parents already know: Charter Schools are good for children and good for North Carolina.

- Charter schools are accessible by all families, regardless of income or geographic location
- Waiting lists at the majority of North Carolina's 93 charter schools confirm that parents and students value their schools and embrace the concept of school choice.
- The 2001-02 NC End of Year ABC test scores released by the Department of Public Instruction demonstrate that charter schools are achieving the same test results as the traditional district run non-charter public schools.
  - On the reading tests, traditional schools scored a 87.6% composite while the charter schools composite was 86.7%.
  - The math scores were 91.3% for traditional public schools and 89.1% for charter schools.

These results include nine charter schools that would be considered alternative schools if evaluated in the traditional public school group. These schools include four high schools for at-risk and dropout students and five residential charter schools for sexually abused and other court-appointed children and a prison school. NC has 77 alternative schools that are evaluated differently from the traditional public schools. If there were evaluated like charter schools, 68 of these schools would be considered low performing.

What makes this truly remarkable is that charter schools achieve these results with 15% less funding – no capital funds. In essence, with only 85% of the funding, charter schools are performing at the same level as non-charter public schools.

Charters are good for children and good for North Carolina. North Carolina needs more charter schools.

# VISITOR REGISTRATION SHEET

EDUCATION Subcommittee on Pre-School,

Elementary and Secondary Education

April 9, 2001

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

<i>H. M. L.</i>	<i>Mellon Co</i>
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<i>Devon White</i>	<i>PENC</i>
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<i>Harold Cooley</i>	<i>Tribes</i>
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<i>Roger Gerkor</i>	<i>The League of Charter Schools</i>
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<i>Otho Tucker</i>	<i>DPI</i>
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<i>Frank Suggs</i>	<i>SBE</i>
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<i>Katherine Joyce</i>	<i>NCASA</i>
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<i>Steve Ferguson</i>	<i>National Heritage Academy</i>
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<i>Payton M. M. M.</i>	<i>CS</i>
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<i>Ran Cable</i>	<i>N.C. Center for Public Policy Research</i>
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<i>JOHN WITHROW</i>	<i>NC STATE WATCH</i>
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<i>John R. R.</i>	<i>NCPPC</i>
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## VISITOR REGISTRATION SHEET

EDUCATION Subcommittee on Pre-School,  
Elementary and Secondary Education

April 9, 2001

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Michael Fowler

NCAE

Sam Wally

NCCPPR

*J. Regan*

N.C.A.C.C

Carolyn M Kinney

наде

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY**  
**AND SECONDARY EDUCATION**  
**April 16, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 421 of the Legislative Office Building on April 16, 2003, at 11:15 a.m. Representative Dockham called the meeting to order and introduced the pages Elizabeth Coughenour (Cumberland County - Rep. Dickson), Natalie Green (Mecklenburg County - Rep. C. Wilson), and Clarke Edwards (Guilford County - Rep. Jeffus). The following Committee members were present: Representative Warren, Co-Chair, and Representatives Bell, Gulley, Blackwood, Glazier, Jeffus, C. Johnson, Lucas, and McMahan. Shirley Iorio and Robin Johnson, Staff Counsels, were in attendance. A Visitor Registration list is attached and made part of these minutes (Attachment). The following bills were considered.

**HB 102, entitled, A BILL TO BE ENTITLED AN ACT TO GIVE THE ALAMANCE-BURLINGTON BOARD OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER.** The Chair recognized Representative Allred, the bill sponsor, to explain the bill. House Bill 102 would create an exception to the required time for instruction for the Alamance-Burlington School System. The exception would allow the system to have 180 days or 1,050 hours of instruction. The exception is for both the 2002-2003 school year and the 2003-2004 school year. Earlier this month, the General Assembly enacted and the Governor signed House Bill 340. HB 340 applied only to the present school year. Representative Allred indicated that the Alamance-Burlington School system would not use this exception for the current school year, but HB 102 would give the School System time to respond before the Legislature reconvenes in May of 2004, should North Carolina have another event of the magnitude as the ice storm of this past winter. Representative Dockham recognized Robin Johnson, Staff Counsel, to comment on the bill. Ms. Johnson indicated that House Bill 102 would not conflict with HB 340; it would provide the Alamance-Burlington School System with a third choice and would apply only to the Alamance-Burlington School System. Ms. Linda S. Suggs, Legislative Director with the State Board of Education was recognized and indicated that SBE does not support HB 102. After additional discussion by committee members, Representative Gulley moved for a favorable report. The motion failed.

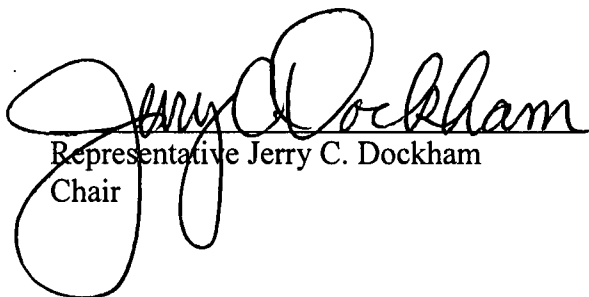
Representative Dockham requested that Representative Warren, Co-Chair, preside over the remaining portion of this meeting, as his speaking was exacerbating his already hoarse voice.

**HB 801, entitled, A BILL TO BE ENTITLED AN ACT TO MODIFY THE STATE COMPETENCY TESTING PROGRAM TO ENSURE THAT HIGH SCHOOL STUDENTS WHO DO NOT PASS THE COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN ALTERNATIVE TEST.** Representative Warner, the bill sponsor, sent forth an amendment. The Chair recognized Shirley Iorio, Staff Counsel, to explain the amendment. The amendment moves to amend the bill on page 2, line 6-8, by rewriting the lines to read: “(3a) Students, including those with disabilities,

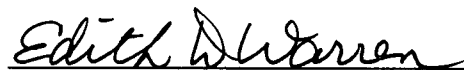
who fail to pass the competency test adopted.” Representative Lucas moved to roll the amendment into a committee substitute. The Chair requested to hold the motion for the time being and recognized Representative Warner to explain the bill. House Bill 801 would modify the State Competency Testing Program so that high school students who do not pass the Competency Test are given the opportunity to take an alternative test. The State Board of Education would be required to adopt one or more nationally standardized tests or equivalent measures that test verbal and quantitative skills, or develop alternate means and standards for demonstrating minimum competence. Representative Warner indicated that the amendment was submitted to rewrite the language in a way that would try to avoid the appearance of discrimination. The Chair recognized Mr. Louis M. Fabrizio to speak in favor of the amendment. Mr. Fabrizio, Director of Accountability Services with the NCDPI, stated that he originally was not sure for whom the legislation was intended. Shirley Iorio stated that the legislative research staff members were concerned about restricting the original legislation only to students with disabilities since there had been a problem in the past with the Office of Civil Rights (OCR) with an algebra I requirement. The amendment was to clarify that the alternative assessment would be available for all students. Mr. Fabrizio said that the State Board of Education did have an alternative assessment that is used with some students with disabilities. There were concerns voiced by some legislators about having the options available to all students. Representative Blackwood requested that the department check with OCR about the language used in the bill. Due to the amount of questions being raised regarding the amendment and due to time constraints the committee tabled this bill until the next House Education Subcommittee on Pre-School, Elementary and Secondary Education meeting.

There being no further business, the Chair adjourned the meeting at 11:40 a.m.

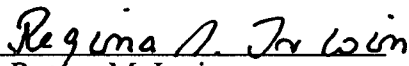
Respectfully submitted,



Representative Jerry C. Dockham  
Chair



Representative Edith D. Warren  
Chair



Regina M. Irwin  
Assistant to the Committee

ATTACHMENTS:  
Visitor Registration Form  
HB 102, HB 801  
Handouts  
Bill Summaries

# VISITOR REGISTRATION SHEET

**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY. & SECONDARY EDUCATION**

**Wednesday, April 16, 2003**

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

<i>William L. Stoltz</i>	<i>Duplin County Schools</i>
<i>Fina Dym</i>	<i>SBE/DPI</i>
<i>Bob Bellamy</i>	<i>DPI</i>
<i>Mary Watson</i>	<i>DPI</i>
<i>Hyun W. Hwang</i>	<i>NCI on</i>
<i>Linda Suggs</i>	<i>SBE</i>
<i>Glenn Adams</i>	<i>PSF</i>
<i>Yvonne Perry</i>	<i>ECAC</i>
<i>Bob Adams</i>	<i>NC Justice Center</i>
<i>Dr. Dany</i>	<i>UIF</i>
<i>Sabah Lopez</i>	<i>VIP</i>

# VISITOR REGISTRATION SHEET

**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY. & SECONDARY EDUCATION**

**Wednesday, April 16, 2003**

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Alice Cody	Duke
Katherine Joyce	NCA SA
LaTaya Fore	DSSDP- CPSV
Amy Dobson	NC State Watch.
Steve Hoffman	NC SBA
Esther High	NC DHHS/ DES
John Lamm	DSS/ DHHS
Ken T. Long	NC AC DSS
Stuart McKenney	NC DHHS
Leanne Winner	NC SBA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 102

Short Title: School Calendar Flexibility/Alamance Co.

(Local)

Sponsors: Representatives Allred and Bordsen (Primary Sponsors).

Referred to: Education.

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO GIVE THE ALAMANCE-BURLINGTON BOARD OF EDUCATION  
ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME  
LOST DUE TO INCLEMENT WEATHER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-84.2(a)(1) reads as rewritten:

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

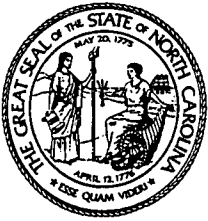
(1) A minimum of 180 days ~~and 1,000~~ or 1,050 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the 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 to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

...."

**SECTION 2.** This act applies only to the Alamance-Burlington School System.

**SECTION 3.** This act applies only to the 2002-2003 and the 2003-2004 school years.

**SECTION 4.** This act is effective when it becomes law.



# HOUSE BILL 102: School Calendar Flexibility/Alamance Co.

## BILL ANALYSIS

**Committee:** House Education Subcommittee  
on Preschool, Elementary &  
Secondary Education

**Introduced by:** Rep. Allred  
**Summary by:** Robin Johnson  
Committee Counsel

**Date:** April 16, 2003

**Version:** First Edition

**SUMMARY:** *House Bill 102 would create an exception to the required time for instruction for the Alamance-Burlington School System. The exception would allow the system to have 180 days OR 1,050 hours of instruction. The exception is for both the 2002-2003 school year and the 2003-2004 school year.*

**CURRENT LAW:** The NC Constitution requires that the State provide "for a general and uniform system of free public schools, which shall be maintained at least nine months in every year." This is echoed in G.S. 115C-1, which requires the operation in every LEA of "a uniform school term of nine months." School calendars must have a minimum of 220 days, all of which fall in the fiscal year. Of those days, local boards must adopt annual school calendars consisting of 180 days AND 1,000 hours of instruction during nine calendar months. The remaining 40 days must be scheduled as follows: 10 as teacher vacation days; 10-11 as holidays; 8 as designated by the local board for teacher workdays, additional instructional days, or other lawful purposes; and the remainder (11-12)<sup>1</sup> as designated by each school's principal for teacher workdays, additional instructional days, or other lawful purposes. School cannot be held on Sundays or Veteran's Day. Actual workdays for teachers employed for 10-month terms cannot exceed 200 days, but they are paid for 220 days. And, in most cases, there must be 42 consecutive days when teacher attendance is not required. The State Board has authority to order general school closings during any emergency in any section of the State where emergency conditions make it necessary.

**BILL ANALYSIS:** The bill would amend G.S. 115C-84.2(a)(1) by changing the phrase "AND 1,000 hours" to the phrase "OR 1,050 hours". The bill would become effective when it becomes law, and would apply only to the Alamance-Burlington School System.

**BACKGROUND:** The laws governing the school calendar have evolved over the past 90 years. The first major rewrite seems to have occurred in 1987. At that time, the law was rewritten to require local boards to have school calendars that provided for 180 days of instruction. (The State Board had a rule that defined the minimum number of hours of instruction in a school day.) The law also required the calendar to include makeup days for school closings due to hazardous weather, natural disaster, or other emergencies. The required number of makeup days varied from one school system to another. The law required 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 board used all of its scheduled makeup days, it was permitted to excuse up to three additional days when it found it was "impracticable to make up the additional days." (This had to be reported to the State Board of Education.) In addition to those three days, the State Board was allowed to forgive an unlimited number of additional days when it found that "conditions justify such suspension of school." If the State Board forgave days, then teachers and

<sup>1</sup> Two of these days may be designated as additional make-up days after the last day of student attendance if the LEA made up an average of at least 8 days for school closings in the last two years.

# HOUSE BILL 102

Page 2

students were not required to make them up, and the first 15 of those days did not affect teachers' pay.<sup>2</sup> In addition to the general law, local legislation was introduced (and usually adopted) creating additional exceptions, almost every Session.

By 1997, legislators and policymakers had become concerned because so many exceptions and reasons to excuse days of instruction had appeared over time. Their primary concern was that research strongly correlates instructional time with student learning. In addition, the concerns included: (i) it seemed too easy for local boards to cancel school and then not schedule makeup days; (ii) there did not appear to be a difference from one part of the state to another, even though winter weather tends to be worse in the western part; and (iii) the growing belief that the exceptions eroded the constitutional mandate of a nine-month school year.

In 1997 the law was significantly amended to its current state. The goals were to simplify the statute, put more responsibility at the local level for planning for makeup days, and provide much more flexibility to local boards when they "build" their school calendars. The flexibility was provided so that school systems could prepare for and anticipate events such as snow and ice storms and other generally unpredictable events that interfere with the act of getting to the schoolhouse.

After Hurricane Floyd, in 1999, there was legislation that provided the limited exception that is proposed in House Bill 102. That legislation was limited to counties affected by the hurricane and applied only to that school year. However, there were several lawsuits filed, some of which were settled out of court. In two counties (Guilford and Union), the North Carolina Association of Educators (NCAE) brought lawsuits concerning extra pay for teachers and other staff members. In the Guilford litigation, judgment at the trial level was for the school system, but NCAE appealed to the NC Court of Appeals, where it is still pending.

Earlier this month, the General Assembly enacted and the Governor signed House Bill 340. This bill allows LEAs to make up to three instructional days by adding the instructional hours in those days to other days so long as they meet certain prerequisites. HB 340 applied only to the present school year.

## POSSIBLE ISSUES:

### Constitutional Issues

- **What does it mean to maintain a general and uniform system of free public schools at least nine months in every year?** The statutes have defined nine months to be 180 days since the mid-1940's. Can a month be defined by a number of hours, rather than by days? If different LEAs have calendars with a different number of school days (the practical effect of going to hours only), would this violate the constitutional mandate of a "general and uniform" system of public schools?<sup>3</sup>
- **What impact could forgiving days or using hours rather than days have on the pending Leandro litigation or on the Leandro requirement that the State must provide a sound basic education?**

<sup>2</sup> Interestingly, these 15 days originated in 1971 at which time school could be suspended up to 60 days "due to low average of daily attendance, or the needs of agriculture, or any other condition."

<sup>3</sup> In 1985, the NC Court of Appeals ruled that the Constitution does not require a uniform 180 day term. Morgan v. Polk County Bd. Of Educ., 74 NCApp 169 (1985) (noting, but not addressing the constitutionality of, the law allowing fewer than 180 days when days could be waived up to five days due to weather).



# HOUSE BILL 102

Page 3

- **Article I, Sec. 32 prohibits the compensation of public employees absent consideration of public services.** Will teachers be required to work the 200 days for which they are paid? Can a workday be redefined by hours in order to meet this requirement?

## Policy Issues

- **If "time on task" is in fact important to student achievement, are there minimum and maximum hours in a school day that are more effective?**
- **Which school systems would be included? Is it fair to only provide an "out" when LEAs in the middle of the State have bad weather?** Each year, the western part of the State typically misses more school days due to inclement weather than other parts of the State. They have been required to and do make up all these days.
- **Are school calendars starting too early?** In the past decade, the opening day of school has shifted from late to early August in many LEAs, arguably to finish the first semester before the Christmas/Winter break. At the same time, these LEAs include a significant number of days (typically staff development days) in the first part of the calendar that, if saved for later in the school year, could be used as make-up dates.
- **If days are forgiven for students, should they be forgiven for school personnel? If different LEAs have significantly different hours in school days, should teachers be paid the same?** Teachers as professional employees are not paid on an hourly rate. Local LEA's set the anticipated workweek. If LEA's are then allowed to vary significantly from the days required, there could be potentially significant differences in the daily rates of pay. In addition, by allowing school systems to hold school fewer days by simply scheduling 1,000 hours, this could create pressure from teachers to be paid the same amount for working fewer days. For example:

LEA 1	LEA 2	LEA 3	LEA 4	LEA 5
180 days x 5.5 hrs. per day = <b>990 hrs.</b> of instructional time per year	180 days x 6.0 hrs. per day = <b>1080 hrs.</b> of instructional time per year	1000 hrs./5.5 hrs. per day = <b>182 days</b> of instruction per year	1000 hrs./6.0 hrs. per day = <b>167 days</b> of instruction per year	1000 hrs./8.0 hrs. per day = <b>125 days</b> of instruction per year

- **What impact will going to longer instructional days – and possibly fewer days -- have on school employees who are paid on an hourly basis?**
- **Should the State (i.e., either the State Board or the General Assembly) be in the business of waiving days or prescribing when and how make-up days should occur? Or should this be left at the local level?**

H102-SMRH-003: Shirley Iorio and Sara Kamprath contributed substantially to this summary.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

1

HOUSE BILL 801

Short Title: Alternatives to School Competency Test.

(Public)

Sponsors: Representatives Warner; and Lucas.

Referred to: Education.

March 31, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE STATE COMPETENCY TESTING PROGRAM TO  
3 ENSURE THAT HIGH SCHOOL STUDENTS WHO DO NOT PASS THE  
4 COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN  
5 ALTERNATIVE TEST.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 115C-174.11(b) reads as rewritten:

8 "(b) Competency Testing Program.

9 (1) The State Board of Education shall adopt tests or other measurement  
10 devices which may be used to assure that graduates of the public high  
11 schools and graduates of nonpublic schools supervised by the State  
12 Board of Education pursuant to the provisions of Part 1 of Article 39  
13 of this Chapter possess the skills and knowledge necessary to function  
14 independently and successfully in assuming the responsibilities of  
15 citizenship.

16 (2) The tests shall be administered annually to all ninth grade students in  
17 the public schools. Students who fail to attain the required minimum  
18 standard for graduation in the ninth grade shall be given remedial  
19 instruction and additional opportunities to take the test up to and  
20 including the last month of the twelfth grade. Students who fail to pass  
21 parts of the test shall be retested on only those parts they fail. Students  
22 in the ninth grade who are enrolled in special education programs or  
23 who have been officially designated as eligible for participation in  
24 such programs may be excluded from the testing programs.

25 (3) The State Board of Education ~~may develop~~ shall:

26 a. Adopt one or more nationally standardized tests or other  
27 nationally standardized equivalent measures that measure  
28 competencies in the verbal and quantitative areas; or

1           b.   Develop and validate alternate means and standards for  
2               demonstrating minimum competence. These standards,  
3               ~~which standards~~ must be ~~more as~~ difficult ~~than as~~ the tests  
4               adopted pursuant to subdivision (1) of this ~~subsection~~,  
5               subsection.

6           One of these tests may be passed by students in lieu of the testing  
7           requirement of subdivision (2) of this subsection.

8           (3a) Students with disabilities who fail to pass the competency test adopted  
9               pursuant to subdivision (2) of this subsection after two attempts shall  
10              be given the opportunity to take and pass one of the alternate tests  
11              adopted pursuant to subdivision (3) of this subsection.

12           (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s.  
13              18.14."

14   **SECTION 2.** This act becomes effective July 1, 2003.



# HOUSE BILL 801:

## Alternatives to School Competency Test

### BILL ANALYSIS

**Committee:** House Education Subcomm. on  
Pre-Sch., Elem. & Secondary Ed.

**Date:** April 15, 2003

**Version:** First Edition

**Introduced by:** Rep. Warner

**Summary by:** Shirley Iorio  
Committee Staff

**SUMMARY:** *House Bill 801 would modify the State Competency Testing Program so that high school students who do not pass the Competency Test are given the opportunity to take an alternative test. The State Board of Education (State Board) would be required to adopt one or more nationally standardized tests or equivalent measures that test verbal and quantitative skills, or develop alternate means and standards for demonstrating minimum competence.*

*The bill would become effective July 1, 2003.*

**CURRENT LAW:** G.S. 115C-174.11(b) establishes the Competency Testing Program. The State Board of Education (State Board) is required to adopt tests or other measures that can be used to assure that high school graduates have the skills and knowledge necessary to function independently and successfully as responsible citizens. The tests must be administered annually to all ninth grade students in the public schools. Students who fail the test must be given remedial instruction and additional opportunities to take the test up to and including the last month of twelfth grade. Students who fail parts of the tests must be retested on only those parts that they fail. Special education students in ninth grade may be excluded from the testing programs. The State Board may develop and validate alternative means and standards for demonstrating minimum competence that must be more difficult than the Competency Test and may be passed by students in lieu of the testing requirement of all ninth graders in the public schools.

**BILL ANALYSIS:** This bill requires the State Board to either adopt one or more nationally standardized tests or equivalent measures that evaluate competencies in verbal and quantitative areas or develop and validate alternate means to demonstrate minimum competence. These tests or measures must be as difficult as the current required competency test. A student would be permitted to pass one of these alternate tests in lieu of the competency test.

House Bill 801 would also require that students with disabilities who fail the current competency test after two attempts be given the opportunity to take and pass one of the alternate tests that the State Board adopts.

**BACKGROUND:** In 1995 the State Board adopted the eighth grade end-of-grade (EOG) reading and mathematics tests as the competency requirement, and established Achievement Level III or above as the standard for each test. If the eighth grade student scores a Level III or above on the EOG in reading and math, that student has met the competency requirement.

Students who do not meet the standard at the end of the eighth grade are required to meet the standard on the North Carolina Competency Tests of reading and mathematics to receive a North Carolina high school diploma. The standard for the competency tests of reading and mathematics is equivalent to Achievement Level III on the eighth grade EOG.

# HOUSE BILL 801

Page 2

Students who don't pass the competency requirements receive additional instructional opportunities designed to help them learn the reading and mathematics skills needed to improve their performance and assist them in passing the competency tests. These students will have the opportunity to retake the tests at least once a year from ninth grade through twelfth grade. School systems may choose to offer the competency tests at least three times each year: once in the fall, once in the spring, and once during summer school session. Seniors are offered an extra opportunity to retake the tests during the last month of school.

Students with disabilities and students identified as limited English proficient may receive testing accommodations. These students also may be exempt from participation in one or both competency tests. However, the student will not receive a North Carolina high school diploma if the competency requirement is not met. A parent, guardian, or student (if 18 years of age or older) must sign a statement indicating that the consequences of exemption from the competency tests were explained. This signed statement must become a part of the student's permanent record.

Students who satisfy all state and local graduation requirements but who fail the competency tests receive a certificate of achievement.

Students following the occupational course of study are not required to pass the competency tests in order to earn a high school diploma.

H801-SMSF-001

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY**  
**AND SECONDARY EDUCATION**  
**April 23, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 415 of the Legislative Office Building on April 23, 2003, at 1:10 p.m. Representative Dockham called the meeting to order. The following Committee members were present: Representative Warren, Co-Chair, and Representatives Bell, Goforth, Gulley, Carney, Glazier, Gorman, Jeffus, C. Johnson, L. Johnson, Lucas, McGee, Nesbitt, Preston, Walend, and Womble. Shirley Iorio and Robin Johnson, Staff Counsels, were in attendance. A Visitor Registration list is attached and made part of these minutes (Attachment). The following bills were considered.

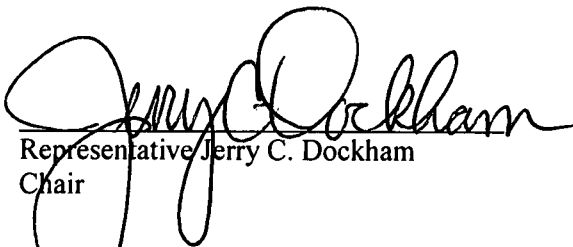
**HB 318, entitled, A BILL TO BE ENTITLED AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW ON STUDENTS WITH DISABILITIES.** Representative Warren, the bill sponsor, was recognized to explain the bill and she presented a proposed committee substitute. Representative Womble moved to adopt the proposed committee substitute for consideration. The motion passed. House Bill 318 requested by the State Board of Education, would make changes to the law governing education programs for students with disabilities. These narrow changes would conform the State's laws to IDEA, the federal law governing these programs. The PCS consolidates definitions into one section and conforms them to those in IDEA, the federal law governing educational programs for children with disabilities. The most significant change is to delete all references to "children with special needs" and to substitute "child with a disability" or "children with disabilities". It also conforms statutes to some of the discipline language required by IDEA, and makes numerous technical and conforming changes. Representative Warren sent forth a technical amendment to the proposed committee substitute. Robin Johnson, Staff Council, was recognized to explain the amendment; see attachment. Representative Warren moved to adopt the amendment for discussion. The motion passed. Ms. Linda Suggs, Legislative Director State Board of Education, was recognized and spoke in support of the bill. After discussion by committee members, Representative Warren moved to roll the amendment into a committee substitute, with a favorable report to the committee substitute, unfavorable to the original bill and with the approval of standing committee Chairs for report to be made directly to the floor of the House. The motion passed.

**HB 38, entitled, A BILL TO BE ENTITLED AN ACT TO PERMIT CAREER TEACHERS TO RETAIN CAREER STATUS WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO TEACHING AFTER LEAVING THE PROFESSION.** Representative Adams, the bill sponsor, was recognized to explain the bill and she presented a proposed committee substitute. Representative Womble moved to adopt the proposed committee substitute for consideration. The motion passed. This legislation would help the retention and recruitment of teachers. The Proposed Committee Substitute (PCS) to House Bill 38 would allow a teacher to acquire career status upon employment if the teacher has served as a teacher with career status in any North Carolina public school system within the previous five years. Section 1 of the PCS would apply to all teachers whose duties in new employment would begin on or after July 1, 2004. Section 1 would not apply to a teacher who has obtained career status as a teacher in a North Carolina public school system and is serving a probationary period as a teacher on the date this act becomes law. The employing board would vote upon whether to grant such a teacher career status. If the teacher were reemployed for an additional consecutive year, the teacher would automatically become a career teacher. At the request of Representative Adams, the Chair recognized Mr. Marcus Downs, Government Relations Specialist for the NCAE, and Ms. Carolina McKinney, President of the NCAE. Mr. Marcus and Ms. McKinney spoke in support of this legislation. We, the NCAE strongly supports this bill because we find it unfair to subject teachers who have already been certified by North Carolina and who have already earned tenure

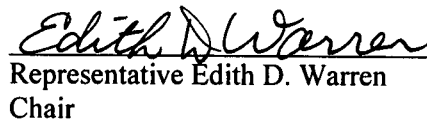
in one part of the state to sit under any probationary period in another part of the state. We feel that probation is for those who have not proven themselves able. Because these are experienced North Carolina teachers, we believe they have more than adequately proven their quality in the field. While NCAE understands that not all hires are good hires-we believe that the boards that conduct the hiring process will have used their discretion and better judgment in determining which teachers are best suited to teach North Carolina children. Ms. Leanne Winner, NC School Boards Association, was recognized and she spoke in opposition of HB 38. NCSBA opposes the bill for the following reason. In many instances the standard that one school system uses may be different than another school system. Like buying a car, you want to be able to try it out before purchasing it. This bill could hurt the very teachers it is trying to help. If it is determined that the hiring of the teacher is questionable than the school district will elect to not try the teacher out if they think that there is a risk that the teacher will not work out. At the request of Representative Clary, the Chair recognized Maurice Green, General Counsel Charlotte-Mecklenburg Board of Education, who also spoke in opposition of HB 38. The current law already acknowledges the potential worth of previously tenured teachers in North Carolina when they become employed in a new North Carolina school district. Unlike probationary teachers who must complete four years of teaching before they can receive tenure, previously tenured teachers can receive tenure immediately, after one year or two years. Mr. Green also spoke on behalf of Dr. James Pughsley, Superintendent of the Charlotte-Mecklenburg Schools. Mr. Pughsley is opposed to this proposed legislation, primarily because it eliminates the ability for the new school district to evaluate a previously tenured teacher before the Board grants the teacher tenure. Because local districts may evaluate teachers somewhat differently, the current law allows each school district to evaluate each teacher according to its standards and award tenure when that teacher meets those standards. Mr. Green raised concerns about the proposed language of the bill. It appeared to give tenured teachers the ability to retain tenure even if they had only worked for a short time in the past five years and would allow them to keep their tenure status even if they worked only a short period of time in the next five years. After extensive discussion by committee members, Representative Warren moved to give the committee substitute a favorable report, unfavorable to the original bill. The motion failed.

There being no further business, the Chair adjourned the meeting at 1:50 p.m.

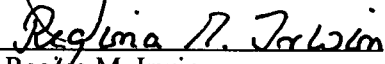
Respectfully submitted,



Representative Jerry C. Dockham  
Chair



Representative Edith D. Warren  
Chair



Regina M. Irwin  
Assistant to the Committee

ATTACHMENTS:

Visitor Registration Form  
HB 318, HB 38  
Handouts  
Bill Summaries



# VISITOR REGISTRATION SHEET

**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY. & SECONDARY EDUCATION**

**Wednesday, April 23, 2003**

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

LaToya Fore	DIIDP CPSV
Katherine Joyce	NCASA
Johnny	SBE/DPI
Sharon Hanna	WCPSS
Leanne Winters	NCSB
MAURICE GREEN	CHARLOTTE-MECKLENBURG SCHOOLS -
Peggy Maynard	a
McKenley Wooten	NC DOA
Sharon Hayes	NC DOA
Ken Full	Intern
Andy Smith	Lenoir County Public Schools Family Literacy

# VISITOR REGISTRATION SHEET

HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY. & SECONDARY EDUCATION

Wednesday, April 23, 2003

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Catalyn McKinney	NCAE
Mattias Davis	NCAE
Devon White	PENC
L. L. Miller	Miller Co
Sam Cox	Shenandoah College
Stacie McHenry	NCDHHS
Danny Finberry	ITS
Lin McDaniel	NCICU
Bob Rhinhardt	DOA - P&C
Gene Causby	NCSA

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Edith D. Warren and Jerry C. Dockham (Chairs) for the Education Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

**H.B. 318**

A BILL TO BE ENTITLED AN ACT TO ALIGN STATE LAW

WITH FEDERAL LAW ON STUDENTS WITH DISABILITIES.

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

☐ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: \_\_\_\_\_.

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Representatives Bonner and Hilton for the Standing Committee on EDUCATION.

s/

*Donald C. Bonner*  
*Mark Hilton*

☐

With a favorable report.

☐

With a favorable report, as amended.

☒

With a favorable report as to the committee substitute bill (# \_\_\_\_\_), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_). (and recommendation that the committee substitute bill (# \_\_\_\_\_) be referred to the Committee on \_\_\_\_\_)

03/26/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 318

PROPOSED COMMITTEE SUBSTITUTE H318-CSRH-11 [v.2]

4/15/2003 10:01:15 PM

Short Title: Children With Disabilities/Federal Law.-AB

(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW ON STUDENTS WITH  
DISABILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-106(b) reads as rewritten:

"(b) The policy of the State is to provide a free appropriate publicly supported education to every child with ~~special-needs-disabilities~~. The purpose of this Article is to (i) provide for a system of special educational opportunities for all children requiring special education, hereinafter called children with ~~special-needs-disabilities~~; (ii) provide a system for identifying and evaluating the educational needs of all children with ~~special-needs-disabilities~~; (iii) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (iv) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement; (v) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the rights of children with ~~special-needs-disabilities~~ and their parents or guardians are protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with respect to children with ~~special-needs-disabilities~~; and (viii) bring State law, regulations, and practice into conformity with relevant federal law."

**SECTION 2.** G.S. 115C-107 reads as rewritten:

**"§ 115C-107. Children can learn.**

The General Assembly finds that all children with ~~special-needs-disabilities~~ are capable of ~~benefitting-benefiting~~ from ~~appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop~~ access to the general curriculum and are best educated in the least restrictive environment. Accordingly, the State has a duty to provide them with a free appropriate public education."

**SECTION 3.** G.S. 115C-108 reads as rewritten:

1        **"§ 115C-108. Definition of special education and related services. Definitions.**

2        The term "special education" means specially designed instruction, at no cost to the  
3        parents or guardians, to meet the unique needs of a special needs child, including  
4        classroom instruction, instruction in physical education, home instruction, and  
5        instruction in hospitals and institutions. The term also includes speech pathology,  
6        audiology, occupational and physical therapy. The term "related services" means  
7        transportation for handicapped children with special needs who are unable because of  
8        their handicap to ride the regular school buses and such developmental, corrective and  
9        other supportive services as are required to assist a special needs child to benefit from  
10       special education and includes speech pathology and audiology, psychological services,  
11       physical and occupational therapy, recreation, early identification and assessment of  
12       disabilities in children, counseling services, and medical services for diagnostic or  
13       evaluation purposes only. The term also includes school social work services, parent  
14       counseling and training, providing parents with information about child development  
15       and assisting parents in understanding the special needs of their child. Other similar  
16       services, materials and equipment may be provided as approved by regulations adopted  
17       by the State Board of Education. The following definitions apply in this Chapter:

18        (1) Child with a disability. – A child:

- 19                a. With mental retardation; hearing impairments, including  
20                        deafness; speech or language impairments; visual impairments,  
21                        including blindness; serious emotional disturbance; orthopedic  
22                        impairments; autism; traumatic brain injury; other health  
23                        impairments; or specific learning disabilities; and  
24                b. Who, by reason of the disability, needs special education and  
25                        related services.

26        (2) Free appropriate public education. Special education and related  
27                services that:

- 28                a. Are provided at public expense, under public supervision and  
29                        direction, and without charge;  
30                b. Meet the standards of the State Board of Education;  
31                c. Include appropriate preschool, elementary, or secondary school  
32                        education in the State; and  
33                d. Are provided in conformity with an individualized education  
34                        program.

35        (3) IDEA. – The Individuals with Disabilities Education Act, 20 U.S.C. §  
36                1400 and regulations adopted under that Act.

37        (4) Individualized education program or IEP. – A written statement for  
38                each child with a disability that is developed, reviewed, and revised in  
39                accordance with section 614(d) of IDEA.

40        (5) Preschool child with a disability. -- A child with a disability who has  
41                reached the child's third birthday, who is not eligible to enroll in public  
42                kindergarten, and who needs special education and related services.

43        (6) Related services. – Transportation, and any developmental, corrective  
44                and other supportive services that may be required to assist a child

1                   with a disability to benefit from special education, and includes the  
2                   early identification and assessment of disabling conditions in children.

3           (7)   Special education. -- Specially designed instruction, at no cost to  
4           parents or guardians, to meet the unique needs of a child with a  
5           disability, including classroom instruction, instruction in physical  
6           education, home instruction, and instruction in hospitals and  
7           institutions.

8           (8)   Supportive services.-- Services that may include any one or more of  
9           the following: speech-language pathology and audiology services;  
10          psychological services; physical and occupational therapy; recreation,  
11          including therapeutic recreation; social work services; counseling  
12          services, including rehabilitation counseling, orientation and mobility  
13          services; and medical services for diagnostic and evaluation purposes  
14          only."

15       **SECTION 4.** G.S. 115C-109 is repealed.

16       **SECTION 5.** G.S. 115C-110 reads as rewritten:

17   **"§ 115C-110. Services mandatory; single-agency responsibility; State and local**  
18   **plans; census and registration.**

19       (a)   The Board shall cause to be provided by all local school administrative units  
20   and by all other State and local governmental agencies providing special education  
21   services or having children with special-needsdisabilities in their care, custody,  
22   management, jurisdiction, control, or programs, special education and related services  
23   appropriate to all children with special-needs-disabilities. In this regard, all local school  
24   administrative units and all other State and local governmental agencies providing  
25   special education and related services shall explore available local resources and  
26   determine whether the services are currently being offered by an existing public or  
27   private agency.

28       When a specified special education or related service is being offered by a local  
29   public or private resource, any unit or agency described above shall negotiate for the  
30   purchase of that service or shall present full consideration of alternatives and its  
31   recommendations to the Board. In this regard, a new or additional program for special  
32   education or related services shall be developed with the approval of the Board only  
33   when that service is not being provided by existing public or private resources or the  
34   service cannot be purchased from existing providers. Further, the Board shall support  
35   and encourage joint and collaborative special education planning and programming at  
36   local levels to include local administrative units and the programs and agencies of the  
37   Departments of Health and Human Services, Correction, and Juvenile Justice and  
38   Delinquency Prevention.

39       The jurisdiction of the Board with respect to the design and content of special  
40   education programs or related services for children with special-needsdisabilities  
41   extends to and over the Department of Health and Human Services, the Department of  
42   Juvenile Justice and Delinquency Prevention, and the Department of Correction.

43       All provisions of this Article that are specifically applicable to local school  
44   administrative units also are applicable to the Department of Health and Human

1 Services, the Department of Juvenile Justice and Delinquency Prevention, and the  
2 Department of Correction and their divisions and agencies; all duties, responsibilities,  
3 rights and privileges specifically imposed on or granted to local school administrative  
4 units by this Article also are imposed on or granted to the Department of Health and  
5 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and  
6 the Department of Correction and their divisions and agencies. However, with respect to  
7 children with ~~special-needs~~disabilities who are residents or patients of any  
8 state-operated or state-supported residential treatment facility, including without  
9 limitation, a school for the deaf, school for the blind, mental hospital or center, mental  
10 retardation center, or in a facility operated by the Department of Juvenile Justice and  
11 Delinquency Prevention, the Department of Correction or any of its divisions and  
12 agencies, the Board shall have the power to contract with the Department of Health and  
13 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and  
14 the Department of Correction for the provision of special education and related services  
15 and the power to review, revise and approve any plans for special education and related  
16 services to those residents.

17 The Departments of Health and Human Services, Correction, and Juvenile Justice  
18 and Delinquency Prevention shall submit to the Board their plans for the education of  
19 children with ~~special-needs~~disabilities in their care, custody, or control. The Board shall  
20 have general supervision and shall set standards, by rule or regulation, for the programs  
21 of special education to be administered by it, by local educational agencies, and by the  
22 Departments of Health and Human Services, Correction, and Juvenile Justice and  
23 Delinquency Prevention. The Board may grant specific exemptions for programs  
24 administered by the Department of Health and Human Services, the Department of  
25 Juvenile Justice and Delinquency Prevention, or the Department of Correction when  
26 compliance by them with the Board's standards would, in the Board's judgment, impose  
27 undue hardship on this department and when other procedural due process requirements,  
28 substantially equivalent to those of G.S. 115C-116, are assured in programs of special  
29 education and related services furnished to children with ~~special-needs~~disabilities served  
30 by this department. Further, the Board shall recognize that inpatient and residential  
31 special education programs within the Departments of Health and Human Services,  
32 Correction, and Juvenile Justice and Delinquency Prevention may require more program  
33 resources than those necessary for optimal operation of these programs in local school  
34 administrative units.

35 Every State and local department, division, unit or agency covered by this section is  
36 hereinafter referred to as a "local educational agency" unless the text of this Article  
37 otherwise provides.

38 (b) The Board shall make and keep current a plan for the implementation of the  
39 policy set forth in G.S. 115C-106(b). The plan shall include:

- 40 (1) A census of the children with ~~special-needs~~disabilities in the State, as  
41 required by subsection (j) of this section;
- 42 (2) A procedure for ~~diagnosis-identification~~ and evaluation of each child;
- 43 (3) An inventory of the personnel and facilities available to provide  
44 special education for these children;

- (4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;
- (5) Standards for the education of children with ~~special needs;~~disabilities;
- (6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and
- (7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.

(c) The Board shall annually submit amendments to or revisions of the plan required by subsection (b) of this section to the Governor and General Assembly and make it available for public comment ~~pursuant to~~ under subdivision (1) of subsection (b) of this section and for public distribution no less than 30 days before January 15 of each year. ~~All such~~ These submissions shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt rules covering:

- (1) The qualifications of and standards for certification of teachers, teacher assistants, speech clinicians, school psychologists, and others involved in the education and training of ~~children with special needs;~~ a child with a disability;
- (2) Minimum standards for the individualized educational program for all children with ~~special needs~~ disabilities other than for the pregnant children, and for the educational program for the pregnant children, who receive special education and related services; and
- (3) Any other rules as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the Departments of Health and Human Services, Correction, and Juvenile Justice and Delinquency Prevention shall be involved in the development of the standards outlined under this subsection.

(e) On or before October 15, each local educational agency shall report annually to the Board the extent to which it is then providing special education for children with ~~special needs~~ disabilities. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this Article, including the following:

- (1) A statement of the extent to which the required education and services will be provided directly by the agency;
- (2) A statement of the extent to which standards in force pursuant to G.S. 115C-110(b)(5) and 115C-110(d)(2) are being met by the agency; and
- (3) The means by which the agency will contract to provide, at levels meeting standards in force ~~pursuant to~~ under G.S. 115C-110(b)(5) and 115C-110(d)(2), all special education and related services not provided directly by it or by the State.



1 (f) After submitting the report required by subsection (e), ~~(e) of this section,~~ the  
2 local educational agency also shall submit such supplemental and additional reports as  
3 the Board may require to keep the local educational agency's plan current.

4 (g) By rule, the Board shall prescribe due dates not later than October 15 of each  
5 year, and all other necessary or appropriate matters relating to these annual and  
6 supplemental and additional reports.

7 (h) The annual report shall be a two-year plan for providing appropriate special  
8 education and related services to children with ~~special needs,~~ disabilities. The agency  
9 shall submit the plan to the Board for its review, approval, modification, or disapproval.  
10 Unless thereafter modified with approval of the Board, the plan shall be adhered to by  
11 the local educational agency. The procedure for approving, disapproving, establishing,  
12 and enforcing the plan shall be the same as that set forth for the annual plan. The long-  
13 range plan shall include such provisions as may be appropriate for the following,  
14 without limitation:

15 (1) Establishment of classes, other programs of instruction, curricula,  
16 facilities, equipment, and special services for children with special  
17 needs; and

18 (2) Utilization and professional development of teachers and other  
19 personnel working with children with special needs.

20 (i) Each local educational agency shall provide ~~free appropriate special~~  
21 ~~education and related services in accordance with the provisions of this Article for all~~  
22 ~~children with special needs who are residents~~ a free appropriate public education to each  
23 child with a disability who is a resident of, or whose parents or guardians are residents  
24 of, the agency's district, beginning with children aged five. No matriculation or tuition  
25 fees or other fees or charges shall be required or asked of ~~children with special needs or~~  
26 ~~their any child with a disability or that child's~~ parents or guardians except those fees or  
27 charges as are required uniformly of all public school pupils. The provision of free  
28 ~~appropriate special education~~ a free appropriate public education within the facilities of  
29 the Department of Health and Human Services ~~and or~~ the Department of Juvenile  
30 Justice and Delinquency Prevention shall not prevent ~~that department either Department~~  
31 from charging for other services or treatment.

32 (j) The Board shall require an annual census of children with ~~special needs,~~  
33 disabilities, subdivided for "identified" and "suspected" children with ~~special needs,~~  
34 disabilities, to be taken in each school year. Suspected children are those in the formal  
35 process of being identified, evaluated or ~~diagnosed eligible~~ as children with ~~special~~  
36 needs disabilities. The census shall be conducted annually and shall be completed not  
37 later than October 15, and shall be submitted to the Governor and General Assembly  
38 and be made available to the public no later than January 15 annually.

39 In taking the census, the Board shall require the cooperation, participation, and  
40 assistance of all local educational agencies and all other State and local governmental  
41 departments and agencies providing or required to provide special education services to  
42 children with ~~special needs,~~ disabilities, and those departments and agencies shall  
43 cooperate and participate with and assist the Board in conducting the census.

1 The census shall include the number of children identified and suspected with  
2 ~~special-needs-disabilities~~, their age, the nature of their disability, their county or city of  
3 residence, their local school administrative unit residence, whether they are being  
4 provided special educational or related services and if so by what department or agency,  
5 whether they are not being provided special education or related services, the identity of  
6 each department or agency having children with ~~special-needs-disabilities~~ in its care,  
7 custody, management, jurisdiction, control, or programs, the number of children with  
8 ~~special-needs-disabilities~~ being served by each department or agency, and such other  
9 information or data as the Board shall require. The census shall be of children with  
10 ~~special-needs-disabilities~~ between the ages of three and 21, inclusive.

11 (k) The Department shall monitor the effectiveness of individualized education  
12 programs in meeting the educational needs of all children with ~~special-needs-disabilities~~  
13 other than pregnant children, and of educational programs in meeting the educational  
14 needs of the pregnant children.

15 (l) The Board shall provide for procedures assuring that in carrying out the  
16 requirements of this Article procedures are established for consultation with individuals  
17 involved in or concerned with the education of children with ~~special-needs-disabilities~~,  
18 including parents or guardians of such children, and there are public hearings, adequate  
19 notice of such hearings, and an opportunity for comment available to the general public  
20 prior to the adoption of the policies, procedures, and rules or regulations required by this  
21 Article.

22 (m) Children with ~~special-needs-disabilities~~ shall be educated in the least  
23 restrictive appropriate setting, as defined by the State Board of Education.

24 (n) **(Effective July 1, 2003)** Each interpreter or transliterator employed by a local  
25 educational agency, to provide services to hearing-impaired students, must annually  
26 complete 15 hours of job-related training that has been approved by the local  
27 educational agency."

28 **SECTION 6.** G.S. 115C-111 reads as rewritten:

29 **"§ 115C-111. Free appropriate public education for all children with ~~special~~**  
30 **~~needs-disabilities~~.**

31 No child with ~~special-needs~~ a disability between the ages ~~specified by G.S. 115C-109~~  
32 of three years through twenty years shall be denied a free appropriate public education  
33 or be prevented from attending the public schools of the local educational agency in  
34 which he or his parents or legal guardian resides or from which he receives services or  
35 from attending any other public program of free appropriate public education because  
36 he is a child with ~~special-needs-a disability~~. If it appears that a child should receive a  
37 ~~program of~~ free appropriate public education in a program operated by or under the  
38 supervision of the Department of Health and Human Services or the Department of  
39 Juvenile Justice and Delinquency Prevention, the local educational agency shall confer  
40 with the appropriate Department of Health and Human Services or Department of  
41 Juvenile Justice and Delinquency Prevention staff for their participation and  
42 determination of the appropriateness of placement in said program and development of  
43 the child's individualized education program. The individualized education program  
44 may then be challenged under the due process provisions of G.S. 115C-116. Every child

1 with ~~special-needs~~a disability shall be entitled to attend these nonresidential schools or  
2 programs and receive from them free appropriate public education."

3 SECTION 7. G.S. 115C-113 reads as rewritten:

4 "§ 115C-113. ~~Diagnosis and evaluation; Evaluation and identification;~~  
5 individualized education program.

6 (a) Before taking any action described in subsection (b), ~~below, (b) of this~~  
7 section, each local educational agency shall cause a multi-disciplinary diagnosis and  
8 evaluation to be made of the child. The State Board of Education shall establish special,  
9 simplified procedures for the diagnosis and evaluation of the pregnant child, which  
10 procedures shall focus on the particular needs of the pregnant child and shall exclude  
11 those procedures which are not pertinent to the pregnant. conduct evaluations and  
12 determine eligibility consistent with IDEA. The local educational agency shall use the  
13 diagnosis and evaluation to determine if the child has special-needs, diagnose and  
14 disability, evaluate those that child's individual needs, propose special education  
15 programs and related services to meet those needs, and provide or arrange to provide  
16 such programs. that special education and related services. A multi-disciplinary  
17 diagnosis and evaluation is one which includes, without limitation, medical (if  
18 necessary), psychological (if necessary) and educational assessments and  
19 recommendations; such an evaluation may include any other assessments as the Board  
20 may, by rule or regulation, require.

21 All testing and evaluation materials and procedures utilized for the purposes of  
22 evaluation and placement of children with ~~special-needs~~disabilities will be selected and  
23 administered so as not to be racially or culturally discriminatory. Such materials or  
24 procedures shall be provided and administered in the child's native language or mode of  
25 communication, unless it clearly is not feasible to do so, and no single procedure shall  
26 be the sole criterion for determining an appropriate educational program for a child.

27 (b) An initial ~~multi-disciplinary diagnosis and full and individual~~evaluation  
28 based on rules developed by the Board consistent with IDEA shall be made before any  
29 such child with a disability is placed in a special education program, removed from such  
30 a program and placed in a regular school program, transferred from one type of special  
31 education program to another, or removed from a school program for placement in a  
32 nonschool program, or otherwise tracked, classified, or treated as a child with special  
33 needs.

34 (c) Referral of any child shall be in writing, signed by the person requesting  
35 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or  
36 delivered to one of the following: the child's teacher, the principal of the school to  
37 which the child is, has been or will be assigned, or the superintendent of the affected  
38 local educational agency or his designee. The local educational agency shall send a  
39 written notice to the parent or guardian describing the evaluation procedure to be  
40 followed and requesting consent for the evaluation. If the parents or guardian consent,  
41 the ~~diagnosis and evaluation~~ may be undertaken; if they do not, the local educational  
42 agency may obtain a due process hearing pursuant to G.S. 115C-116 on the failure of  
43 the parent or guardian to consent.

1 The local educational agency shall provide or cause to be provided, as soon as  
2 possible after receiving consent for evaluation, ~~a diagnosis and an~~ evaluation  
3 appropriate to the needs of the child unless the parents or guardian have objected to  
4 such evaluation. If at the conclusion of the evaluation, the child is determined to be a  
5 child with ~~special needs, a disability,~~ the local educational agency shall within 30  
6 calendar days convene an individualized education program committee. The purpose of  
7 the meeting shall be to propose the special education and related services for the child.  
8 An interpretation of the multi-disciplinary ~~diagnosis and evaluation~~ will be made to the  
9 parent or guardian during the meeting. The proposal shall set forth the specific benefits  
10 expected from such a program, a method for monitoring the benefits, and a statement  
11 regarding conditions which will be considered indicative of the child's readiness for  
12 participation in regular classes.

13 After an initial referral is made, the provision of special education and related  
14 services shall be implemented within 90 calendar days to eligible students, unless the  
15 parents or guardian refuse to consent to evaluation or placement or the parent or local  
16 educational agency requests a due process hearing.

17 Within 12 months after placement in a special education program, and at least  
18 annually thereafter, those people responsible for developing the child's individualized  
19 education program, or educational program for the pregnant, shall review the child's  
20 progress and, on the basis of previously stated expected benefits, decide whether to  
21 continue or discontinue the placement or program. If the review indicates that the  
22 placement or program does not benefit the child, the appropriate reassignment or change  
23 in the prescribed program shall be recommended to the parents or guardian.

24 The local educational agency shall keep a complete written record of all ~~diagnostic~~  
25 ~~and evaluation~~ procedures attempted, their results, the conclusions reached, and the  
26 proposals made.

27 (d) The local educational agency shall furnish the results, findings, and  
28 proposals, as described in the individualized education program based on the ~~diagnosis~~  
29 ~~and evaluation~~ to the parents or guardian in writing in the parents' or guardian's native  
30 language or by their dominant mode of communication, prior to the parent or guardian  
31 giving consent for initial placement in special education and related services. Prior  
32 notice will be given to the parents or guardian by the local educational agency before  
33 any change in placement.

34 A reevaluation must be completed at least every three years to determine the  
35 appropriateness of the child's continuing to receive special education and related  
36 services.

37 (e) Each local educational agency shall make and keep current a list of all  
38 children evaluated ~~and diagnosed pursuant to under~~ this section who are found to have  
39 ~~special needs disabilities~~ and of all children who are receiving home, hospital,  
40 institutional or other special education services, including those being educated within  
41 the regular classroom setting or in other special education programs.

42 (f) Each local educational agency shall prepare ~~individualized educational~~  
43 ~~programs for all children found to be children with special needs other than the pregnant~~  
44 ~~children, an IEP for each child with a disability who requires special education and~~

1 ~~related services~~ and educational programs prescribed in subsection (h) of this section for  
2 the pregnant children. ~~The individualized educational program shall be developed in~~  
3 ~~conformity with Public Law 94-142 and the implementing regulations issued by the~~  
4 ~~United States Department of Education and shall be implemented in conformity with~~  
5 ~~timeliness set by that Department. The term "individualized educational program"~~  
6 ~~means a written statement for each such child developed in any meeting by a~~  
7 ~~representative of the local educational agency who shall be qualified to provide, or~~  
8 ~~supervise the provision of, specially designed instruction to meet the unique needs of~~  
9 ~~such children, the teacher, the parents or guardian of such child, and, whenever~~  
10 ~~appropriate, such child, which statement shall be based on rules developed by the~~  
11 ~~Board. The development of an IEP, including its timelines, shall meet the requirements~~  
12 ~~of IDEA. Each local educational agency shall establish, develop or revise, whichever is~~  
13 appropriate, the individualized educational program of each child with special  
14 ~~needs~~ disabilities each school year and will then review and, if appropriate revise, its  
15 provisions periodically, but not less than annually. In the facilities and programs of the  
16 Department of Health and Human Services and the Department of Juvenile Justice and  
17 Delinquency Prevention, the individualized educational program shall be planned in  
18 collaboration with those other individuals responsible for the design of the total  
19 treatment or habilitation plan or both; the resulting educational, treatment, and  
20 habilitation plans shall be coordinated, integrated, and internally consistent.

21 (g) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.24(e).

22 (h) Each local educational agency shall prepare educational programs for the  
23 pregnant children. The State Board of Education shall promulgate rules and regulations  
24 specifically to address the preparation of these educational programs, which rules and  
25 regulations shall include specific standards for ensuring that the individual educational  
26 needs of each child are addressed."

27 **SECTION 8.** G.S. 115C-114(a) reads as rewritten:

28 "(a) No local educational agency may release to any persons other than the  
29 eligible student, his parents or guardian or any surrogate parent any records, data or  
30 information on any child with ~~special needs~~ a disability except (i) as permitted by the  
31 prior written consent of the student, his parents or guardian or surrogate parent, (ii) as  
32 required or permitted by federal law, (iii) school officials within the local education  
33 agency who have legitimate educational interest, (iv) school officials of other local  
34 educational agencies in which the student intends to enroll, or (v) certain authorized  
35 representatives of the State and federal government who are determining eligibility of  
36 the child for aid, as provided under Public Law 93-380 or other federal law."

37 **SECTION 9.** G.S. 115C-115(3) reads as rewritten:

38 "(3) If the placement of the child in a private school, out-of-state school or  
39 a school in another local educational agency determined by the  
40 Superintendent of Public Instruction to be the most cost-effective way  
41 to provide an appropriate education to that child and the child is not  
42 currently being educated by the Department of Health and Human  
43 Services, the Department of Juvenile Justice and Delinquency  
44 Prevention, or the Department of Correction, the State will bear a

1 portion of the cost of the placement of the child. The local school  
2 administrative unit shall pay an amount equal to what it receives per  
3 pupil from the State Public School Fund and from other State and  
4 federal funds for children with ~~special-needs~~disabilities for that child.  
5 The State shall pay the full cost of any remainder up to a maximum of  
6 fifty percent (50%) of the total cost."

7 **SECTION 10.** G.S. 115C-116(a) reads as rewritten:

8 "(a) Prior Notice. – The parent, guardian, or surrogate parent of a child shall be  
9 notified promptly when the local educational agency proposes to initiate or change, or  
10 refuses to initiate or change, the identification, evaluation, or educational placement of a  
11 child as a child with ~~special-needs~~disabilities. The written notice shall contain a full  
12 explanation of all the procedural safeguards available to the parent, guardian, or  
13 surrogate parent including the right to review the proposed decision, and a statement  
14 offering the parent, guardian, or surrogate parent the opportunity for mediation. The  
15 local educational agency shall document that all required notices have been sent to and  
16 received by parents, guardians, or surrogate parents."

17 **SECTION 11.** G.S. 115C-116(b) reads as rewritten:

18 "(b) Mediation. – It is the policy of this State to encourage local educational  
19 agencies and parents, guardians, surrogate parents, custodians, and eligible students to  
20 seek informal resolution of disputes or disagreements regarding the identification of  
21 children with ~~special-needs~~disabilities and the provision of special education and related  
22 services before filing a request for a formal administrative review of the matter. To that  
23 end, the following provisions apply to the mediation of these disputes:

- 24 (1) Purpose. – The purpose of mediation is to clarify the concerns of the  
25 parents and to resolve disputes.
- 26 (2) Definitions. – As used in this subsection, the following terms have the  
27 following meanings:
- 28 a. "Dispute" means a disagreement between the parties that is  
29 subject to review under subsection (c) of this section.
- 30 b. "Mediation" means an informal process conducted by a  
31 mediator with the objective of helping parties voluntarily settle  
32 their dispute.
- 33 c. "Mediator" means a neutral person who acts to encourage and  
34 facilitate a resolution of a dispute.
- 35 d. "Parents" means parents, guardians, surrogate parents,  
36 custodians, and eligible students.
- 37 e. "Parties" means the local educational agency and the parents.
- 38 (3) Nonadversarial. – The mediation shall be informal and nonadversarial  
39 as provided in G.S. 150B-22.
- 40 (4) Rules of procedure. – The mediator is encouraged to follow applicable  
41 procedures provided in G.S. 7A-38.1, G.S. 7A-38.2, and applicable  
42 rules adopted by the Supreme Court under G.S. 7A-38.1. The mediator  
43 may establish other procedures to facilitate an informal resolution of

- 1 the dispute. The mediator shall not render a decision or judgment as to  
2 the merits of the dispute.
- 3 (5) Request for mediation. – Before a request for formal administrative  
4 review is filed, mediation shall commence upon the request of either  
5 party, so long as the other party consents.
- 6 (6) Selection of mediator. – The parties shall agree to the selection of the  
7 mediator. The Exceptional Children Division of the Department of  
8 Public Instruction shall maintain a list of mediators who are certified  
9 or trained in resolving disputes under this subsection.
- 10 (7) Notice of right to mediation. – The local educational agency shall  
11 notify parents of their right to request mediation under this subsection.
- 12 (8) Time periods tolled. – Notwithstanding G.S. 150B-23, time periods  
13 related to the filing of a formal administrative review or the taking of  
14 any other action with respect to the dispute, including any applicable  
15 statutes of limitations, are tolled upon the filing of a request for  
16 mediation under this subsection until the mediation is completed or the  
17 mediator declares an impasse.
- 18 (9) Good cause for continuance. – A good faith effort by both parties to  
19 mediate the dispute is presumed to constitute good cause for a  
20 continuance so long as the administrative law judge does not find that  
21 the time delay for mediation would likely result in irreparable harm to  
22 one of the parties or to the child.
- 23 (10) Inadmissibility of negotiations. – Evidence of statements made and  
24 conduct occurring in a mediation shall not be subject to discovery and  
25 shall be inadmissible in any proceeding in the action or other actions  
26 on the same claim. However, no evidence otherwise discoverable shall  
27 be inadmissible merely because it is presented or discussed in a  
28 mediation. Mediators shall not be compelled in any civil proceeding to  
29 testify or produce evidence concerning statements made and conduct  
30 occurring in a mediation.
- 31 (11) Mediator's fees. – If mediation is requested before a request for formal  
32 administrative review is filed, the local educational agency shall pay  
33 the mediator's fees for one mediation session. If resolution is not  
34 reached in that session, the parties must agree to continue the  
35 mediation. The local educational agency shall pay any mediator fees  
36 for subsequent mediation sessions unless the parties agree otherwise.
- 37 (12) Mediated settlement conference after a request for administrative  
38 review. – In addition to mediation as provided by this subsection, the  
39 parties may participate in a mediated settlement conference as  
40 provided by G.S. 150B-23.1.
- 41 (13) Promotion of other settlement procedures. – The parties may agree to  
42 use other dispute resolution methods or to use mediation in other  
43 circumstances, including after a request for formal administrative  
44 review is filed, to the extent permitted under State and federal law."

1           **SECTION 12.** G.S. 115C-116(c) reads as rewritten:

2           "(c) Right of Review. – The parent, guardian, or surrogate parent may obtain  
3 review of proposed decisions ~~on the following grounds:~~ relating to the following:

4           (1) The child has not been identified or has been incorrectly identified as a  
5 child with ~~special needs;~~ a disability;

6           (2) The child's individualized education ~~plan-program and placement~~ is  
7 not appropriate to meet ~~his~~ the child's needs;

8           (3) The child's individualized education ~~plan-program~~ is not being  
9 implemented; or

10          (4) The child is ~~otherwise~~ being denied a free, appropriate education.

11 In addition, a local educational agency may obtain review as provided by this section if  
12 a parent, guardian, or surrogate parent refuses to consent to the evaluation of the child  
13 for the purpose of determining whether the child is a child with ~~special needs~~ a disability  
14 or for the purpose of developing a free appropriate educational program for the child."

15           **SECTION 13.** G.S. 115C-122 reads as rewritten:

16           **"§ 115C-122. Early childhood development program; evaluation and placement of**  
17 **children.**

18           The General Assembly of North Carolina declares that the public policy of North  
19 Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

20           (1) The State shall provide for a comprehensive early childhood  
21 development program by emphasizing preventative and remedial  
22 measures designed to provide the services which will enable children  
23 to develop to the maximum level their physical, mental, social, and  
24 emotional potentials and to strengthen the role of the family as the first  
25 and most fundamental influence on child development. The General  
26 Assembly finds that the complexity of early childhood development  
27 precludes the enactment of legislation which is of a sufficiently  
28 comprehensive nature to encompass all possible implications. The  
29 Departments of Public Instruction and Health and Human Services  
30 shall, therefore, jointly develop an early childhood development  
31 program plan with flexibility sufficient to meet the State's policy as set  
32 forth in this subdivision. Said plan shall provide for the operation of a  
33 statewide early childhood development program no later than June 30,  
34 1983.

35           (2) The State requires a system of educational opportunities for all  
36 children with ~~special needs~~ disabilities and requires the identification  
37 and evaluation of the needs of children and the adequacy of various  
38 education programs before placement of children, and shall provide for  
39 periodic evaluation of the benefits of programs to the individual child  
40 and the nature of the child's needs thereafter.

41           (3) The State shall prevent denial of equal educational and service  
42 opportunity on the basis of national origin, sex, economic status, race,  
43 religion, and physical, mental, social or emotional ~~handicap~~ disability  
44 in the provision of services to any child. Each local school



1 administrative unit shall develop program plans to meet the  
2 educational requirements of children with ~~special needs~~disabilities and  
3 each local human services agency shall develop program plans to meet  
4 the human service requirements of children with ~~special~~  
5 ~~needs~~disabilities in accordance with program standards and in a  
6 planning format as shall be prescribed by the State Board of Education  
7 and the Department of Health and Human Services respectively.

8 The General Assembly intends that the educational program and  
9 human service program requirements of Session Laws 1973, Chapter  
10 1293, shall be realized no later than June 30, 1982. The General  
11 Assembly further intends that currently imposed barriers to  
12 educational and human service opportunities for children with ~~special~~  
13 ~~needs~~disabilities by reason of a single standardized test, income,  
14 federal regulations, conflicting statutes, or any other barriers are  
15 hereby abrogated; except that with respect to barriers caused by reason  
16 of income, it shall be permissible for the State or any local education  
17 agency or local human services agency to charge fees for special  
18 services rendered, or special materials furnished to a child with ~~special~~  
19 ~~needs~~disabilities, his parents, guardian or persons standing in loco  
20 parentis unless the imposition of such fees would prevent or  
21 substantially deter the child, his parents, guardian, or persons standing  
22 in loco parentis from availing themselves of or receiving such services  
23 or materials.

- 24 (4) It is recognized that children have a variety of characteristics and  
25 needs, all of which must be considered if the potential of each child is  
26 to be realized; that in order to accomplish this the State must develop a  
27 full range of service and education programs, and that a program must  
28 actually benefit a child or be designed to benefit a particular child in  
29 order to provide such child with appropriate educational and service  
30 opportunities. The General Assembly requires that all programs  
31 employ least restrictive alternatives as shall be defined by the  
32 Departments of Public Instruction and Health and Human Services."

33 **SECTION 14. G.S. 115C-139 reads as rewritten:**

34 **"§ 115C-139. Interlocal cooperation.**

35 (a) The Board, any two or more local educational agencies and any such agency  
36 and any State department, agency, or division having responsibility for the education,  
37 treatment or habilitation of children with ~~special needs~~disabilities are authorized to enter  
38 into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A,  
39 Article 20, Part 1 of the General Statutes or into undertakings with a State agency such  
40 as the Departments of Public Instruction, Health and Human Services, Juvenile Justice  
41 and Delinquency Prevention, or Correction, or their divisions, agencies, or units, for the  
42 purpose of providing for the special education and related services, treatment or  
43 habilitation of such children within the jurisdiction of the agency or unit, and shall do so  
44 when it itself is unable to provide the appropriate public special education or related

1 services for these children. In entering into such undertakings, the local agency and  
2 State department, agency, or division shall also contract to provide the special education  
3 or related services that are most educationally appropriate to the children with special  
4 ~~needs~~disabilities for whose benefit the undertaking is made, and provide these services  
5 by or in the local agency unit or State department, agency, or division located in the  
6 place most convenient to these children.

7 (b) Local educational agencies may establish special education and related  
8 programs for children with ~~special-needs~~disabilities aged birth through four and 19  
9 through 21 inclusive."

10 **SECTION 15.** G.S. 115C-140 reads as rewritten:

11 **"§ 115C-140. Contracts with private service-providers.**

12 State departments, agencies and divisions and local educational agencies furnishing  
13 special education and related services to children with ~~special-needs~~disabilities may  
14 contract with private special education facilities or service providers to furnish such  
15 services as the public providers are unable to furnish. No contract between any public  
16 and private service provider shall be effective until it has received the prior written  
17 approval of the Board. The Board shall not withhold its approval of the contract unless  
18 the private facilities and providers do not meet the Board's standards established  
19 pursuant to G.S. 115C-110(a), G.S. 115C-110(b)(5), and G.S. 115C-110(d)(2)."

20 **SECTION 16.** G.S. 115C-140.1 reads as rewritten:

21 **"§ 115C-140.1. Cost of education of children in group homes, foster homes, etc.**

22 (a) **(Effective until July 1, 2003)** Notwithstanding the provisions of any other  
23 statute and without regard for the place of domicile of a parent or guardian, the cost of a  
24 free appropriate public education for a child with ~~special-needs~~a disability who is placed  
25 in or assigned to a group home, foster home or other similar facility, pursuant to State  
26 and federal law, shall be borne by the local board of education in which the group home,  
27 foster home or other similar facility is located. Nothing in this section obligates any  
28 local board of education to bear any cost for the care and maintenance of a child with  
29 ~~special-needs~~a disability in a group home, foster home or other similar facility.

30 (a) **(Effective July 1, 2003)** Notwithstanding the provisions of any other statute  
31 and without regard for the place of domicile of a parent or guardian, the cost of a free  
32 appropriate public education for a child with ~~special-needs~~a disability who is placed in  
33 or assigned to a group home, foster home or other similar facility, pursuant to State and  
34 federal law, shall be borne by the local board of education in which the group home,  
35 foster home or other similar facility is located. However, the local school administrative  
36 unit in which a child is domiciled shall transfer to the local school administrative unit in  
37 which the institution is located an amount equal to the actual local cost in excess of  
38 State and federal funding required to educate that child in the local school  
39 administrative unit for the fiscal year. Nothing in this section obligates any local board  
40 of education to bear any cost for the care and maintenance of a child with ~~special-needs~~  
41 a disability in a group home, foster home or other similar facility.

42 (b) The State Board of Education shall use State and federal funds appropriated  
43 for children with ~~special-needs~~disabilities to establish a reserve fund to reimburse local

boards of education for the education costs of children assigned to group homes or other facilities as provided in subsection (a) of this section."

SECTION 17. G.S. 115C-142 reads as rewritten:

"§ 115C-142. **Nonreduction.**

Notwithstanding any of the other provisions of this Article, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by local school administrative units not be reduced; rather, that adequate funding be made available to meet the special educational and related services needs of children with ~~special-needs~~disabilities, without regard to which State or local department, agency, or unit has the child in its care, custody, control, or program."

SECTION 18. G.S. 115C-145 reads as rewritten:

"§ 115C-145. **Allocation of federal funds.**

At such time as any federal moneys for the special education and related services for children with ~~special-needs~~disabilities are made available, these funds shall be allocated according to a formula designed by the Board not inconsistent with federal laws and regulations. Such formula shall insure equitable distribution of resources based upon the number of children with ~~special-needs~~disabilities served by the respective agencies, and shall be implemented as funds are made available from federal and State appropriations."

SECTION 19. The title of Part 14 of Article 9 of Chapter 115C of the General Statutes reads as rewritten:

"Part 14. ~~Handicapped Children~~, Children With Disabilities, Ages Three to Five."

SECTION 20. G.S. 115C-146.1 is repealed.

SECTION 21. G.S. 115C-146.2 reads as rewritten:

"§ 115C-146.2. **Entitlement to services.**

Preschool ~~handicapped~~-children with disabilities are entitled, at no cost to their parents or guardians, to individualized education programs specifically designed to meet their unique needs for special education and related services."

SECTION 22. G.S. 115C-146.3(a) reads as rewritten:

"(a) The General Assembly finds:

- (1) That preschool ~~handicapped~~-children with disabilities will benefit from the special education and related services required by this Part;
- (2) That the General Assembly has evaluated the known needs of the State and has endeavored to satisfy those needs in comparison to the social and economic problems of the State;
- (3) That the funds appropriated to serve these preschool ~~handicapped~~ children; children with disabilities are a reasonable amount to provide such children with special education and related services; and
- (4) That, therefore, (i) State funds appropriated to implement this Part are the only State funds for public schools that may be used to provide special education and related services to preschool ~~handicapped~~ children; children with disabilities; and (ii) preschool ~~handicapped~~

1 children with disabilities will continue to be served by all other State  
2 funds ~~they are otherwise entitled to to which they are entitled.~~"

3 **SECTION 23.** G.S. 115C-146.3(b) reads as rewritten:

4 "(b) The State Board of Education shall cause local school administrative units to  
5 make available special education and related services to all preschool ~~handicapped~~  
6 children with disabilities whose parents or guardians request these services. These  
7 services shall start no later than the beginning of the school year immediately following  
8 the child's third birthday."

9 **SECTION 24.** G.S. 115C-174.11(b)(2) reads as rewritten:

10 "(2) The tests shall be administered annually to all ninth grade students in  
11 the public schools. Students who fail to attain the required minimum  
12 standard for graduation in the ninth grade shall be given remedial  
13 instruction and additional opportunities to take the test up to and  
14 including the last month of the twelfth grade. Students who fail to pass  
15 parts of the test shall be retested on only those parts they fail. ~~Students~~  
16 ~~in the ninth grade who are enrolled in special education programs or~~  
17 ~~who have been officially designated as eligible for participation in~~  
18 ~~such programs may be excluded from the testing programs."~~

19 **SECTION 25.** G.S. 115C-81(b)(4) reads as rewritten:

20 "(4) Standards for student performance and promotion based on the  
21 mastery of competencies, including standards for graduation, that take  
22 into account children with special-needs-disabilities and, in particular,  
23 include appropriate modifications;"

24 **SECTION 26.** G.S. 115C-105.25(b)(4) reads as rewritten:

25 "(b) Subject to the following limitations, local boards of education may transfer  
26 and may approve transfers of funds between funding allotment categories:

27 ...

28 (4) Funds allocated for children with special-needs-disabilities, for  
29 students with limited English proficiency, and for driver's education  
30 shall not be transferred.

31 ...."

32 **SECTION 27.** G.S. 115C-149 reads as rewritten:

33 "**§ 115C-149. Policy. Chemically dependent children excluded from provisions of**  
34 **Article 9.**

35 The General Assembly of North Carolina hereby declares that the policy of the State  
36 is to ensure that an appropriate education is provided for drug and alcohol addicted  
37 children; however, drug and alcohol addicted children are not "children with special  
38 needs-disabilities" within the meaning of ~~G.S. 115C-109~~ G.S. 115C-108 unless  
39 because of some other condition they meet that definition."

40 **SECTION 28.** G.S. 115C-238.29F(d)(4) reads as rewritten:

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

44 **SECTION 29.** G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school:

- (1) 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~~disabilities~~ and for the allocation for children with limited English proficiency;
- (2) An additional amount for each child attending the charter school who is a child with special needs~~a disability~~; and
- (3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with special needs~~a disability~~ leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with special needs~~a disability~~ enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with special needs~~disabilities~~."

**SECTION 30.** G.S. 115C-242(1) reads as rewritten:

- "(1) A school bus may be used for the transportation of pupils enrolled in and employees in the operation of the school to which such bus is assigned by the superintendent of the local school administrative unit. Except as otherwise herein provided, such transportation shall be limited to transportation to and from such school for the regularly organized school day, and from and to the points designated by the principal of the school to which such bus is assigned, for the receiving and discharging of passengers. No pupil or employee shall be so transported upon any bus other than the bus to which such pupil or employee has been assigned pursuant to the provisions of this Article: Provided, that children enrolled in a Headstart program which is housed in a building owned and operated by a local school administrative unit where school is being conducted may be transported on public school buses, so long as the contractual arrangements made cause no extra expense to the State: Provided further, that children with special needs~~disabilities~~ may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a local school administrative unit as a result of the State or the unit's

duty to provide such children with a free appropriate public education."

SECTION 31. G.S. 115C-242(5) reads as rewritten:

"(5) Local boards of education, under rules and regulations adopted by the State Board of Education, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools. Included in the use permitted by this section is the transportation of children with ~~special-needs~~disabilities, such as mentally retarded children and children with physical defects, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. On any such trip, a city or county-owned school bus shall not be taken out of the State.

If State funds are inadequate to pay for the transportation approved by the local board of education, local funds may be used for these purposes. Local boards of education shall determine that funds are available to such boards for the transportation of children to and from the school to which they are assigned for the entire school year before authorizing the use and operation of school buses for other services deemed necessary to serve the instructional program of the schools.

Children with ~~special-needs~~disabilities may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education."

SECTION 32. G.S. 115C-250 reads as rewritten:

"§ 115C-250. Authority to expend funds for transportation of children with ~~special-needs~~disabilities.

(a) The State Board of Education and local boards of education may expend public funds for transportation of handicapped children with ~~special-needs~~disabilities who are unable because of their handicap to ride the regular school buses and who have been placed in programs by a local school board as a part of its duty to provide such children with a free appropriate education, including its duty under G.S. 115C-115. At the option of the local board of education with the concurrence of the State Board of Education, funds appropriated to the State Board of Education for contract transportation of exceptional children may be used to purchase buses and minibuses as well as for the purposes authorized in the budget. The State Board of Education shall adopt rules and regulations concerning the construction and equipment of these buses and minibuses.

The Departments of Health and Human Services, Juvenile Justice and Delinquency Prevention, and Correction may also expend public funds for transportation of handicapped children with ~~special-needs~~disabilities who are unable because of their

1 handicap to ride the regular school buses and who have been placed in programs by one  
2 of these agencies as a part of that agency's duty to provide such children with a free  
3 appropriate public education.

4 If a local area mental health center places a child with ~~special-needs~~a disability in an  
5 educational program, the local area mental health center shall pay for the transportation  
6 of the child, if handicapped and unable because of the handicap to ride the regular  
7 school buses, to the program.

8 (b) Funds appropriated for the transportation of children with ~~special~~  
9 ~~needs~~disabilities may be used to pay transportation safety assistants employed in  
10 accordance with the provisions of G.S. 115C-245(e) for buses to which children with  
11 ~~special-needs~~disabilities are assigned."

12 **SECTION 33.** G.S. 115C-397.1 reads as rewritten:

13 **"§ 115C-397.1. Management and placement of disruptive students.**

14 If, after a teacher has requested assistance from the principal two or more times due  
15 to a student's disruptive behavior, the teacher finds that the student's disruptive behavior  
16 continues to interfere with the academic achievement of that student or other students in  
17 the class, then the teacher may refer the matter to a school-based committee. The  
18 teacher may request that additional classroom teachers participate in the committee's  
19 proceedings. For the purposes of this section, the committee shall notify the student's  
20 parent, guardian, or legal custodian and shall encourage that person's participation in the  
21 proceedings of the committee concerning the student. A student is not required to be  
22 screened, evaluated, or identified as a child with ~~special-needs~~a disability under this  
23 section. The committee shall review the matter and shall take one or more of the  
24 following actions: (i) advise the teacher on managing the student's behavior more  
25 effectively, (ii) recommend to the principal the transfer of the student to another class  
26 within the school, (iii) recommend to the principal a multidisciplinary ~~diagnosis and~~  
27 evaluation of the student, (iv) recommend to the principal that the student be assigned to  
28 an alternative learning program, or (v) recommend to the principal that the student  
29 receive any additional services that the school or the school unit has the resources to  
30 provide for the student. If the student is suspected of being a child with a disability or  
31 has been identified as a child with a disability, then the committee and the principal  
32 shall follow rules as described in federal law and procedures adopted by the State Board  
33 of Education for children with disabilities. If the principal does not follow the  
34 recommendation of the committee, the principal shall provide a written explanation to  
35 the committee, the teacher who referred the matter to the committee, and the  
36 superintendent, of any actions taken to resolve the matter and of the reason the principal  
37 did not follow the recommendation of the committee.

38 This section shall be in addition to the supplemental to disciplinary action taken in  
39 accordance with any other law. The recommendation of the committee is final and shall  
40 not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student  
41 to refer a disciplinary matter to this committee or to have the matter of the student's  
42 behavior referred to this committee before any discipline is imposed on the student."

43 **SECTION 34.** G.S. 7B-1301(d)(1) reads as rewritten:

"(d) Programs contracted for under this Article are intended to prevent abuse and neglect of juveniles. Abuse and neglect prevention programs are defined to be those programs and services which impact on juveniles and families before any substantiated incident of abuse or neglect has occurred. These programs may include, but are not limited to:

- (1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, disabilities, and coping with family stress; and".

SECTION 35. G.S. 7B-3904 reads as rewritten:

**"§ 7B-3904. Medical assistance.**

(a) A child with special needs a disability who is a resident of this State who is the subject of an adoption assistance agreement with another state shall be accepted as being entitled to receive medical assistance certification from this State upon the filing in the department of social services of the county in which the child resides a certified copy of the adoption assistance agreement obtained from the adoption assistance state.

(b) The Division of Medical Assistance shall consider the holder of a medical assistance certification under this section to be entitled to the same medical benefits under the laws of this State as any other holder of a medical assistance certification and shall process and make payment on claims on account of that holder in the same manner and under the same conditions and procedures that apply to other recipients of medical assistance.

(c) The provisions of this section apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this State under which the other state provides medical assistance to children with special needs disabilities under adoption assistance agreements made by this State."

SECTION 36. G.S. 110-91(11) reads as rewritten:

**"§ 110-91. Mandatory standards for a license.**

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. Except as otherwise provided in this Article, the standards in this section shall be complied with by all child care facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

- ...
- (11) Staff Development. – The Commission shall adopt minimum standards for ongoing staff development for facilities but limited to the following topic areas:



- a. Planning a safe, healthy learning environment;
- b. Steps to advance children's physical and intellectual development;
- c. Positive ways to support children's social and emotional development;
- d. Strategies to establish productive relationships with families;
- e. Strategies to manage an effective program operation;
- f. Maintaining a commitment to professionalism;
- g. Observing and recording children's behavior;
- h. Principles of child growth and development; and
- i. Learning activities that promote inclusion of children with special needs disabilities.

These standards shall include annual requirements for ongoing staff development appropriate to job responsibilities. A person may carry forward in-service training hours that are in excess of the previous year's requirement to meet up to one-half of the current year's required in-service training hours.

...."

**SECTION 37.** G.S. 143-318.14A(a)(13) is repealed.

**SECTION 38.** G.S. 143-683(6) reads as rewritten:

"(6) Report to each session of the General Assembly not later than the first day of its convening. The report shall include a summary of the Commission's work and any recommendations the Commission may have on ways to improve the efficiency and effectiveness of health services delivery to children with special health care needs in this State. ~~The Commission shall provide a copy of its report to the General Assembly's Commission on Children With Special Needs; State;~~"

**SECTION 39.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

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HOUSE BILL 318

Short Title: Children With Disabilities/Federal Law.-AB

(Public)

Sponsors: Representatives Warren, Bell, Preston (Primary Sponsors); Alexander, Crawford, C. Johnson, Lucas, Luebke, McLawhorn, and Tolson.

Referred to: Education.

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW ON STUDENTS WITH  
DISABILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-106(b) reads as rewritten:

"(b) The policy of the State is to provide a free appropriate publicly supported education to every child with ~~special-needs-disabilities~~. The purpose of this Article is to (i) provide for a system of special educational opportunities for all children requiring special education, hereinafter called children with ~~special-needs-disabilities~~; (ii) provide a system for identifying and evaluating the educational needs of all children with ~~special-needs-disabilities~~; (iii) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (iv) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement; (v) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the rights of children with ~~special-needs-disabilities~~ and their parents or guardians are protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with respect to children with ~~special-needs-disabilities~~; and (viii) bring State law, regulations, and practice into conformity with relevant federal law."

**SECTION 2.** G.S. 115C-107 reads as rewritten:

**"§ 115C-107. Children can learn.**

The General Assembly finds that all children with ~~special-needs-disabilities~~ are capable of ~~benefitting-benefiting from appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop~~ access to the general curriculum and are best educated in the least restrictive environment. Accordingly, the State has a duty to provide them with a free appropriate public education."

**SECTION 3.(a)** G.S. 115C-108 is repealed.

SECTION 3.(b) Part 1 of Article 9 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-108.1. Definitions.**

As used in this section:

- (1) The term "parent" means a parent, a guardian, a person acting in the place of the parent, such as a grandparent or stepparent with whom the student lives, a person who is legally responsible for the welfare of the student, or a surrogate parent who has been appointed in accordance with Section 1513.

The term does not include the State if the child is a ward of the State. A foster parent may act as a parent if:

- a. The natural parents' authority to make educational decisions on the child's behalf has been terminated under State law; and  
b. The foster parent:  
1. Has a long-term parental relationship with the child;  
2. Is willing to make educational decisions; and  
3. Has no interest that would conflict with the interest of the child.

- (2) "Related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology; orientation and mobility services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; social work services; medical and counseling services, including rehabilitation counseling) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. Medical services shall be for diagnostic and evaluation purposes only. A student who does not require special education is not eligible for a related service funded under this program.

a. "Audiology" includes:

1. Identification of children with hearing loss and middle ear dysfunction;  
2. Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;  
3. Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing aid orientation, and speech conservation;  
4. Creation and administration of programs for prevention of hearing loss;  
5. Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and

6. Determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. "Counseling services" means services provided by licensed social workers, psychologists, guidance counselors, or other qualified personnel.

c. "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

d. "Medical services" means services provided by a licensed physician or other appropriately trained and/or supervised health provider to determine a child's medically related disability which results in the child's need for special education and related services.

e. "Occupational therapy" is a service provided by a licensed occupational therapist to address the functional needs of an individual as they relate to sensory, motor, postural, and emotional development, adaptive behavior and play, and the performance of self-help skills. These services are designed to develop, improve, restore, or maintain the individual's functional ability to perform tasks in educational settings. In an educational setting, occupational therapy services are provided to enable an identified student to benefit from special education in the least restrictive environment. Occupational therapy services may include:

1. Identification, screening, evaluation, intervention, and consultation;

2. Adaptation of environments, both human and physical, and selection, design, and fabrication of assistive and orthotic devices and other assistive technology to facilitate development and promote the acquisition of functional skills so that the child can perform tasks in the least restrictive environment;

3. Prevention or minimization of the impact of initial or further impairment, delay in development, or loss of functional ability; and

4. Provision of in-service education and information to families, school personnel, and community and State agencies to assist with problem solving, program planning, and priority setting.

f. "Orientation and Mobility" means services provided by qualified personnel to enable students who are blind or visually impaired to travel safely and independently and to remain

oriented to a wide variety of both familiar and unfamiliar indoor and outdoor environments. For young children, orientation and mobility is teaching concept development as it relates to body movement, spatial awareness, knowledge of the environment, attitude toward independence, and travel skills.

g. "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development. For preschool children with disabilities, parent counseling and training includes family services which would assist parents in securing support that affect the child's development.

h. "Physical therapy" is a service provided by a licensed physical therapist and is concerned with prevention of physical disabilities and with providing rehabilitation services to individuals with disabilities resulting from prenatal causes, birth trauma, illness, or injury. These services are designed to develop or restore neuromuscular and/or sensorimotor functions, control postural deviations to minimize disabilities, and to develop and to maintain maximal performance levels within the individual's physical capabilities. In an educational setting, physical therapy services are provided to enable an identified student to benefit from special education in the least restrictive environment. Physical therapy services may include:

1. Development and maintenance of an individual student's physical potential for independence and safety in educationally related activities;
2. Modification and adaptation of the student's physical environment so that the student may benefit from special education;
3. Provision of in-service training for school personnel;
4. Communication with State and community agencies;
5. Education for parents or guardians; and
6. Involvement in total program planning for exceptional children.

i. "Psychological services" include:

1. Administering psychological and educational tests, and other procedures such as observations and interviews, in order to determine a student's strengths and educational, social, behavioral and/or developmental needs. For preschool children, psychological assessment may include administering psychological tests and/or criterion-referenced, curriculum-based and other educational tests, as well as conducting other assessment procedures such as observations, interviews, structured

- interactions, and play assessments as deemed appropriate by the psychologist;
2. Interpreting assessment results;
3. Obtaining, integrating, and interpreting information about a child's behavior and environmental conditions related to learning and development;
4. Consulting with parents, teachers, and other school personnel in planning programs and services to meet the identified needs of children, including, but not limited to, placement, effective learning/teaching strategies, and personal and social skills;
5. Planning and managing a program of psychological services including psychological counseling for children and parents;
6. Referring children and families to community agencies and services when appropriate;
7. Screening and early identification of children with disabilities;
8. Developing strategies for the prevention of learning and behavior problems; and
9. Assisting in developing positive behavioral strategies.
- j. "Recreation" includes:
  1. Assessment of leisure functions;
  2. Therapeutic recreation services;
  3. Recreation programs in schools and community agencies; and
  4. Leisure education.
- k. "School health services" are services provided by a qualified school nurse or other qualified person.
- l. "Social work services in schools" include:
  1. Preparing a social or developmental history for a child with a disability;
  2. Group and individual counseling with the child and family;
  3. Working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
  4. Mobilizing school and community resources to enable the child to receive benefit from his or her educational program; and
  5. Assisting in developing positive behavioral intervention strategies.
- m. "Speech-language pathology" includes:

1. Identification of children with speech-language disorders;
  2. Diagnosis and appraisal of specific speech-language disorders;
  3. Referral for medical or other professional attention necessary for the habilitation of speech-language disorders;
  4. Provision of speech-language services for the habilitation or prevention of communicative disorders; and
  5. Counseling and guidance of parents, children, and teachers regarding speech-language disorders.
- n. "Transportation" includes:
1. Travel to and from school and between schools;
  2. Travel in and around school buildings; and
  3. Specialized equipment (such as special or adaptive buses, lifts, and ramps) if required to provide special transportation for a child with a disability.
- (3) Screening consists of first-step assessment procedures aimed at selecting students who may have special needs. Two separate components of screening may be identified:
- a. Mass screening or sweep screening is the selection of children who may need services such as special education, related services, special health services, or sensory aids in order to achieve full learning potential. These individuals will need follow-up to identify specific academic and behavioral or developmental needs by additional evaluation processes. Mass screening or sweep screening may be accomplished through the administration of such programs as:
1. School-wide achievement testing;
  2. School-wide health and sensory testing;
  3. Early childhood and kindergarten testing; and
  4. Class-wide surveys and observations.
- For preschool children, screening also may be carried out by the public health departments, developmental evaluation centers, mental health centers, and developmental programs (e.g., Head Start).
- b. Individual screening is the identification of children whose specific academic, behavioral, or developmental problem areas may need further in-depth evaluation. Individual screening should more accurately select those students who need further consideration for special school services, which may include special education and related services."

SECTION 4. G.S. 115C-109 reads as rewritten:

**"§ 115C-109. Definition of children with special-needs-disabilities."**

The term "children with special needs" includes, without limitation, all children from age five through age 20 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing impaired, speech impaired, blind or visually impaired, and other health impaired disabilities" includes, without limitation, all children who, because of permanent or temporary mental, physical, or emotional disabilities, need special education, are unable to have all their educational needs met in a regular class without special education and related services, or are unable to be adequately educated in the public schools. It includes those who are autistic, behaviorally-emotionally disabled, deaf-blind, hearing impaired, mentally disabled, multihandicapped, orthopedically impaired, other health impaired, pregnant, specific-learning disabled, speech-language impaired, traumatic brain injured and visually impaired. The term "preschool children with disabilities" includes, without limitation, all 3- and 4-year-old children and those 5-year-old children who are ineligible for kindergarten and who because of permanent or temporary cognitive, communication, social/emotional and/or adaptive disabilities are unable to have all of their developmental needs met in a natural environment without special education and related services. Preschool children with disabilities become eligible for services upon reaching their third birthday."

**SECTION 5.** G.S. 115C-110 reads as rewritten:

**"§ 115C-110. Services mandatory; single-agency responsibility; State and local plans; census and registration."**

(a) The Board shall cause to be provided by all local school administrative units and by all other State and local governmental agencies providing special education services or having children with special-needs-disabilities in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special-needs-disabilities. In this regard, all local school administrative units and all other State and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when that service is not being provided by existing public or private resources or the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local administrative units and the programs and agencies of the



1 Departments of Health and Human Services, Correction, and Juvenile Justice and  
2 Delinquency Prevention.

3 The jurisdiction of the Board with respect to the design and content of special  
4 education programs or related services for children with ~~special-needs~~disabilities  
5 extends to and over the Department of Health and Human Services, the Department of  
6 Juvenile Justice and Delinquency Prevention, and the Department of Correction.

7 All provisions of this Article that are specifically applicable to local school  
8 administrative units also are applicable to the Department of Health and Human  
9 Services, the Department of Juvenile Justice and Delinquency Prevention, and the  
10 Department of Correction and their divisions and agencies; all duties, responsibilities,  
11 rights and privileges specifically imposed on or granted to local school administrative  
12 units by this Article also are imposed on or granted to the Department of Health and  
13 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and  
14 the Department of Correction and their divisions and agencies. However, with respect to  
15 children with ~~special-needs~~disabilities who are residents or patients of any  
16 state-operated or state-supported residential treatment facility, including without  
17 limitation, a school for the deaf, school for the blind, mental hospital or center, mental  
18 retardation center, or in a facility operated by the Department of Juvenile Justice and  
19 Delinquency Prevention, the Department of Correction or any of its divisions and  
20 agencies, the Board shall have the power to contract with the Department of Health and  
21 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and  
22 the Department of Correction for the provision of special education and related services  
23 and the power to review, revise and approve any plans for special education and related  
24 services to those residents.

25 The Departments of Health and Human Services, Correction, and Juvenile Justice  
26 and Delinquency Prevention shall submit to the Board their plans for the education of  
27 children with ~~special-needs~~disabilities in their care, custody, or control. The Board shall  
28 have general supervision and shall set standards, by rule or regulation, for the programs  
29 of special education to be administered by it, by local educational agencies, and by the  
30 Departments of Health and Human Services, Correction, and Juvenile Justice and  
31 Delinquency Prevention. The Board may grant specific exemptions for programs  
32 administered by the Department of Health and Human Services, the Department of  
33 Juvenile Justice and Delinquency Prevention, or the Department of Correction when  
34 compliance by them with the Board's standards would, in the Board's judgment, impose  
35 undue hardship on this department and when other procedural due process requirements,  
36 substantially equivalent to those of G.S. 115C-116, are assured in programs of special  
37 education and related services furnished to children with ~~special-needs~~disabilities served  
38 by this department. Further, the Board shall recognize that inpatient and residential  
39 special education programs within the Departments of Health and Human Services,  
40 Correction, and Juvenile Justice and Delinquency Prevention may require more program  
41 resources than those necessary for optimal operation of these programs in local school  
42 administrative units.

1 Every State and local department, division, unit or agency covered by this section is  
2 hereinafter referred to as a "local educational agency" unless the text of this Article  
3 otherwise provides.

4 (b) The Board shall make and keep current a plan for the implementation of the  
5 policy set forth in G.S. 115C-106(b). The plan shall include:

- 6 (1) A census of the children with ~~special needs~~disabilities in the State, as  
7 required by subsection (j) of this section;
- 8 (2) A procedure for diagnosis and evaluation of each child;
- 9 (3) An inventory of the personnel and facilities available to provide  
10 special education for these children;
- 11 (4) An analysis of the present distribution of responsibility for special  
12 education between State and local educational agencies, together with  
13 recommendations for any necessary or desirable changes in the  
14 distribution of responsibilities;
- 15 (5) Standards for the education of children with ~~special needs~~disabilities;
- 16 (6) Programs and procedures for the development and implementation of a  
17 comprehensive system of personnel development; and
- 18 (7) Any additional matters, including recommendations for amendment of  
19 laws, changes in administrative regulations, rules and practices and  
20 patterns of special organization, and changes in levels and patterns of  
21 education financial support.

22 ~~(e) The Board shall annually submit amendments to or revisions of the plan  
23 required by subsection (b) to the Governor and General Assembly and make it available  
24 for public comment pursuant to subdivision (1) and for public distribution no less than  
25 30 days before January 15 of each year. All such submissions shall set forth in detail the  
26 progress made in the implementation of the plan.~~

27 (d) The Board shall adopt rules covering:

- 28 (1) The qualifications of and standards for certification of teachers,  
29 teacher assistants, speech clinicians, school psychologists, and others  
30 involved in the education and training of children with ~~special~~  
31 ~~needs~~disabilities;
- 32 (2) Minimum standards for the individualized educational program for all  
33 children with ~~special needs other than for the pregnant children, and~~  
34 ~~for the educational program for the pregnant children, who receive~~  
35 ~~special education and related services; and~~disabilities; and
- 36 (3) Any other rules as may be necessary or appropriate for carrying out the  
37 purposes of this Article. Representatives from the Departments of  
38 Health and Human Services, Correction, and Juvenile Justice and  
39 Delinquency Prevention shall be involved in the development of the  
40 standards outlined under this subsection.

41 ~~(e) On or before October 15, each local educational agency shall report annually~~  
42 ~~to the Board the extent to which it is then providing special education for children with~~  
43 ~~special needs. The annual report also shall detail the means by which the local~~

1 ~~educational agency proposes to secure full compliance with the policy of this Article,~~  
2 ~~including the following:~~

- 3       (1) ~~A statement of the extent to which the required education and services~~  
4 ~~will be provided directly by the agency;~~  
5       (2) ~~A statement of the extent to which standards in force pursuant to G.S.~~  
6 ~~115C-110(b)(5) and (d)(2) are being met by the agency; and~~  
7       (3) ~~The means by which the agency will contract to provide, at levels~~  
8 ~~meeting standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2),~~  
9 ~~all special education and related services not provided directly by it or~~  
10 ~~by the State.~~

11       (f) ~~After submitting the report required by subsection (e), the local educational~~  
12 ~~agency also shall submit such supplemental and additional reports as the Board may~~  
13 ~~require to keep the local educational agency's plan current.~~

14       (g) By rule, the Board shall prescribe due dates not later than October 15 of each  
15 year, and all other necessary or appropriate matters relating to these annual and  
16 supplemental and additional reports.

17       (h) ~~The annual report shall be a two-year plan for providing appropriate special~~  
18 ~~education and related services to children with special needs. The agency shall submit~~  
19 ~~the plan to the Board for its review, approval, modification, or disapproval. Unless~~  
20 ~~thereafter modified with approval of the Board, the plan shall be adhered to by the local~~  
21 ~~educational agency. The procedure for approving, disapproving, establishing, and~~  
22 ~~enforcing the plan shall be the same as that set forth for the annual plan. The long-range~~  
23 ~~plan shall include such provisions as may be appropriate for the following, without~~  
24 ~~limitation:~~

- 25       (1) ~~Establishment of classes, other programs of instruction, curricula,~~  
26 ~~facilities, equipment, and special services for children with special~~  
27 ~~needs; and~~  
28       (2) ~~Utilization and professional development of teachers and other~~  
29 ~~personnel working with children with special needs.~~

30       (i) Each local educational agency shall provide free appropriate special  
31 education and related services in accordance with the provisions of this Article for all  
32 children with special-needs-disabilities who are residents of, or whose parents or  
33 guardians are residents of, the agency's district, beginning with children aged five. No  
34 matriculation or tuition fees or other fees or charges shall be required or asked of  
35 children with special-needs-disabilities or their parents or guardians except those fees or  
36 charges as are required uniformly of all public school pupils. The provision of free  
37 appropriate special education within the facilities of the Department of Health and  
38 Human Services and the Department of Juvenile Justice and Delinquency Prevention  
39 shall not prevent that department from charging for other services or treatment.

40       (j) The Board shall require an annual census of children with special-needs,  
41 disabilities, subdivided for "identified" and "suspected" children with special-needs,  
42 disabilities, to be taken in each school year. Suspected children are those in the formal  
43 process of being identified, evaluated or diagnosed as children with special-needs  
44 disabilities. The census shall be conducted annually and shall be completed not later

1 than October 15, and shall be submitted to the Governor and General Assembly and be  
2 made available to the public no later than January 15 annually.

3 In taking the census, the Board shall require the cooperation, participation, and  
4 assistance of all local educational agencies and all other State and local governmental  
5 departments and agencies providing or required to provide special education services to  
6 children with ~~special needs, disabilities,~~ and those departments and agencies shall  
7 cooperate and participate with and assist the Board in conducting the census.

8 The census shall include the number of children identified and suspected with  
9 ~~special needs, disabilities,~~ their age, the nature of their disability, their county or city of  
10 residence, their local school administrative unit residence, whether they are being  
11 provided special educational or related services and if so by what department or agency,  
12 whether they are not being provided special education or related services, the identity of  
13 each department or agency having children with ~~special needs disabilities~~ in its care,  
14 custody, management, jurisdiction, control, or programs, the number of children with  
15 ~~special needs disabilities~~ being served by each department or agency, and such other  
16 information or data as the Board shall require. The census shall be of children with  
17 ~~special needs disabilities~~ between the ages of three and 21, inclusive.

18 (k) The Department shall monitor the effectiveness of individualized education  
19 programs in meeting the educational needs of all children with ~~special needs other than~~  
20 ~~pregnant children, and of educational programs in meeting the educational needs of the~~  
21 ~~pregnant children disabilities.~~

22 (l) The Board shall provide for procedures assuring that in carrying out the  
23 requirements of this Article procedures are established for consultation with individuals  
24 involved in or concerned with the education of children with ~~special needs, disabilities,~~  
25 including parents or guardians of such children, and there are public hearings, adequate  
26 notice of such hearings, and an opportunity for comment available to the general public  
27 prior to the adoption of the policies, procedures, and rules or regulations required by this  
28 Article.

29 (m) Children with ~~special needs disabilities~~ shall be educated in the least  
30 restrictive appropriate setting, as defined by the State Board of Education.

31 (n) **(Effective July 1, 2003)** Each interpreter or transliterator employed by a local  
32 educational agency, to provide services to hearing-impaired students, must annually  
33 complete 15 hours of job-related training that has been approved by the local  
34 educational agency."

35 **SECTION 6.** G.S. 115C-111 reads as rewritten:

36 **"§ 115C-111. Free appropriate education for all children with ~~special~~**  
37 **~~needs disabilities.~~**

38 No child with ~~special needs disabilities~~ between the ages specified by G.S. 115C-109  
39 shall be denied a free appropriate public education or be prevented from attending the  
40 public schools of the local educational agency in which he or his parents or legal  
41 guardian resides or from which he receives services or from attending any other public  
42 program of free appropriate public education because he is a child with ~~special needs~~  
43 ~~disabilities.~~ If it appears that a child should receive a program of free appropriate public  
44 education in a program operated by or under the supervision of the Department of

1 Health and Human Services or the Department of Juvenile Justice and Delinquency  
2 Prevention, the local educational agency shall confer with the appropriate Department  
3 of Health and Human Services or Department of Juvenile Justice and Delinquency  
4 Prevention staff for their participation and determination of the appropriateness of  
5 placement in said program and development of the child's individualized education  
6 program. The individualized education program may then be challenged under the due  
7 process provisions of G.S. 115C-116. Every child with ~~special-needs~~disabilities shall be  
8 entitled to attend these nonresidential schools or programs and receive from them free  
9 appropriate public education."

10 SECTION 8. G.S. 115C-113 reads as rewritten:

11 **"§ 115C-113. Diagnosis and evaluation; individualized education program.**

12 (a) Before taking any action described in subsection (b), below, each local  
13 educational agency shall ~~cause a multi-disciplinary diagnosis and evaluation to be made~~  
14 ~~of the child. The State Board of Education shall establish special, simplified procedures~~  
15 ~~for the diagnosis and evaluation of the pregnant child, which procedures shall focus on~~  
16 ~~the particular needs of the pregnant child and shall exclude those procedures which are~~  
17 ~~not pertinent to the pregnant.~~ conduct evaluations and determine eligibility consistent  
18 with federal regulations. The local educational agency shall use the diagnosis and  
19 evaluation to determine if the child has ~~special-needs~~disabilities, diagnose and evaluate  
20 those needs, propose special education programs to meet those needs, and provide or  
21 arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one  
22 which includes, without limitation, medical (if necessary), psychological (if necessary)  
23 and educational assessments and recommendations; such an evaluation may include any  
24 other assessments as the Board may, by rule or regulation, require.

25 All testing and evaluation materials and procedures utilized for the purposes of  
26 evaluation and placement of children with ~~special-needs~~disabilities will be selected and  
27 administered so as not to be racially or culturally discriminatory. Such materials or  
28 procedures shall be provided and administered in the child's native language or mode of  
29 communication, unless it clearly is not feasible to do so, and no single procedure shall  
30 be the sole criterion for determining an appropriate educational program for a child.

31 (b) An initial multi-disciplinary diagnosis and evaluation based on rules  
32 developed by the Board shall be made before any such child is placed in a special  
33 education program, removed from such a program and placed in a regular school  
34 program, transferred from one type of special education program to another, or removed  
35 from a school program for placement in a nonschool program, ~~or otherwise tracked,~~  
36 ~~classified, or treated as a child with special-needs program.~~

37 (c) Referral of any child shall be in writing, signed by the person requesting  
38 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or  
39 delivered to one of the following: the child's teacher, the principal of the school to  
40 which the child is, has been or will be assigned, or the superintendent of the affected  
41 local educational agency or his designee. The local educational agency shall send a  
42 written notice to the parent or guardian describing the evaluation procedure to be  
43 followed and requesting consent for the evaluation. If the parents or guardian consent,  
44 the diagnosis and evaluation may be undertaken; if they do not, the local educational

1 agency may obtain a due process hearing pursuant to G.S. 115C-116 on the failure of  
2 the parent or guardian to consent.

3 The local educational agency shall provide or cause to be provided, as soon as  
4 possible after receiving consent for evaluation, a diagnosis and evaluation appropriate to  
5 the needs of the child unless the parents or guardian have objected to such evaluation. If  
6 at the conclusion of the evaluation, the child is determined to be a child with ~~special~~  
7 ~~needs-disabilities~~, the local educational agency shall within 30 calendar days convene an  
8 individualized education program committee. The purpose of the meeting shall be to  
9 propose the special education and related services for the child. An interpretation of the  
10 multi-disciplinary diagnosis and evaluation will be made to the parent or guardian  
11 during the meeting. The proposal shall set forth the specific benefits expected from such  
12 a program, a method for monitoring the benefits, and a statement regarding conditions  
13 which will be considered indicative of the child's readiness for participation in regular  
14 classes.

15 After an initial referral is made, the provision of special education and related  
16 services shall be implemented within 90 calendar days to eligible students, unless the  
17 parents or guardian refuse to consent to evaluation or placement or the parent or local  
18 educational agency requests a due process hearing.

19 Within 12 months after placement in a special education program, and at least  
20 annually thereafter, those people responsible for developing the child's individualized  
21 education ~~program, or educational program for the pregnant, program~~ shall review the  
22 child's progress and, on the basis of previously stated expected benefits, decide whether  
23 to continue or discontinue the placement or program. If the review indicates that the  
24 placement or program does not benefit the child, the appropriate reassignment or change  
25 in the prescribed program shall be recommended to the parents or guardian.

26 The local educational agency shall keep a complete written record of all diagnostic  
27 and evaluation procedures attempted, their results, the conclusions reached, and the  
28 proposals made.

29 (d) The local educational agency shall furnish the results, findings, and  
30 proposals, as described in the individualized education program based on the diagnosis  
31 and evaluation to the parents or guardian in writing in the parents' or guardian's native  
32 language or by their dominant mode of communication, prior to the parent or guardian  
33 giving consent for initial placement in special education and related services. Prior  
34 notice will be given to the parents or guardian by the local educational agency before  
35 any change in placement.

36 A reevaluation must be completed at least every three years to determine the  
37 appropriateness of the child's continuing to receive special education and related  
38 services.

39 (e) Each local educational agency shall make and keep current a list of all  
40 children evaluated and diagnosed pursuant to this section who are found to have ~~special~~  
41 ~~needs-disabilities~~ and of all children who are receiving home, hospital, institutional or  
42 other special education services, including those being educated within the regular  
43 classroom setting or in other special education programs.

(f) Each local educational agency shall prepare individualized educational programs for all children found to be children with ~~special needs other than the pregnant children, and educational programs prescribed in subsection (h) of this section for the pregnant children.~~ disabilities. The individualized educational program shall be developed in conformity with ~~Public Law 94-142~~ federal law and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timeliness set by that Department. The term "individualized educational program" means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on ~~rules developed by the Board.~~ State Board procedures and policy. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with ~~special needs~~ disabilities each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Health and Human Services and the Department of Juvenile Justice and Delinquency Prevention, the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

(g) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.24(e).

~~(h) Each local educational agency shall prepare educational programs for the pregnant children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these educational programs, which rules and regulations shall include specific standards for ensuring that the individual educational needs of each child are addressed."~~

SECTION 9. G.S. 115C-113.1 reads as rewritten:

**"§ 115C-113.1. Surrogate parents.**

In the case of a child whose parent or guardian is unknown, whose whereabouts cannot be determined after reasonable investigation, or who is a ward of the State, the local educational agency shall appoint a surrogate parent for the child. The surrogate parent shall be appointed by the local superintendent from a group of persons approved by the Superintendent of Public Instruction, the Secretary of Health and Human Services, and the Secretary of Juvenile Justice and Delinquency Prevention, list of persons who are appropriately trained, but in no case shall the person appointed be an ~~employee of the local educational agency or directly involved in the education or care of the child.~~ a person ineligible under applicable law. The Superintendent shall ensure that local educational agencies appoint a surrogate parent for every child in need of a surrogate parent."

SECTION 10. G.S. 115C-114(a) reads as rewritten:

"(a) No local educational agency may release to any persons other than the eligible student, his parents or guardian or any surrogate parent any records, data or

1 information on any child with ~~special-needs~~disabilities except (i) as permitted by the  
2 prior written consent of the student, his parents or guardian or surrogate parent, (ii) as  
3 required or permitted by federal law, (iii) school officials within the local education  
4 agency who have legitimate educational interest, (iv) school officials of other local  
5 educational agencies in which the student intends to enroll, or (v) certain authorized  
6 representatives of the State and federal government who are determining eligibility of  
7 the child for aid, as provided under Public Law 93-380 or other federal law."

8 **SECTION 11.** G.S. 115C-115(3) reads as rewritten:

9 "(3) If the placement of the child in a private school, out-of-state school or  
10 a school in another local educational agency determined by the  
11 Superintendent of Public Instruction to be the most cost-effective way  
12 to provide an appropriate education to that child and the child is not  
13 currently being educated by the Department of Health and Human  
14 Services, the Department of Juvenile Justice and Delinquency  
15 Prevention, or the Department of Correction, the State will bear a  
16 portion of the cost of the placement of the child. The local school  
17 administrative unit shall pay an amount equal to what it receives per  
18 pupil from the State Public School Fund and from other State and  
19 federal funds for children with ~~special-needs~~disabilities for that child.  
20 The State shall pay the full cost of any remainder up to a maximum of  
21 fifty percent (50%) of the total cost."

22 **SECTION 12.** G.S. 115C-116 reads as rewritten:

23 **"§ 115C-116. Notice of decisions; mediation, administrative review, and judicial**  
24 **review of disagreements.**

25 (a) Prior Notice. – The parent, guardian, or surrogate parent of a child shall be  
26 notified promptly when the local educational agency proposes to initiate or change, or  
27 refuses to initiate or change, the identification, evaluation, or educational placement of a  
28 child as a child with ~~special-needs~~disabilities. The written notice shall contain a full  
29 explanation of all the procedural safeguards available to the parent, guardian, or  
30 surrogate parent including the right to review the proposed decision, and a statement  
31 offering the parent, guardian, or surrogate parent the opportunity for mediation. The  
32 local educational agency shall document that all required notices have been sent to and  
33 received by parents, guardians, or surrogate parents.

34 (b) Mediation. – It is the policy of this State to encourage local educational  
35 agencies and parents, guardians, surrogate parents, custodians, and eligible students to  
36 seek informal resolution of disputes or disagreements regarding the identification of  
37 children with ~~special-needs~~disabilities and the provision of special education and related  
38 services before filing a request for a formal administrative review of the matter. To that  
39 end, the following provisions apply to the mediation of these disputes:

40 (1) Purpose. – The purpose of mediation is to clarify the concerns of the  
41 parents and to resolve disputes.

42 (2) Definitions. – As used in this subsection, the following terms have the  
43 following meanings:



- 1 a. "Dispute" means a disagreement between the parties that is  
2 subject to review under subsection (c) of this section.
- 3 b. "Mediation" means an informal process conducted by a  
4 mediator with the objective of helping parties voluntarily settle  
5 their dispute.
- 6 c. "Mediator" means a neutral person who acts to encourage and  
7 facilitate a resolution of a dispute.
- 8 d. "Parents" means parents, guardians, surrogate parents,  
9 custodians, and eligible students.
- 10 e. "Parties" means the local educational agency and the parents.
- 11 (3) Nonadversarial. – The mediation shall be informal and nonadversarial  
12 as provided in G.S. 150B-22.
- 13 (4) Rules of procedure. – The mediator is encouraged to follow applicable  
14 procedures provided in G.S. 7A-38.1, G.S. 7A-38.2, and applicable  
15 rules adopted by the Supreme Court under G.S. 7A-38.1. The mediator  
16 may establish other procedures to facilitate an informal resolution of  
17 the dispute. The mediator shall not render a decision or judgment as to  
18 the merits of the dispute.
- 19 (5) Request for mediation. – Before a request for formal administrative  
20 review is filed, mediation shall commence upon the request of either  
21 party, so long as the other party consents.
- 22 (6) Selection of mediator. – The parties shall agree to the selection of the  
23 mediator. The Exceptional Children Division of the Department of  
24 Public Instruction shall maintain a list of mediators who are certified  
25 or trained in resolving disputes under this subsection.
- 26 (7) Notice of right to mediation. – The local educational agency shall  
27 notify parents of their right to request mediation under this subsection.
- 28 (8) Time periods tolled. – ~~Notwithstanding G.S. 150B-23, time~~Time  
29 periods related to the filing of a formal administrative review or the  
30 taking of any other action with respect to the dispute, including any  
31 applicable statutes of limitations, are tolled upon the filing of a request  
32 for mediation under this subsection until the mediation is completed or  
33 the mediator declares an impasse.
- 34 (9) Good cause for continuance. – A good faith effort by both parties to  
35 mediate the dispute is presumed to constitute good cause for a  
36 continuance so long as the administrative law judge does not find that  
37 the time delay for mediation would likely result in irreparable harm to  
38 one of the parties or to the child.
- 39 (10) Inadmissibility of negotiations. – Evidence of statements made and  
40 conduct occurring in a mediation shall not be subject to discovery and  
41 shall be inadmissible in any proceeding in the action or other actions  
42 on the same claim. However, no evidence otherwise discoverable shall  
43 be inadmissible merely because it is presented or discussed in a  
44 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 voluntarily participate in a mediated settlement conference as provided by G.S. 150B-23.1. conference. The mediated settlement conference shall not deny or delay a timely administrative review.

(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.

(c) Right of Review. – The parent, guardian, or surrogate parent may obtain review of proposed decisions on the following grounds:

- (1) The child has not been identified or has been incorrectly identified as a child with special-needs;disabilities;
- (2) The child's individualized education plan is not appropriate to meet his needs;
- (3) The child's individualized education plan is not being implemented; or
- (4) The child is otherwise being denied a free, appropriate education.

In addition, a local educational agency may obtain review as provided by this section if a parent, guardian, or surrogate parent refuses to consent to the evaluation of the child for the purpose of determining whether the child is a child with special-needs;disabilities or for the purpose of developing a free appropriate educational program for the child.

(d) Administrative Review. – Except as otherwise provided in this section, the administrative review shall be initiated and conducted in accordance with Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

(e) Scope of Review. – The issues for review shall be limited to those set forth in subsection (c).

(f) Venue of Hearing. – The hearing shall be conducted in the county where the child attends school or is entitled to enroll pursuant to G.S. 115C-366.

(g) Hearing Closed. – The hearing shall be closed to the public unless the parent, guardian, or surrogate parent, requests in writing that the hearing be open to the public.

(h) Decision of the Administrative Law Judge. – Following the hearing, the administrative law judge shall make a decision regarding the issues set forth in subsection (c). The decision shall contain findings of fact and conclusions of law. Notwithstanding the provisions of Chapter 150B of the General Statutes, the decision of the administrative law judge becomes final and not subject to further review unless appealed to the Review Officer as provided in subsection (i). A copy of the

1 administrative law judge's decision shall be served upon each party and a copy shall be  
2 furnished to the attorneys of record. The written notice shall contain a statement  
3 informing the parties of the availability of appeal and the 30-day limitations period for  
4 appeal as set forth in subsection (i).

5 (i) Review by Review Officer. – Any party aggrieved by the decision of the  
6 administrative law judge may appeal that decision within 30 days after receipt of notice  
7 of the decision by filing a written notice of appeal with the Superintendent of Public  
8 Instruction. The State Superintendent of Public Instruction shall appoint a Review  
9 Officer from a pool of review officers approved by the State Board of Education. A  
10 Review Officer shall be an educator or other professional who is knowledgeable about  
11 special education and who possesses such other qualifications as may be established by  
12 the State Board of Education. The Review Officer may issue subpoenas upon his own  
13 motion or upon a written request.

14 No person may be appointed as a Review Officer if that person is an employee of an  
15 agency that has been involved in the education or care of the child whose parents have  
16 filed the petition (including an employee or official of the State Department of  
17 Education or the State Board of Education) or if the person is or has been employed by  
18 the local board of education responsible for the education or care of the child whose  
19 parents have filed the petition. The decision of the Review Officer shall contain findings  
20 of fact and conclusions of law and becomes final unless an aggrieved party brings a  
21 civil action pursuant to subsection (k). A copy of the decision shall be served upon each  
22 party and a copy shall be furnished to the attorneys of record. The written notice shall  
23 contain a statement informing the parties of the right to file a civil action and the 30-day  
24 limitations period for filing a civil action pursuant to subsection (k).

25 (j) Power to Enforce Final Decision. – The State Board shall have the power to  
26 enforce the final decision of the administrative law judge, if not appealed pursuant to  
27 subsection (i), or the final decision of the Review Officer, by ordering a local  
28 educational agency:

- 29 (1) To provide a child with appropriate education;
- 30 (2) To place a child in a private school that is approved to provide special  
31 education and that can provide the child an appropriate education; or
- 32 (3) To reimburse parents for reasonable private school placement costs in  
33 accordance with the provisions of G.S. 115C-115 when it is  
34 determined that the local educational agency did not offer or provide  
35 the child with appropriate education and the private school in which  
36 the parent, guardian, or surrogate parent placed the child was an  
37 approved school and did provide the child an appropriate education.

38 (k) Right to File Civil Action. – Any party aggrieved by the decision of the  
39 Review Officer may institute a civil action in State court within 30 days after receipt of  
40 the notice of the decision or in federal court as provided in 20 U.S.C. § 1415.

41 (l) Change in Placement. – Upon the filing of a petition, no change may be made  
42 in the child's status or program by school officials during the period of the  
43 administrative review or subsequent judicial review, unless the parent, guardian, or  
44 surrogate parent gives written consent."

## SECTION 13. G.S. 115C-122 reads as rewritten:

**"§ 115C-122. Early childhood development program; evaluation and placement of children.**

The General Assembly of North Carolina declares that the public policy of North Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

(1) The State shall provide for a comprehensive early childhood development program by emphasizing preventative and remedial measures designed to provide the services which will enable children to develop to the maximum level their physical, mental, social, and emotional potentials and to strengthen the role of the family as the first and most fundamental influence on child development. The General Assembly finds that the complexity of early childhood development precludes the enactment of legislation which is of a sufficiently comprehensive nature to encompass all possible implications. The Departments of Public Instruction and Health and Human Services shall, therefore, jointly develop an early childhood development program plan with flexibility sufficient to meet the State's policy as set forth in this subdivision. Said plan shall provide for the operation of a statewide early childhood development program no later than June 30, 1983.

(2) The State requires a system of educational opportunities for all children with ~~special-needs~~disabilities and requires the identification and evaluation of the needs of children and the adequacy of various education programs before placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter.

(3) The State shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional ~~handicap-disability~~ in the provision of services to any child. Each local school administrative unit shall develop program plans to meet the educational requirements of children with ~~special-needs~~disabilities and each local human services agency shall develop program plans to meet the human service requirements of children with ~~special-needs~~disabilities in accordance with program standards and in a planning format as shall be prescribed by the State Board of Education and the Department of Health and Human Services respectively.

The General Assembly intends that the educational program and human service program requirements of Session Laws 1973, Chapter 1293, shall be realized no later than June 30, 1982. The General Assembly further intends that currently imposed barriers to educational and human service opportunities for children with ~~special-needs~~disabilities by reason of a single standardized test, income, federal regulations, conflicting statutes, or any other barriers are

hereby abrogated; except that with respect to barriers caused by reason of income, it shall be permissible for the State or any local education agency or local human services agency to charge fees for special services rendered, or special materials furnished to a child with ~~special needs~~disabilities, his parents, guardian or persons standing in loco parentis unless the imposition of such fees would prevent or substantially deter the child, his parents, guardian, or persons standing in loco parentis from availing themselves of or receiving such services or materials.

- (4) It is recognized that children have a variety of characteristics and needs, all of which must be considered if the potential of each child is to be realized; that in order to accomplish this the State must develop a full range of service and education programs, and that a program must actually benefit a child or be designed to benefit a particular child in order to provide such child with appropriate educational and service opportunities. The General Assembly requires that all programs employ least restrictive alternatives as shall be defined by the Departments of Public Instruction and Health and Human Services."

**SECTION 14. G.S. 115C-139 reads as rewritten:**

**"§ 115C-139. Interlocal cooperation.**

(a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with ~~special needs~~disabilities are authorized to enter into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A, Article 20, Part 1 of the General Statutes or into undertakings with a State agency such as the Departments of Public Instruction, Health and Human Services, Juvenile Justice and Delinquency Prevention, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for these children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are most educationally appropriate to the children with ~~special needs~~disabilities for whose benefit the undertaking is made, and provide these services by or in the local agency unit or State department, agency, or division located in the place most convenient to these children.

(b) Local educational agencies may establish special education and related programs for children with ~~special needs~~disabilities aged birth through four and 19 through 21 inclusive."

**SECTION 15. G.S. 115C-140 reads as rewritten:**

**"§ 115C-140. Contracts with private service-providers.**

State departments, agencies and divisions and local educational agencies furnishing special education and related services to children with ~~special needs~~disabilities may contract with private special education facilities or service providers to furnish such

1 services as the public providers are unable to furnish. No contract between any public  
2 and private service provider shall be effective until it has received the prior written  
3 approval of the Board. The Board shall not withhold its approval of the contract unless  
4 the private facilities and providers do not meet the Board's standards established  
5 pursuant to G.S. 115C-110(a), (b)(5), and (d)(2)."

6 **SECTION 16.** G.S. 115C-140.1 reads as rewritten:

7 **"§ 115C-140.1. Cost of education of children in group homes, foster homes, etc.**

8 (a) **(Effective until July 1, 2003)** Notwithstanding the provisions of any other  
9 statute and without regard for the place of domicile of a parent or guardian, the cost of a  
10 free appropriate public education for a child with ~~special-needs~~disabilities who is placed  
11 in or assigned to a group home, foster home or other similar facility, pursuant to State  
12 and federal law, shall be borne by the local board of education in which the group home,  
13 foster home or other similar facility is located. Nothing in this section obligates any  
14 local board of education to bear any cost for the care and maintenance of a child with  
15 ~~special-needs~~disabilities in a group home, foster home or other similar facility.

16 (a) **(Effective July 1, 2003)** Notwithstanding the provisions of any other statute  
17 and without regard for the place of domicile of a parent or guardian, the cost of a free  
18 appropriate public education for a child with ~~special-needs~~disabilities who is placed in  
19 or assigned to a group home, foster home or other similar facility, pursuant to State and  
20 federal law, shall be borne by the local board of education in which the group home,  
21 foster home or other similar facility is located. However, the local school administrative  
22 unit in which a child is domiciled shall transfer to the local school administrative unit in  
23 which the institution is located an amount equal to the actual local cost in excess of  
24 State and federal funding required to educate that child in the local school  
25 administrative unit for the fiscal year. Nothing in this section obligates any local board  
26 of education to bear any cost for the care and maintenance of a child with ~~special~~  
27 ~~needs~~disabilities in a group home, foster home or other similar facility.

28 (b) The State Board of Education shall use State and federal funds appropriated  
29 for children with ~~special-needs~~disabilities to establish a reserve fund to reimburse local  
30 boards of education for the education costs of children assigned to group homes or other  
31 facilities as provided in subsection (a) of this section."

32 **SECTION 17.** G.S. 115C-142 reads as rewritten:

33 **"§ 115C-142. Nonreduction.**

34 Notwithstanding any of the other provisions of this Article, it is the intent of the  
35 General Assembly that funds appropriated by it for the operation of programs of special  
36 education and related services by local school administrative units not be reduced;  
37 rather, that adequate funding be made available to meet the special educational and  
38 related services needs of children with ~~special-needs~~disabilities, without regard to  
39 which State or local department, agency, or unit has the child in its care, custody,  
40 control, or program."

41 **SECTION 18.** G.S. 115C-145 reads as rewritten:

42 **"§ 115C-145. Allocation of federal funds.**

43 At such time as any federal moneys for the special education and related services for  
44 children with ~~special-needs~~disabilities are made available, these funds shall be allocated

1 according to a formula designed by the Board not inconsistent with federal laws and  
2 regulations. Such formula shall insure equitable distribution of resources based upon the  
3 number of children with ~~special needs~~ disabilities served by the respective agencies, and  
4 shall be implemented as funds are made available from federal and State  
5 appropriations."

6 **SECTION 19.** The title of Part 14 of Article 9 of Chapter 115C of the  
7 General Statutes reads as rewritten:

8 "Part 14. ~~Handicapped Children, Children With Disabilities~~, Ages Three to Five."

9 **SECTION 20.** G.S. 115C-146.1 reads as rewritten:

10 **"§ 115C-146.1. Definitions.**

11 The term "~~preschool handicapped children means all handicapped children; children~~  
12 with disabilities" includes without limitation all three- and four-year-olds, and those  
13 five-year-olds ineligible for kindergarten:

- 14 (1) Who have reached their third birthday and whose parents have  
15 requested services from the public schools, which services shall start  
16 no later than ~~the beginning of the school year immediately following~~  
17 the children's third birthday;
- 18 (2) Who are not eligible to enroll in public kindergarten; and
- 19 (3) Who, because of permanent or temporary mental, physical, or  
20 emotional handicaps, need special education and related services in  
21 order to prepare them to benefit from the educational programs  
22 provided by the public schools, beginning with kindergarten. This term  
23 includes children who are mentally ~~retarded, disabled,~~ learning  
24 disabled, ~~seriously emotionally disturbed, behaviorally disabled,~~  
25 autistic, ~~cerebral palsied,~~ orthopedically impaired, hearing impaired,  
26 speech impaired, blind or visually impaired, multiply ~~handicapped,~~  
27 handicapped or developmentally delayed, or other health impaired. All  
28 evaluations performed pursuant to this Part shall be appropriate to the  
29 individual child's age and development."

30 **SECTION 21.** G.S. 115C-146.2 reads as rewritten:

31 **"§ 115C-146.2. Entitlement to services.**

32 Preschool ~~handicapped children~~ with disabilities are entitled, at no cost to their  
33 parents or guardians, to individualized programs specifically designed to meet their  
34 unique needs for special education and related services."

35 **SECTION 22.** G.S. 115C-146.3 reads as rewritten:

36 **"§ 115C-146.3. Obligation to provide services.**

37 (a) The General Assembly finds:

- 38 (1) That preschool ~~handicapped children~~ with disabilities will benefit from  
39 the special education and related services required by this Part;
- 40 (2) That the General Assembly has evaluated the known needs of the State  
41 and has endeavored to satisfy those needs in comparison to the social  
42 and economic problems of the State;

(3) That the funds appropriated to serve these preschool ~~handicapped~~ children with disabilities are a reasonable amount to provide such children with special education and related services; and

(4) That, therefore, (i) State funds appropriated to implement this Part are the only State funds for public schools that may be used to provide special education and related services to preschool ~~handicapped children;~~ children with disabilities; and (ii) preschool ~~handicapped~~ children with disabilities will continue to be served by all other State funds they are otherwise entitled to.

(b) The State Board of Education shall cause local school administrative units to make available special education and related services to all preschool ~~handicapped~~ children with disabilities whose parents or guardians request these services.

(c) State funds appropriated to implement the provisions of this Part shall be used to supplement and not supplant existing federal, State, and local funding for the public schools.

(d) Related services provided under this Part shall be provided by qualified services providers. The term "qualified services provider" means a person who meets State standards for licensure or State Board of Education standards for certification for a specific profession or discipline.

To the extent that the State Board of Education standards include provisions for certification that are less than the standard for certification or licensure for a specific profession, the Department of Public Instruction may certify individuals on a temporary or provisional basis, provided that the State Board of Education shall establish a comprehensive plan and reasonable time lines to ensure that only professionals who meet the appropriate standard for licensure or certification may be employed in the future."

**SECTION 23.** G.S. 115C-174.11(b)(2) reads as rewritten:

"(2) The tests shall be administered annually to all ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. ~~Students in the ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs."~~

**SECTION 24.** G.S. 115C-81(b)(4) reads as rewritten:

"(4) Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with ~~special needs~~ disabilities and, in particular, include appropriate modifications;"

**SECTION 25.** G.S. 115C-105.25(b)(4) reads as rewritten:

"(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:



...  
(4) Funds allocated for children with ~~special-needs~~disabilities, for students with limited English proficiency, and for driver's education shall not be transferred.

...."

**SECTION 26.** G.S. 115C-238.29F(d)(4) reads as rewritten:

"(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~~disabilities."

**SECTION 27.** G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter school:

- (1) 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~~disabilities and for the allocation for children with limited English proficiency;
- (2) An additional amount for each child attending the charter school who is a child with ~~special-needs~~disabilities; and
- (3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with ~~special-needs~~disabilities leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with ~~special-needs~~disabilities enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with ~~special-needs~~disabilities.

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities or equipment. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources."

1           **SECTION 28.** G.S. 115C-242 reads as rewritten:

2   **"§ 115C-242. Use and operation of school buses.**

3       Public school buses may be used for the following purposes only, and it shall be the  
4   duty of the superintendent of the school of each local school administrative unit to  
5   supervise the use of all school buses operated by such local school administrative unit  
6   so as to assure and require compliance with this section:

7           (1)   A school bus may be used for the transportation of pupils enrolled in  
8               and employees in the operation of the school to which such bus is  
9               assigned by the superintendent of the local school administrative unit.  
10              Except as otherwise herein provided, such transportation shall be  
11              limited to transportation to and from such school for the regularly  
12              organized school day, and from and to the points designated by the  
13              principal of the school to which such bus is assigned, for the receiving  
14              and discharging of passengers. No pupil or employee shall be so  
15              transported upon any bus other than the bus to which such pupil or  
16              employee has been assigned pursuant to the provisions of this Article:  
17              Provided, that children enrolled in a Headstart program which is  
18              housed in a building owned and operated by a local school  
19              administrative unit where school is being conducted may be  
20              transported on public school buses, so long as the contractual  
21              arrangements made cause no extra expense to the State: Provided  
22              further, that children with ~~special needs~~ disabilities may be transported  
23              to and from the nearest appropriate private school having a special  
24              education program approved by the State Board of Education if the  
25              children to be transported are or have been placed in that program by a  
26              local school administrative unit as a result of the State or the unit's  
27              duty to provide such children with a free appropriate public education.

28           (2)   In the case of illness or injury requiring immediate medical attention  
29               of any pupil or employee while such pupil or employee is present at  
30               the school in which such pupil is enrolled or such employee is  
31               employed, the principal of such school may, in his discretion, permit  
32               such pupil or employee to be transported by a school bus to a doctor  
33               or hospital for medical treatment, and may, in his discretion, permit  
34               such other person as he may select to accompany such pupil.

35           (3)   The board of education of any local school administrative unit may  
36               operate the school buses of such unit one day prior to the opening of  
37               the regular school term for the transportation of pupils and employees  
38               to and from the school to which such pupils are assigned or in which  
39               they are enrolled and such employees are employed, for the purposes  
40               of the registration of students, the organization of classes, the  
41               distribution of textbooks, and such other purposes as will, in the  
42               opinion of the superintendent of the schools of such unit, promote the  
43               efficient organization and operation of such public schools.

(4) A local board of education which elects to operate a school bus transportation system, shall not be required to provide transportation for any school employee, nor shall such board be required to provide transportation for any pupil living within one and one half miles of the school in which such pupil is enrolled.

(5) Local boards of education, under rules and regulations adopted by the State Board of Education, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools. Included in the use permitted by this section is the transportation of children with ~~special needs~~disabilities, such as mentally retarded children and children with physical defects, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. On any such trip, a city or county-owned school bus shall not be taken out of the State.

If State funds are inadequate to pay for the transportation approved by the local board of education, local funds may be used for these purposes. Local boards of education shall determine that funds are available to such boards for the transportation of children to and from the school to which they are assigned for the entire school year before authorizing the use and operation of school buses for other services deemed necessary to serve the instructional program of the schools.

Children with ~~special needs~~disabilities may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

(6) School buses owned by a local board of education may be used for emergency management purposes in any state of disaster or local state of emergency declared under Chapter 166A of the General Statutes. Under rules and regulations adopted by a local board of education, its school buses may be used with its permission for the purpose of testing emergency management plans; however, neither the State Board of Education nor the local board of education shall be liable for the operating cost, any compensation claims or any tort claims resulting from the test.

(7) Uses authorized by G.S. 115C-243."

**SECTION 29.** G.S. 115C-250 reads as rewritten:

**"§ 115C-250. Authority to expend funds for transportation of children with special needs~~disabilities~~.**

(a) The State Board of Education and local boards of education may expend public funds for transportation of handicapped children with ~~special needs~~disabilities

1 who are unable because of their handicap to ride the regular school buses and who have  
2 been placed in programs by a local school board as a part of its duty to provide such  
3 children with a free appropriate education, including its duty under G.S. 115C-115. At  
4 the option of the local board of education with the concurrence of the State Board of  
5 Education, funds appropriated to the State Board of Education for contract  
6 transportation of exceptional children may be used to purchase buses and minibuses as  
7 well as for the purposes authorized in the budget. The State Board of Education shall  
8 adopt rules and regulations concerning the construction and equipment of these buses  
9 and minibuses.

10 The Departments of Health and Human Services, Juvenile Justice and Delinquency  
11 Prevention, and Correction may also expend public funds for transportation of  
12 handicapped children with special-needsdisabilities who are unable because of their  
13 handicap to ride the regular school buses and who have been placed in programs by one  
14 of these agencies as a part of that agency's duty to provide such children with a free  
15 appropriate public education.

16 If a local area mental health center places a child with special-needsdisabilities in an  
17 educational program, the local area mental health center shall pay for the transportation  
18 of the child, if handicapped and unable because of the handicap to ride the regular  
19 school buses, to the program.

20 (b) Funds appropriated for the transportation of children with special  
21 needsdisabilities may be used to pay transportation safety assistants employed in  
22 accordance with the provisions of G.S. 115C-245(e) for buses to which children with  
23 special-needsdisabilities are assigned."

24 **SECTION 30.** G.S. 115C-397.1 reads as rewritten:

25 **"§ 115C-397.1. Management and placement of disruptive students.**

26 If, after a teacher has requested assistance from the principal two or more times due  
27 to a student's disruptive behavior, the teacher finds that the student's disruptive behavior  
28 continues to interfere with the academic achievement of that student or other students in  
29 the class, then the teacher may refer the matter to a school-based committee. The  
30 teacher may request that additional classroom teachers participate in the committee's  
31 proceedings. For the purposes of this section, the committee shall notify the student's  
32 parent, guardian, or legal custodian and shall encourage that person's participation in the  
33 proceedings of the committee concerning the student. A student is not required to be  
34 screened, evaluated, or identified as a child with special-needsdisabilities under this  
35 section. The committee shall review the matter and shall take one or more of the  
36 following actions: (i) advise the teacher on managing the student's behavior more  
37 effectively, (ii) recommend to the principal the transfer of the student to another class  
38 within the school, (iii) recommend to the principal a multidisciplinary diagnosis and  
39 evaluation of the student, (iv) recommend to the principal that the student be assigned to  
40 an alternative learning program, or (v) recommend to the principal that the student  
41 receive any additional services that the school or the school unit has the resources to  
42 provide for the student. If the principal does not follow the recommendation of the  
43 committee, the principal shall provide a written explanation to the committee, the  
44 teacher who referred the matter to the committee, and the superintendent, of any actions

1 taken to resolve the matter and of the reason the principal did not follow the  
2 recommendation of the committee.

3 This section shall be in addition to the supplemental to disciplinary action taken in  
4 accordance with any other law. The recommendation of the committee is final and shall  
5 not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student  
6 to refer a disciplinary matter to this committee or to have the matter of the student's  
7 behavior referred to this committee before any discipline is imposed on the student."

8 **SECTION 31.** G.S. 7B-1301(d)(1) reads as rewritten:

9 "(d) Programs contracted for under this Article are intended to prevent abuse and  
10 neglect of juveniles. Abuse and neglect prevention programs are defined to be those  
11 programs and services which impact on juveniles and families before any substantiated  
12 incident of abuse or neglect has occurred. These programs may include, but are not  
13 limited to:

14 (1) Community-based educational programs on prenatal care, perinatal  
15 bonding, child development, basic child care, care of children with  
16 special-needs-disabilities, and coping with family stress; and".

17 **SECTION 32.** G.S. 7B-3904 reads as rewritten:

18 **"§ 7B-3904. Medical assistance.**

19 (a) A child with special-needs-disabilities who is a resident of this State who is  
20 the subject of an adoption assistance agreement with another state shall be accepted as  
21 being entitled to receive medical assistance certification from this State upon the filing  
22 in the department of social services of the county in which the child resides a certified  
23 copy of the adoption assistance agreement obtained from the adoption assistance state.

24 (b) The Division of Medical Assistance shall consider the holder of a medical  
25 assistance certification under this section to be entitled to the same medical benefits  
26 under the laws of this State as any other holder of a medical assistance certification and  
27 shall process and make payment on claims on account of that holder in the same manner  
28 and under the same conditions and procedures that apply to other recipients of medical  
29 assistance.

30 (c) The provisions of this section apply only to medical assistance for children  
31 under adoption assistance agreements from states that have entered into a compact with  
32 this State under which the other state provides medical assistance to children with  
33 special-needs-disabilities under adoption assistance agreements made by this State."

34 **SECTION 33.** G.S. 108A-49(b) reads as rewritten:

35 "(b) Adoption assistance payments for certain adoptive children shall be granted  
36 in accordance with the rules of the Social Services Commission to adoptive parents who  
37 adopt a child eligible to receive foster care maintenance payments or supplemental  
38 security income benefits; provided, that the child cannot be returned to his or her  
39 parents; and provided, that the child has special-needs-disabilities which create a  
40 financial barrier to adoption. A county department of social services shall pay, at a  
41 minimum, the monthly graduated adoption assistance payments for eligible children as  
42 set by the General Assembly. A county department of social services may make  
43 adoption assistance payments in excess of the monthly graduated rates set by the  
44 General Assembly."

SECTION 34. G.S. 108A-70.22 reads as rewritten:

"§ 108A-70.22. Allocation of federal and State funds for Program; consultation with Joint Legislative Health Care Oversight Committee.

The Department of Health and Human Services, after having consulted with and received advice from the Joint Legislative Health Care Oversight Committee established under G.S. 120-70.110, shall from total funds available to the Department for Program implementation, allocate and adjust, as needed, funds to pay the North Carolina Teachers' and State Employees' Major Medical Plan in accordance with G.S. 108A-70.23 and Part 5 of Article 3 of Chapter 135 of the General Statutes, and funds to pay for eligible services provided for children with special-needs~~disabilities~~ in accordance with G.S. 108A-70.23."

SECTION 35. G.S. 108A-70.23 reads as rewritten:

"§ 108A-70.23. Services for children with ~~special-needs~~ disabilities established; definition; eligibility; services; limitation; recommendations; no entitlement.

(a) ~~{Special Needs Services Authorized.}~~ Services Authorized. – The Department shall, from federal funds received and State funds appropriated for the Program, pay for services for children with ~~special-needs~~disabilities as authorized under this section. As used in this section, the term "children with ~~special-needs~~"disabilities" or "~~special-needs child~~" means children who have been diagnosed as having one or more of the following conditions which in the opinion of the diagnosing physician (i) is likely to continue indefinitely, (ii) interferes with daily routine, and (iii) require extensive medical intervention and extensive family management:

- (1) Birth defect, including genetic, congenital, or acquired disorders;
- (2) Developmental disability as defined under G.S. 122C-3;
- (3) Mental or behavioral disorder; or
- (4) Chronic and complex illnesses.

(b) Eligibility for Services. – In order to be eligible for services under this section a ~~special-needs child~~ with disabilities must be enrolled in the Program.

(c) Services Provided. – The services authorized to be provided to children eligible under this section are as follows:

- (1) The same level of services as provided for ~~special-needs children~~ with disabilities under the Medical Assistance Program as authorized in the Current Operations Appropriations Act except that no services for long-term care shall be provided under this section, and except that services for respite care shall be provided only under emergency circumstances; and
- (2) Only those services eligible under this section that are not covered or otherwise provided under Part 5 of Article 3 of Chapter 135 of the General Statutes.

(d) Limitation. – Funds may be expended for services under this section only if the ~~special-needs child~~ with disabilities is enrolled in the Program, the services provided under this section are not provided under Part 5 of Article 3 of Chapter 135 of the

1 General Statutes, and the child meets the definition of a ~~special-needs-child~~ with  
2 disabilities under this section.

3 (e) Case Management Services. – The Department shall develop procedures for  
4 the provision of case management services by the Department to eligible ~~special-needs~~  
5 ~~children-~~ children with disabilities. Case management services shall be developed to  
6 ensure to the maximum extent possible that services are provided in the most efficient  
7 and effective manner considering the ~~special-needs~~ disabilities of the child. The cost of  
8 providing case management services for children with ~~special-needs~~ disabilities shall be  
9 paid from funds available for services under this section.

10 (f) Recommendations by Commission on Children With Special Health Care  
11 Needs. – In implementing this section the Department shall consider the  
12 recommendations of the Commission on Children With Special Health Care Needs  
13 established under Article 71 of Chapter 143 of the General Statutes. The Department, in  
14 consultation with the Commission on Children With Special Health Care Needs shall  
15 develop procedures for providing respite care services under emergency circumstances.

16 (g) No Entitlement. – Nothing in this section shall be construed as entitling any  
17 person to services under this section."

18 **SECTION 36.** G.S. 110-91(11) reads as rewritten:

19 **"§ 110-91. Mandatory standards for a license.**

20 All child care facilities shall comply with all State laws and federal laws and local  
21 ordinances that pertain to child health, safety, and welfare. Except as otherwise  
22 provided in this Article, the standards in this section shall be complied with by all child  
23 care facilities. However, none of the standards in this section apply to the school-age  
24 children of the operator of a child care facility but do apply to the preschool-age  
25 children of the operator. Children 13 years of age or older may receive child care on a  
26 voluntary basis provided all applicable required standards are met. The standards in this  
27 section, along with any other applicable State laws and federal laws or local ordinances,  
28 shall be the required standards for the issuance of a license by the Secretary under the  
29 policies and procedures of the Commission except that the Commission may, in its  
30 discretion, adopt less stringent standards for the licensing of facilities which provide  
31 care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time  
32 basis.

33 ...

34 (11) Staff Development. – The Commission shall adopt minimum standards  
35 for ongoing staff development for facilities but limited to the following  
36 topic areas:

- 37 a. Planning a safe, healthy learning environment;
- 38 b. Steps to advance children's physical and intellectual  
39 development;
- 40 c. Positive ways to support children's social and emotional  
41 development;
- 42 d. Strategies to establish productive relationships with families;
- 43 e. Strategies to manage an effective program operation;
- 44 f. Maintaining a commitment to professionalism;

- g. Observing and recording children's behavior;
- h. Principles of child growth and development; and
- i. Learning activities that promote inclusion of children with ~~special needs disabilities~~.

These standards shall include annual requirements for ongoing staff development appropriate to job responsibilities. A person may carry forward in-service training hours that are in excess of the previous year's requirement to meet up to one-half of the current year's required in-service training hours.

...."

**SECTION 37.** G.S. 143-318.14A(a)(13) reads as rewritten:

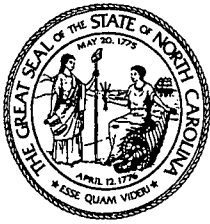
"(a) Except as provided in subsection (e) below, all official meetings of commissions, committees, and standing subcommittees of the General Assembly (including, without limitation, joint committees and study committees), shall be held in open session. For the purpose of this section, the following also shall be considered to be "commissions, committees, and standing subcommittees of the General Assembly":

...

(13) The Commission on Children with ~~Special Needs;Disabilities~~;"

**SECTION 38.** This act is effective when it becomes law.





# HOUSE BILL 318: Children with Disabilities/Federal Law.-AB

## BILL ANALYSIS

**Committee:** House Education K-12  
Subcommittee  
**Date:** April 16, 2003  
**Version:** H318-CSRH-11[v.2]

**Introduced by:** Rep. Warren  
**Summary by:** Robin Johnson  
Committee Counsel

**SUMMARY:** *Requested by the State Board of Education, House Bill 318 would make changes to the law governing education programs for students with disabilities. These narrow changes would conform the State's laws to IDEA, the federal law governing these programs. The bill would take effect when it becomes law.*

### BILL ANALYSIS:

The PCS does the following:

1. Consolidates definitions into one section and conforms them to those in IDEA, the federal law governing educational programs for children with disabilities. The most significant change is to delete all references to "children with special needs" and to substitute "child with a disability" or "children with disabilities".
2. Conforms statutes to some of the discipline language required by IDEA.
3. Makes numerous technical and conforming changes.

H318-SMRH-001



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 318

H318-ARH-18 [v.1]

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

Page 1 of 1

Date \_\_\_\_\_, 2003

Comm. Sub. [YES]  
Amends Title [NO]  
H318-CSRH-11[v.2]

Representative \_\_\_\_\_

- 1 moves to amend the bill on page 20, line 43, through page 21, line 25, by deleting those
- 2 lines;
- 3
- 4 and by renumbering the remaining sections.

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

D

HOUSE BILL 38  
PROPOSED COMMITTEE SUBSTITUTE H38-PCS45115-SF-16

Short Title: Probationary Period Shortened/Career Tchrs.

(Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED  
AN ACT TO SHORTEN THE PROBATIONARY PERIOD FOR CAREER  
TEACHERS WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO  
TEACHING AFTER LEAVING THE PROFESSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-325(c)(2) reads as rewritten:

"(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~~ one year. The board may grant career status immediately upon employing the teacher, or after the first ~~or second~~ year of employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current term. If after ~~two consecutive years~~ one year of employment, the board fails to vote on the issue of granting career status:

- a. It shall not reemploy the teacher for a ~~third~~ second consecutive year;
- b. As of June 16, the teacher shall be entitled to one month's pay as compensation for the board's failure to vote upon the issue of granting career status; and
- c. The teacher shall be entitled to one additional month's pay for every 30 days beyond June 16 that the board fails to vote upon the issue of granting career status."

**SECTION 2.(a)** Section 1 of this act applies to all teachers, irrespective of date of offer or acceptance of employment, whose duties in new employment begin on or after July 1, 2004.

**SECTION 2.(b)** Section 1 of this act does not apply to a teacher who (i) has obtained career status as a teacher in a North Carolina public school system and (ii) is

1 serving a probationary period as a teacher on the date this act becomes law. The  
2 employing board shall vote upon whether to grant such a teacher career status near the  
3 end of the teacher's current year of employment. In any event, if the person is  
4 reemployed for an additional consecutive year, the person shall automatically become a  
5 career teacher.

6 **SECTION 3.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 38

Short Title: Tenured Teachers Retain Tenure.

(Public)

Sponsors: Representatives Adams; B. Allen, Bell, Cunningham, Farmer-Butterfield, Jones, Mitchell, Parmon, Pate, Wainwright, and Womble.

Referred to: Education.

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO PERMIT CAREER TEACHERS TO RETAIN CAREER STATUS  
WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO TEACHING  
AFTER LEAVING THE PROFESSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-325(c)(2) reads as rewritten:

"(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. The board may grant career status immediately upon employing the teacher, or after the first or second year of employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current term. If after two consecutive years of employment, the board fails to vote on the issue of granting career status:~~

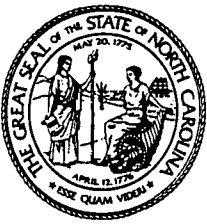
- a. ~~It shall not reemploy the teacher for a third consecutive year;~~
- b. ~~As of June 16, the teacher shall be entitled to one month's pay as compensation for the board's failure to vote upon the issue of granting career status; and~~
- e. ~~The teacher shall be entitled to one additional month's pay for every 30 days beyond June 16 that the board fails to vote upon the issue of granting career status.~~

A teacher hired by any North Carolina public school system shall acquire career status upon employment if the teacher has served as a teacher with career status in any North Carolina public school system within the previous five years."

SECTION 2.(a) Section 1 of this act applies to all teachers, irrespective of date of offer or acceptance of employment, whose duties in new employment begin on or after July 1, 2004.

1           **SECTION 2.(b)** Section 1 of this act does not apply to a teacher who (i) has  
2 obtained career status as a teacher in a North Carolina public schools system and (ii) is  
3 serving a probationary period as a teacher on the date this act becomes law. The  
4 employing board shall vote upon whether to grant such a teacher career status near the  
5 end of the teacher's current year of employment. In any event, if the person is  
6 reemployed for an additional consecutive year, the person shall automatically become a  
7 career teacher.

8           **SECTION 3.** This act is effective when it becomes law.



# HOUSE BILL 38: Tenured Teachers Retain Tenure

## BILL ANALYSIS

**Committee:** House Educ. Subcomm on Pre-School, Elem. & Secondary Educ.

**Introduced by:** Rep. Adams

**Summary by:** Shirley Iorio

Committee Staff

**Date:** April 23, 2003

**Version:** H38-CSSF-10 [v.1]

**SUMMARY:** *The Proposed Committee Substitute (PCS) to House Bill 38 would allow a teacher to acquire career status upon employment if the teacher has served as a teacher with career status in any North Carolina public school system within the previous five years.*

*Section 1 of the PCS would apply to all teachers whose duties in new employment would begin on or after July 1, 2004.*

*Section 1 would not apply to a teacher who has obtained career status as a teacher in a North Carolina public school system and is serving a probationary period as a teacher on the date this act becomes law. The employing board would vote upon whether to grant such a teacher career status. If the teacher were reemployed for an additional consecutive year, the teacher would automatically become a career teacher.*

*The act would become effective when it becomes law.*

**CURRENT LAW:** G.S. 115C-325(c)(2) provides for the employment of a career teacher. A teacher who has obtained career status in any North Carolina public school system does not have to serve another probationary period of more than two years. The local board may grant career status immediately upon employing the teacher, or after the first or second year of employment. If a majority of the local board votes against granting career status, the teacher cannot teach beyond the current term. If after two consecutive years of employment, the board fails to vote on the issue of granting career status:

- It shall not reemploy the teacher for a third consecutive year;
- As of June 16, then teacher is entitled to one month's pay as compensation for the board's failure to vote upon the issue of granting career status; and
- The teacher shall be entitled to one additional month's pay for every 30 days after June 16 that the board fails to vote upon the issue of granting career status.

**BILL ANALYSIS:** The current law gives local boards discretion in awarding career status. The board may grant status immediately or after the first or second year of employment. This bill would permit career teachers to retain career status upon employment when they change school systems or return to teaching after leaving the profession. The teacher would have to have been employed as a teacher with career status in any North Carolina public school system within the previous five years.

H38-SMSF-001

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY AND SECONDARY EDUCATION**  
**April 29, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 425 of the Legislative Office Building on April 29, 2003, at 12:15 p.m. Representative Edith Warren called the meeting to order and introduced the pages, Megan Dawson and Amy McClellon, and the Sergeant-At-Arms, Brian Doherty and Martha Parrish. The following Committee members were present: Vice Chairs: Representatives Bell and Goforth; Members: Representatives Carney, Glazier, Jeffus, L. Johnson, Lucas, McGee, Walend, Walker and Womble. Shirley Iorio and Robin Johnson, Staff Counsel, were in attendance. A Visitor Registration list is attached and made part of the minutes (**See Attachment**). The following bills were considered:

**HB 801, entitled, A BILL TO BE ENTITLED AN ACT TO MODIFY THE STATE COMPETENCY TESTING PROGRAM TO ENSURE THAT HIGH SCHOOL STUDENTS WHO DO NOT PASS THE COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN ALTERNATIVE TEST.** Representative Warner explained that the bill was debated in the last committee meeting with a proposed committee substitute. (**See Attachment**) Since that date, the State Board of Education and Department of Public Instruction have agreed that the original bill is the correct bill for an alternative test as constructed by the State Board and Department of Public Instruction to test children with learning disabilities. Representative Glazier made a motion for a favorable report as to the original bill and recommended that the bill be reported directly to the floor. The vote was 6 to 0 in favor of the motion.

**HB 601, entitled, A BILL TO BE ENTITLED AN ACT TO ENCOURAGE EARLY ENTRY OF MOTIVATED STUDENTS INTO FOUR-YEAR COLLEGE PROGRAMS.** Dr. Iorio, Staff Attorney, presented an amendment. (**See Attachment**) Representative Glazier explained the bill states the duties and powers of the State Board of Education and requires that the State Board work with colleges and community college systems to encourage the early entry of motivated students into college programs to ensure the opportunities for their acceleration. This bill simply follows up on the requirements of the 2002 bill for a proposal from the State Board to set in place the acceleration and gives them the statutory duty to do so. There were no objections from the State Board of Education to this bill and this is not a bill that will cost the state any money. Representative Glazier moved for adoption of the amendment. The vote was 6 to 0 in favor of the amendment. There was further discussion on the effect of this bill to the Huskins bill. Representative Glazier explained that the present bill does not effect the



Huskins bill in any way. Representative McGee then moved for a favorable report as amended, that the amendment be rolled into a committee substitute, for a favorable report as the committee substitute and unfavorable to the original bill, and recommends that the bill be reported directly to the floor. The vote was 6 to 0 in favor of the committee substitute.

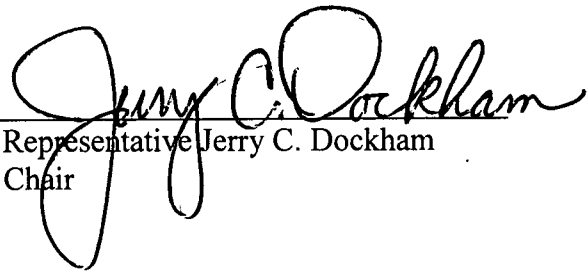
**HB 1166, entitled, A BILL TO BE ENTITLED AN ACT TO FACILITATE JOB SHARING BY PUBLIC SCHOOL EMPLOYEES.** Representative Nesbitt explained the bill, stating that according to fiscal notes, there would be no cost. Any additional cost would be paid by premiums. Representative Warren presented the committee substitute. **(See Attachment)** Representative Goforth made a motion that the committee substitute come before the committee for discussion. The motion passed. A discussion followed on the advantages of having full time jobs being split. When a full time position is split between two people, salary and benefits will be split evenly or prorated. Representative Glazier moved to amend the bill on page 1, line 15 by inserting "at least" between "for" and "fifty." **(See Attachment)** After discussion, Representative Glazier moved for adoption of this amendment. The vote was 10 to 0 in favor of the amendment. Representative L. Johnson then moved for a favorable report as adopted and that the amendment be rolled into a committee substitute, favorable as to the committee substitute and unfavorable as to the original bill and be reported directly to the floor. The vote was 10 to 1 in favor of the committee substitute.

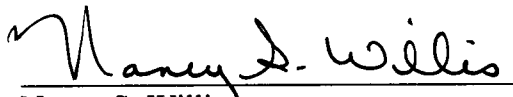
**HB 38, entitled, A BILL TO BE ENTITLED AN ACT TO PERMIT CAREER TEACHERS TO RETAIN CAREER STATUS WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO TEACHING AFTER LEAVING THE PROFESSION.** Representative Alma Adams explained the bill and submitted an amendment **(See Attachment)** to reduce the probational period to one year instead of two years. Representative Womble moved that the amendment come before the committee for discussion and adoption. After discussion, the vote was 10 to 0 in favor of the adoption of the amendment. Representative Carney moved that the proposed committee substitute come before the committee for discussion. **(See Attachment)** The vote was 10 to 0 that the proposed committee substitute come before the committee for discussion. The proposed committee substitute would allow a teacher who has gained tenure and moves from one system to another to have a probationary period of one year instead of two. It was decided that this was a good compromise and would give more flexibility for teachers and enhance retention and recruitment. Representative Lucas moved for adoption of the amendment to amend the bill on Page 1, lines 7-11 by deleting the underlined language and to give staff discretion to amend the title. The vote to adopt the amendment was 11 to 0. Representative Womble then moved for a favorable report as to the proposed committee substitute with amendment, unfavorable to original bill and rolled into Committee Substitute with title change to conform. The vote was 12 to 0 in favor of the motion.

There being no further business, the chair adjourned the meeting at 1:00 p.m.

Respectfully submitted,

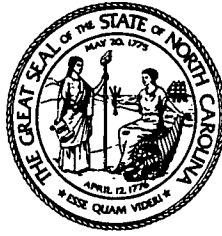
  
Representative Edith E. Warren  
Chair

  
Representative Jerry C. Dockham  
Chair

  
Nancy S. Willis  
Assistant to the Committee

ATTACHMENTS:

Agenda  
HB 801  
HB 601  
HB 1166  
HB 38  
Bill Summaries  
Amendments  
Proposed Committee Substitutes  
Visitor Registration Form



## **HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION**

**April 29, 2003  
Room 425 LOB  
12:00 PM**

### **AGENDA**

#### **OPENING REMARKS**

**Representative Jerry Dockham, Chair  
Representative Edith Warren, Chair**

#### **AGENDA ITEMS**

- HB 801 ALTERNATIVES TO SCHOOL COMPETENCY TEST.  
Representative Warner (Sponsor)**
- HB 601 ENCOURAGE EARLY COLLEGE ATTENDANCE.  
Representatives Glazier and Ross (Sponsors)**
- HB 1166 LOCAL FLEX. REGARDING JOB SHARING IN SCHOOLS.  
Representatives Bordsen and Nesbitt (Sponsors)**

#### **ADJOURNMENT**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

1

HOUSE BILL 801

Short Title: Alternatives to School Competency Test.

(Public)

Sponsors: Representatives Warner; and Lucas.

Referred to: Education.

March 31, 2003

A BILL TO BE ENTITLED  
AN ACT TO MODIFY THE STATE COMPETENCY TESTING PROGRAM TO  
ENSURE THAT HIGH SCHOOL STUDENTS WHO DO NOT PASS THE  
COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN  
ALTERNATIVE TEST.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-174.11(b) reads as rewritten:

"(b) Competency Testing Program.

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

(2) The tests shall be administered annually to all ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

(3) The State Board of Education ~~may develop~~ shall:

a. Adopt one or more nationally standardized tests or other nationally standardized equivalent measures that measure competencies in the verbal and quantitative areas; or

1           b. Develop and validate alternate means and standards for  
2           demonstrating minimum competence. These ~~standards,~~  
3           ~~which standards~~ must be ~~more as~~ difficult ~~than as~~ the tests  
4           adopted pursuant to subdivision (1) of this ~~subsection,~~  
5           subsection.

6           One of these tests may be passed by students in lieu of the testing  
7           requirement of subdivision (2) of this subsection.

8           (3a) Students with disabilities who fail to pass the competency test adopted  
9           pursuant to subdivision (2) of this subsection after two attempts shall  
10          be given the opportunity to take and pass one of the alternate tests  
11          adopted pursuant to subdivision (3) of this subsection.

12          (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s.  
13          18.14."

14       **SECTION 2.** This act becomes effective July 1, 2003.

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Jerry Dockham and Edith D. Warren (Chairs) for the Education Subcommittee  
on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

**H.B. 801**

A BILL TO BE ENTITLED AN ACT TO MODIFY THE STATE  
COMPETENCY TESTING PROGRAM TO ENSURE THAT HIGH SCHOOL STUDENTS WHO  
DO NOT PASS THE COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN  
ALTERNATIVE TEST.

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative ~~Bonner~~ and ~~Hilton~~ for the Standing Committee on EDUCATION.

*Warner Wood*

s/

*[Signature]*  
*[Signature]*

- ☒ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to the committee substitute bill ( # \_\_\_\_\_ ), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_ ). (and recommendation that the committee substitute bill ( # \_\_\_\_\_ ) be referred to the Committee on \_\_\_\_\_ .)

03/26/03

FOR JOURNAL USE ONLY

\_\_\_\_ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of \_\_\_\_\_.

\_\_\_\_ The (committee substitute) bill/resolution (as amended,) is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ On motion of (Rep. \_\_\_\_\_,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill (No. \_\_\_\_)/resolution is placed on the Calendar of \_\_\_\_\_. (The original bill) (House Committee Substitute Bill No. \_\_\_\_)/ resolution is placed on the Unfavorable Calendar.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the rules are suspended) (Rule \_\_\_\_ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ Rep. \_\_\_\_\_ offers Amendment No. \_\_\_\_\_ which (is adopted.) (fails of adoption.) (by EV \_\_\_\_\_,) ( ) This amendment changes the title.

\_\_\_\_ The bill/resolution (, as amended,) passes its second reading (by following vote, \_\_\_\_ RC) (, by EV \_\_\_\_\_,) and (remains on the Calendar,) (and there being no objection is read a third time).

\_\_\_\_ The bill/resolution (, as amended,) passes its third reading (by the following vote, \_\_\_\_ RC) (, by EV \_\_\_\_\_,) and is ordered  
\_\_\_\_ sent to the Senate.  
\_\_\_\_ without engrossment. \_\_\_\_ by Special message.  
\_\_\_\_ sent to the Senate for concurrence in  
\_\_\_\_ House amendment (s).  
\_\_\_\_ House committee substitute bill.  
\_\_\_\_ enrolled.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, the House concurs in the (material) Senate \_\_\_\_\_ (by the following vote, \_\_\_\_ RC) (, by EV \_\_\_\_\_,) and the bill is ordered enrolled.

**PLEASE PRESS HARD - 5 COPIES****NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT**

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE

4/16/03

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE \_\_\_\_\_

Rep. ) Warner  
Sen. )

1 moves to amend the bill on page

2

, line

6-8

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting the lines to read:

4

5

"(3a) Students, including those with  
disabilities, who fail to pass the  
competency test adopted"

8

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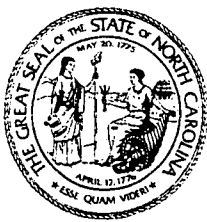
SIGNED \_\_\_\_\_

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_





## BILL ANALYSIS

# HOUSE BILL 801: Alternatives to School Competency Test

**Committee:** House Education Subcomm. on  
Pre-Sch., Elem. & Secondary Ed.

**Date:** April 15, 2003

**Version:** First Edition

**Introduced by:** Rep. Warner

**Summary by:** Shirley Iorio  
Committee Staff

**SUMMARY:** *House Bill 801 would modify the State Competency Testing Program so that high school students who do not pass the Competency Test are given the opportunity to take an alternative test. The State Board of Education (State Board) would be required to adopt one or more nationally standardized tests or equivalent measures that test verbal and quantitative skills, or develop alternate means and standards for demonstrating minimum competence.*

*The bill would become effective July 1, 2003.*

**CURRENT LAW:** G.S. 115C-174.11(b) establishes the Competency Testing Program. The State Board of Education (State Board) is required to adopt tests or other measures that can be used to assure that high school graduates have the skills and knowledge necessary to function independently and successfully as responsible citizens. The tests must be administered annually to all ninth grade students in the public schools. Students who fail the test must be given remedial instruction and additional opportunities to take the test up to and including the last month of twelfth grade. Students who fail parts of the tests must be retested on only those parts that they fail. Special education students in ninth grade may be excluded from the testing programs. The State Board may develop and validate alternative means and standards for demonstrating minimum competence that must be more difficult than the Competency Test and may be passed by students in lieu of the testing requirement of all ninth graders in the public schools.

**BILL ANALYSIS:** This bill requires the State Board to either adopt one or more nationally standardized tests or equivalent measures that evaluate competencies in verbal and quantitative areas or develop and validate alternate means to demonstrate minimum competence. These tests or measures must be as difficult as the current required competency test. A student would be permitted to pass one of these alternate tests in lieu of the competency test.

House Bill 801 would also require that students with disabilities who fail the current competency test after two attempts be given the opportunity to take and pass one of the alternate tests that the State Board adopts.

**BACKGROUND:** In 1995 the State Board adopted the eighth grade end-of-grade (EOG) reading and mathematics tests as the competency requirement, and established Achievement Level III or above as the standard for each test. If the eighth grade student scores a Level III or above on the EOG in reading and math, that student has met the competency requirement.

Students who do not meet the standard at the end of the eighth grade are required to meet the standard on the North Carolina Competency Tests of reading and mathematics to receive a North Carolina high school diploma. The standard for the competency tests of reading and mathematics is equivalent to Achievement Level III on the eighth grade EOG.

# HOUSE BILL 801

Page 2

Students who don't pass the competency requirements receive additional instructional opportunities designed to help them learn the reading and mathematics skills needed to improve their performance and assist them in passing the competency tests. These students will have the opportunity to retake the tests at least once a year from ninth grade through twelfth grade. School systems may choose to offer the competency tests at least three times each year: once in the fall, once in the spring, and once during summer school session. Seniors are offered an extra opportunity to retake the tests during the last month of school.

Students with disabilities and students identified as limited English proficient may receive testing accommodations. These students also may be exempt from participation in one or both competency tests. However, the student will not receive a North Carolina high school diploma if the competency requirement is not met. A parent, guardian, or student (if 18 years of age or older) must sign a statement indicating that the consequences of exemption from the competency tests were explained. This signed statement must become a part of the student's permanent record.

Students who satisfy all state and local graduation requirements but who fail the competency tests receive a certificate of achievement.

Students following the occupational course of study are not required to pass the competency tests in order to earn a high school diploma.

H801-SMSF-001

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

1

HOUSE BILL 601

Short Title: Encourage Early College Attendance. (Public)

Sponsors: Representatives Glazier, Ross (Primary Sponsors); Bordsen, Bowie, Carney, Gibson, Jones, Lucas, Parmon, Rapp, Wood, and Yongue.

Referred to: Education.

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE EARLY ENTRY OF MOTIVATED STUDENTS INTO  
FOUR-YEAR COLLEGE PROGRAMS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-12 is amended by adding a new subdivision to read:

**"§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(32) Duty to encourage early entry of motivated students into four-year college programs. – The State Board of Education, in cooperation with the Education Cabinet, shall work with local school administrative units, the constituent institutions of The University of North Carolina, the constituent institutions of the Community College System, and private colleges and universities (i) to encourage early entry of motivated students into four-year college programs and (ii) to ensure that there are opportunities at four-year institutions for academically talented high school students to get an early start on college coursework, either at nearby institutions or through distance learning.

The State Board of Education shall also adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period."

**SECTION 2.** This act is effective when it becomes law.

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:  
By Representatives Edith D. Warren and Jerry C. Dockham (Chairs) for the Education  
Subcommittee on Pre-School, Elementary and Secondary Education.

- ☐ Committee Substitute for  
**H.B. 601**                      A BILL TO BE ENTITLED AN ACT TO ENCOURAGE EARLY  
ENTRY OF MOTIVATED STUDENTS INTO FOUR-YEAR COLLEGE PROGRAMS.

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative ~~Banner~~ and ~~Hilton~~ for the Standing Committee on EDUCATION.  
*Warner Wood*

s/ 

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill (# \_\_\_\_\_), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_). (and recommendation that the committee substitute bill (# \_\_\_\_\_) be referred to the Committee on \_\_\_\_\_.)

03/26/03

FOR JOURNAL USE ONLY

\_\_\_\_ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of \_\_\_\_\_.

\_\_\_\_ The (committee substitute) bill/resolution (as amended,) is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill (No. \_\_\_\_)/resolution is placed on the Calendar of \_\_\_\_\_. (The original bill) (House Committee Substitute Bill No. \_\_\_\_)/ resolution is placed on the Unfavorable Calendar.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the rules are suspended) (Rule \_\_\_\_ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ Rep. \_\_\_\_\_ offers Amendment No. \_\_\_\_\_ which (is adopted.) (fails of adoption.) (by EV \_\_\_\_\_) ( ) This amendment changes the title.

\_\_\_\_ The bill/resolution (, as amended,) passes its second reading (by following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and (remains on the Calendar,) (and there being no objection is read a third time).

\_\_\_\_ The bill/resolution (, as amended,) passes its third reading (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and is ordered \_\_\_\_\_ sent to the Senate.  
\_\_\_\_ without engrossment. \_\_\_\_\_ by Special message.  
\_\_\_\_ sent to the Senate for concurrence in \_\_\_\_\_ House amendment (s).  
\_\_\_\_ House committee substitute bill.  
\_\_\_\_ enrolled.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, the House concurs in the (material) Senate \_\_\_\_\_ (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and the bill is ordered enrolled.



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 601

H601-ASF-9 [v.1]

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

Page 1 of 1

Date \_\_\_\_\_, 2003

Comm. Sub. [NO]  
Amends Title [NO]  
First Edition

Representative \_\_\_\_\_

- 1 moves to amend the bill on page 1, line 17, by rewriting the line to read:
- 2
- 3 "local community colleges, and"
- 4

SIGNED *H.B. Gray*  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

D

HOUSE BILL 601  
PROPOSED COMMITTEE SUBSTITUTE H601-PCS80297-SF-15

Short Title: Encourage Early College Attendance.

(Public)

Sponsors:

Referred to:

March 24, 2003

A BILL TO BE ENTITLED  
AN ACT TO ENCOURAGE EARLY ENTRY OF MOTIVATED STUDENTS INTO  
FOUR-YEAR COLLEGE PROGRAMS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-12 is amended by adding a new subdivision to read:  
**"§ 115C-12. Powers and duties of the Board generally.**

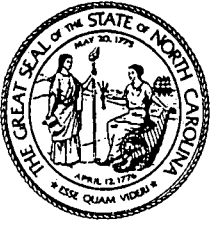
The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(32) Duty to encourage early entry of motivated students into four-year college programs. – The State Board of Education, in cooperation with the Education Cabinet, shall work with local school administrative units, the constituent institutions of The University of North Carolina, local community colleges, and private colleges and universities to (i) encourage early entry of motivated students into four-year college programs and to (ii) ensure that there are opportunities at four-year institutions for academically talented high school students to get an early start on college coursework, either at nearby institutions or through distance learning.

The State Board of Education shall also adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period."

**SECTION 2.** This act is effective when it becomes law.



# HOUSE BILL 601: Encourage Early College Attendance

## BILL ANALYSIS

**Committee:** House Ed. Subcomm. on Pre-School, Elem. & Sec. Ed.  
**Date:** April 3, 2003  
**Version:** First

**Introduced by:** Rep. Glazier, Ross  
**Summary by:** Shirley Iorio  
Committee Staff

**SUMMARY:** *House Bill 601 would amend G.S.115C-12 by adding a duty to the powers and duties of the State Board of Education. The bill would require the State Board of Education, in cooperation with the Education Cabinet, to work with local school systems, the constituent institutions of The University of North Carolina, the local community colleges, and private colleges and universities to encourage early entry of motivated students into college programs and to ensure that there are opportunities for academically talented high school students to take college coursework, either at nearby universities or through distance learning.*

*The bill also would require the State Board of Education to adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period.*

*The act would take effect when it becomes law.*

**CURRENT LAW:** The General Assembly passed the Huskins bill in 1983 to authorize community college boards to establish cooperative programs with local high schools. G.S. 115D-20(4) provides that local community college boards and local school boards "may establish cooperative programs in the areas they serve to provide for college courses to be offered to qualified high school students with college credits to be awarded to those high school students upon the successful completion of the courses." There must be a written agreement between the public school system and the local community college. Huskins programs are for groups of high school students taking college level courses under a preplanned written agreement. Tuition is waived for all courses taken by a high school student at the community college in accordance with the Huskins bill.

G.S. 115D-1.1 (Expires September 1, 2004) allows students under the age of 16 who meet certain specified conditions to enroll in community college courses.

**BILL ANALYSIS:** There are programs in place that allow qualified high school students to take college level courses. This bill makes it explicit that the State Board of Education has a duty to work cooperatively with institutions of higher education to inform and encourage motivated, academically talented high school students to get an early start on college coursework, and to ensure that these opportunities to take coursework exist either at nearby institutions or through distance learning.

**BACKGROUND:** In addition to Huskins courses, another form of dual/concurrent enrollment is available. An individual student who is at least 16 years of age and currently enrolled in high school may be admitted to any curriculum or continuing education course on a space-available basis if both the chief administrator of the school system and the community college president approve. Also, the school principal must certify that the student is in high school and making satisfactory progress toward graduation. Tuition is waived for these students, also.



# HOUSE BILL 601

Page 2

In the 2002 session the General Assembly passed legislation that directed the State Board of Education to study the relationship between academic rigor and reducing the school dropout rate. As a part of this study, the State Board was required to include the **development of a proposal to accelerate the learning of students able to complete high school in three years.** The State Board has developed several strategies to gather information for a report that will be presented to the State Board for discussion in May 2003 and for action in June 2003. Following State Board action, the report will be forwarded to the Joint Legislative Education Oversight Committee.

H601-SMSF-001

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

1

HOUSE BILL 1166

Short Title: Local Flex. Regarding Job Sharing in Schools.

(Public)

Sponsors: Representatives Bordsen, Nesbitt (Primary Sponsors); and Insko.

Referred to: Education.

April 10, 2003

A BILL TO BE ENTITLED  
AN ACT TO FACILITATE JOB SHARING BY PUBLIC SCHOOL EMPLOYEES.  
The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-302.2 is repealed.

**SECTION 2.** Article 22 of Chapter 115C of the General Statutes is amended  
by adding a new Part to read:

"Part 3A. Job Sharing by School Employees.

**"§ 115C-326.5. Job sharing by school employees.**

(a) The General Assembly finds that there is a shortage of qualified public school employees available in certain geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make employment in a public school an attractive option for well-qualified persons who do not wish to work full time.

(b) A "school employee in a job-sharing position" is a person who (i) is employed by a local board of education as a public school employee for fifty percent (50%) of the applicable workweek, as defined by that local board of education, and (ii) is sharing a position with one other employee of that local board of education who works the remainder of the applicable workweek.

(c) The State Board of Education shall adopt rules to facilitate job sharing by public school employees. These rules shall provide that an employee in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. Such an employee shall also receive service credit under the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes."

**SECTION 3.** G.S. 135-4(b) reads as rewritten:

"(b) The Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all services in one year.

1 Service rendered for the regular school year in any district shall be equivalent to one  
2 year's service. Service rendered by a ~~classroom teacher~~ school employee in a  
3 job-sharing position shall be credited at the rate of one-half year for each regular school  
4 year of employment."

5 **SECTION 4.** G.S. 135-40.2(a2) reads as rewritten:

6 "(a2) A ~~classroom teachers~~ school employee in a job-sharing position as defined in  
7 G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially  
8 contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect  
9 to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's  
10 total noncontributory premiums. Individual employees shall pay the balance of the total  
11 noncontributory premiums not paid by the employing unit."

12 **SECTION 5.** Nothing in this act shall be construed to require local school  
13 administrative units to place part-time employees in job-sharing positions or to hire  
14 employees in job-sharing positions.

15 **SECTION 6.** Sections 1 through 3 of this act become effective January 1,  
16 2004. The remainder of this act is effective when it becomes law.

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Jerry Dockham and Edith D. Warren (Chairs) for the Education Subcommittee  
on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

**H.B. 1166**

**A BILL TO BE ENTITLED AN ACT TO FACILITATE JOB**

**SHARING BY PUBLIC SCHOOL EMPLOYEES**

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

☐ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: \_\_\_\_\_

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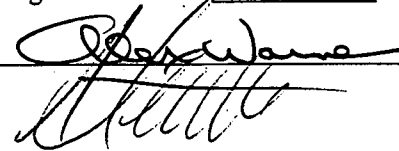
WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative ~~Bonner~~ and ~~Hilton~~ for the Standing Committee on EDUCATION.

~~Warner~~

~~Wood~~

s/



☐ With a favorable report.

☐ With a favorable report, as amended.

☒ With a favorable report as to the committee substitute bill ( # \_\_\_\_\_ ), ☐ which changes the title; unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_ ). (and recommendation that the committee substitute bill ( # \_\_\_\_\_ ) be referred to the Committee on \_\_\_\_\_ .)

03/26/03

FOR JOURNAL USE ONLY

- \_\_\_\_ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of \_\_\_\_\_.
- \_\_\_\_ The (committee substitute) bill/resolution (as amended,) is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.
- \_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.
- \_\_\_\_ On motion of (Rep. \_\_\_\_\_,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.
- \_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill (No. \_\_\_\_)/resolution is placed on the Calendar of \_\_\_\_\_. (The original bill) (House Committee Substitute Bill No. \_\_\_\_)/ resolution is placed on the Unfavorable Calendar.
- \_\_\_\_ On motion of Rep. \_\_\_\_\_, (the rules are suspended) (Rule \_\_\_\_ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- \_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).
- \_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).
- \_\_\_\_ Rep. \_\_\_\_\_ offers Amendment No. \_\_\_\_ which (is adopted.) (fails of adoption.) (by EV \_\_\_\_\_,) ( ) This amendment changes the title.
- \_\_\_\_ The bill/resolution (, as amended,) passes its second reading (by following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and (remains on the Calendar,) (and there being no objection is read a third time).
- \_\_\_\_ The bill/resolution (, as amended,) passes its third reading (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and is ordered  
\_\_\_\_ sent to the Senate.  
\_\_\_\_ without engrossment. \_\_\_\_\_ by Special message.  
\_\_\_\_ sent to the Senate for concurrence in  
\_\_\_\_ House amendment (s).  
\_\_\_\_ House committee substitute bill.  
\_\_\_\_ enrolled.
- \_\_\_\_ On motion of Rep. \_\_\_\_\_, the House concurs in the (material) Senate \_\_\_\_\_ (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and the bill is ordered enrolled.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

**H**

**D**

**HOUSE BILL 1166**  
**PROPOSED COMMITTEE SUBSTITUTE H1166-PCS30299-RJ-17**

Short Title: Local Flex. Regarding Job Sharing in Schools.

(Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED  
AN ACT TO FACILITATE JOB SHARING BY PUBLIC SCHOOL EMPLOYEES.  
The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-302.2 is repealed.

**SECTION 2.** Article 22 of Chapter 115C of the General Statutes is amended  
by adding a new Part to read:

"Part 3A. Job Sharing by School Employees.

**"§ 115C-326.5. Job sharing by school employees.**

(a) The General Assembly finds that there is a shortage of qualified public school employees available in certain geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make employment in a public school an attractive option for well-qualified persons who do not wish to work full time.

(b) A "school employee in a job-sharing position" is a person who is employed by a local board of education as a public school employee for at least fifty percent (50%) of the applicable workweek, as defined by that local board of education.

(c) The State Board of Education shall adopt rules to facilitate job sharing by public school employees. These rules shall provide that an employee in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. Such an employee shall also receive service credit under the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes."

**SECTION 3.** G.S. 135-4(b) reads as rewritten:

(b) The Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all services in one year. Service rendered for the regular school year in any district shall be equivalent to one

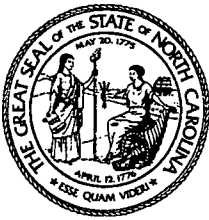
1 year's service. Service rendered by a ~~classroom teacher~~ school employee in a  
2 job-sharing position shall be credited at the rate of one-half year for each regular school  
3 year of employment."

4 **SECTION 4.** G.S. 135-40.2(a2) reads as rewritten:

5 "(a2) A ~~classroom teacher~~ school employee in a job-sharing position as defined in  
6 G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially  
7 contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect  
8 to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's  
9 total noncontributory premiums. Individual employees shall pay the balance of the total  
10 noncontributory premiums not paid by the employing unit."

11 **SECTION 5.** Nothing in this act shall be construed to require local school  
12 administrative units to place part-time employees in job-sharing positions or to hire  
13 employees in job-sharing positions.

14 **SECTION 6.** Sections 1 through 4 of this act become effective January 1,  
15 2004. The remainder of this act is effective when it becomes law.



# HOUSE BILL 1166: Local Flex. Regarding Job Sharing in Schools.

## BILL ANALYSIS

**Committee:** House Education K-12  
Subcommittee

**Date:** April 29, 2003

**Version:** H1166-CSRJ-17[v.2]

**Introduced by:** Reps. Bordsen and Nesbitt

**Summary by:** Robin Johnson  
Committee Counsel

*Robin*

**SUMMARY:** *House Bill 1166 deletes G.S. 115C-302.2 which provides for job sharing by classroom teachers and creates a new part in Chapter 115C which provides for job sharing by school employees. The State Board of Education is required to adopt rules to facilitate job sharing by these employees, including receiving on a pro rata basis the holidays and leave benefits that they would be entitled to receive if they were employed on a full-time basis. The bill also amends the creditable service section of the Teachers' and State Employees' Retirement System for a school employee in a job-sharing position as defined in G.S. 115C-302.2(b). The bill also amends the eligibility criteria of the Comprehensive Major Medical Plan to allow coverage on a partially contributory basis for those employees.*

### BACKGROUND:

Under current law, only those State employees who work a minimum of 30 hours per week or more for nine or more months per year are members of the Teachers' and State Employees' Retirement System and are eligible for coverage under the Teachers' and State Employees' Comprehensive Major Medical Plan.

During the 2002 Session, the General Assembly passed legislation allowing a classroom teacher to share a teacher position with another classroom teacher employed by the same local board of education. Both teachers had to be employed for 50% of the teacher workweek, be paid on the teacher salary schedule and spend 70% of their time in classroom instruction. Other certified instructional support personnel and certified school services personnel were specifically excluded.

### BILL ANALYSIS:

**Section 1.** House Bill 1166 deletes the job sharing by classroom teachers provisions in G.S. 115C-302.2.

**Section 2.** House Bill 1166 creates a new Part in Chapter 115C that provides for job sharing by school employees who choose not to work full time. Under rules adopted by the State Board of Education, these job sharing school employees will have on a pro rata basis the paid legal holidays, annual vacation leave, sick leave and personal leave that they would be entitled to if they were employed on a full-time basis. A job sharing school employee will also receive service credit under the Teachers' and State Employees' Retirement System and insurance benefits. A school employee in a job-sharing position is defined as a person who is employed by a local board of education as a public school employee for 50% of the applicable workweek.

**Section 3.** House Bill 1166 rewrites G.S. 135-4 regarding creditable service in the TSERS to allow a school employee in a job-sharing position as defined in G.S. 115C-302.2(b) to receive credit at the rate of one-half year for each regular school year that the individual was employed, but the salary credited shall be that of the full-time position.



# HOUSE BILL 1166

Page 2

**Section 4.** House Bill 1166 amends G.S. 135-40.2 to allow a school employee in a job-sharing position as defined in G.S. 115C-302.2(b1) to be eligible for coverage under the Comprehensive Major Medical Plan on a partially contributory basis. If such an employee elects to participate, the employing unit shall pay 50% of the Plan's noncontributory premium and the employee shall pay the balance.

**Section 5.** Nothing in the bill shall be construed to require local school administrative units to place part-time employees in job-sharing positions or to hire employees in job-sharing positions.

Sections 1 through 4 of the bill become effective January 1, 2004. The rest of the bill becomes effective when it becomes law.

*H1166-SMRH-003: Sara Kamprath, Education Committee Analyst, contributed substantially to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 1166

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE \_\_\_\_\_

Rep. )

)

Sen. )

1 moves to amend the bill on page 1, line 15

2 ( ) WHICH CHANGES THE TITLE

3 by inserting "at least" between "for" and  
4 "fifty".

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

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19 \_\_\_\_\_

SIGNED

R. King

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 38

Short Title: Tenured Teachers Retain Tenure.

(Public)

Sponsors: Representatives Adams; B. Allen, Bell, Cunningham, Farmer-Butterfield,  
Jones, Mitchell, Parmon, Pate, Wainwright, and Womble.

Referred to: Education.

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO PERMIT CAREER TEACHERS TO RETAIN CAREER STATUS  
WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO TEACHING  
AFTER LEAVING THE PROFESSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-325(c)(2) reads as rewritten:

"(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. The board may grant career status immediately upon employing the teacher, or after the first or second year of employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current term. If after two consecutive years of employment, the board fails to vote on the issue of granting career status:~~

- a. ~~It shall not reemploy the teacher for a third consecutive year;~~
- b. ~~As of June 16, the teacher shall be entitled to one month's pay as compensation for the board's failure to vote upon the issue of granting career status; and~~
- c. ~~The teacher shall be entitled to one additional month's pay for every 30 days beyond June 16 that the board fails to vote upon the issue of granting career status.~~

A teacher hired by any North Carolina public school system shall acquire career status upon employment if the teacher has served as a teacher with career status in any North Carolina public school system within the previous five years."

**SECTION 2.(a)** Section 1 of this act applies to all teachers, irrespective of date of offer or acceptance of employment, whose duties in new employment begin on or after July 1, 2004.

1           **SECTION 2.(b)** Section 1 of this act does not apply to a teacher who (i) has  
2 obtained career status as a teacher in a North Carolina public schools system and (ii) is  
3 serving a probationary period as a teacher on the date this act becomes law. The  
4 employing board shall vote upon whether to grant such a teacher career status near the  
5 end of the teacher's current year of employment. In any event, if the person is  
6 reemployed for an additional consecutive year, the person shall automatically become a  
7 career teacher.

8           **SECTION 3.** This act is effective when it becomes law.

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Jerry Dockham and Edith D. Warren (Chairs) for the Education Subcommittee  
on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

**H.B. 38**

A BILL TO BE ENTITLED AN ACT TO PERMIT CAREER  
TEACHERS TO RETAIN CAREER STATUS WHEN THEY CHANGE SCHOOL SYSTEMS OR  
RETURN TO TEACHING AFTER LEAVING THE PROFESSION

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

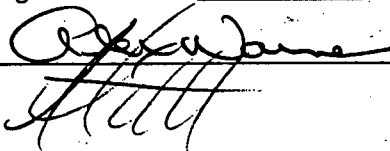
- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative ~~Bonner~~ and ~~Hilton~~ for the Standing Committee on EDUCATION.

*Warner Wood*

s/ 

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill ( # ), ☒ which changes the title, unfavorable as to (the original bill) (~~Committee Substitute Bill #~~ ). (and recommendation that the committee substitute bill ( # ) be referred to the Committee on .)

03/26/03

FOR JOURNAL USE ONLY

\_\_\_\_ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of \_\_\_\_\_.

\_\_\_\_ The (committee substitute) bill/resolution (as amended,) is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ On motion of (Rep. \_\_\_\_\_,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill (No. \_\_\_\_)/resolution is placed on the Calendar of \_\_\_\_\_. (The original bill) (House Committee Substitute Bill No. \_\_\_\_)/ resolution is placed on the Unfavorable Calendar.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the rules are suspended) (Rule \_\_\_\_ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ Rep. \_\_\_\_\_ offers Amendment No. \_\_\_\_\_ which (is adopted.) (fails of adoption.) (by EV \_\_\_\_\_) ( ) This amendment changes the title.

\_\_\_\_ The bill/resolution (, as amended,) passes its second reading (by following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and (remains on the Calendar,) (and there being no objection is read a third time).

\_\_\_\_ The bill/resolution (, as amended,) passes its third reading (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and is ordered  
\_\_\_\_ sent to the Senate.  
\_\_\_\_ without engrossment. \_\_\_\_\_ by Special message.  
\_\_\_\_ sent to the Senate for concurrence in  
\_\_\_\_ House amendment (s).  
\_\_\_\_ House committee substitute bill.  
\_\_\_\_ enrolled.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, the House concurs in the (material) Senate \_\_\_\_\_ (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and the bill is ordered enrolled.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 38

H38-ASF-21 [v.1]

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

Page 1 of 1

Date \_\_\_\_\_, 2003

Comm. Sub. [YES]  
Amends Title [NO]  
First Edition

Representative \_\_\_\_\_

- 1 moves to amend the bill on page 1, line 13, by deleting the phrase "two years." and  
2 substituting the phrase "~~two years.~~ one year."; and  
3  
4 on page 1, line 15, by deleting the phrase "or second" and substituting the phrase "~~or~~  
5 second"; and  
6  
7 on page 1, lines 17-18, by deleting the phrase "two consecutive years" and substituting  
8 the phrase "~~two consecutive years~~ one year"; and  
9  
10 on page 1, line 20, by deleting the word "third" and substituting the word "~~third~~  
11 second".  
12

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

H

D

HOUSE BILL 38  
PROPOSED COMMITTEE SUBSTITUTE H38-PCS45115-SF-16

Short Title: Probationary Period Shortened/Career Tchrs.

(Public)

Sponsors:

Referred to:

February 20, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT TO SHORTEN THE PROBATIONARY PERIOD FOR CAREER  
3 TEACHERS WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO  
4 TEACHING AFTER LEAVING THE PROFESSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-325(c)(2) reads as rewritten:

7 "(2) Employment of a Career Teacher. – A teacher who has obtained career  
8 status in any North Carolina public school system need not serve  
9 another probationary period of more than ~~two years~~ one year. The  
10 board may grant career status immediately upon employing the  
11 teacher, or after the first ~~or second~~ year of employment. If a majority  
12 of the board votes against granting career status, the teacher shall not  
13 teach beyond the current term. If after ~~two consecutive years~~ one year  
14 of employment, the board fails to vote on the issue of granting career  
15 status:

- 16 a. It shall not reemploy the teacher for a ~~third~~ second consecutive  
17 year;  
18 b. As of June 16, the teacher shall be entitled to one month's pay  
19 as compensation for the board's failure to vote upon the issue of  
20 granting career status; and  
21 c. The teacher shall be entitled to one additional month's pay for  
22 every 30 days beyond June 16 that the board fails to vote upon  
23 the issue of granting career status."

24 SECTION 2.(a) Section 1 of this act applies to all teachers, irrespective of  
25 date of offer or acceptance of employment, whose duties in new employment begin on  
26 or after July 1, 2004.

27 SECTION 2.(b) Section 1 of this act does not apply to a teacher who (i) has  
28 obtained career status as a teacher in a North Carolina public school system and (ii) is



1 serving a probationary period as a teacher on the date this act becomes law. The  
2 employing board shall vote upon whether to grant such a teacher career status near the  
3 end of the teacher's current year of employment. In any event, if the person is  
4 reemployed for an additional consecutive year, the person shall automatically become a  
5 career teacher.

6       **SECTION 3.** This act is effective when it becomes law.

# VISITOR REGISTRATION SHEET

PRE-SCHOOL

Name of Committee

4/29/03

Date \_\_\_\_\_

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Alison Coley  
Reeves Anderson

DJDP - CP&V

Reeves Anderson

NC Statewatch

Am. Deason

NCAE

Michael Hanson

OK A59

Theresa Joyce

Успеху

11

η CAE

Edward M. Kennedy

NCAE

Arms Davis

NC 5 U

Jim McDowell

McGuire Woods Consulting  
NCORI

James Payne

NC DPI

Ronis M. Fabrizio

SBE

*[Handwritten signature]*

Appellate Defender

Staples Hughes

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**JUNE 5, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 421 of the Legislative Office Building on June 5, 2003, at 9:05 a.m. Representative Edith Warren called the meeting to order and introduced the pages, Montrell Brown of Wake County; Krystle Wiggins of Gates County; Emily Wilbourne of Harnett County; and Travis Thompson of Wake County, and the Sergeant-At-Arms, Jim Brewer and Francis Poole. The following Committee members were present: Co-Chair Representative Dockham; Vice Chairs: Representatives Goforth and Gulley; Members: Representatives Carney, Gorman, Jeffus, C. Johnson, L. Johnson, Lucas, McMahan, Preston, Walker and Womble. Shirley Iorio and Robin Johnson, Staff Counsel, were in attendance. A Visitor Registration list is attached and made part of the minutes (**See Attachment**). The following bills were considered:

**HB 805, entitled, A BILL TO BE ENTITLED AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS.**

The Chair announced that there was a committee substitute. (**See Attachment**)

Representative Dockham moved that the Committee Substitute be properly placed before the committee. Representative McMahan seconded said motion. The vote was 9 to 0 in favor of the motion.

Representative Doug Yongue was recognized to explain the committee substitute. He, Representatives L. Johnson, Preston and Carney had met to work on this bill concerning the shortage of teachers in the state. Representative Yongue further explained the concerns of the number of vacant teacher positions and gave statistics for the number of teachers not properly certified. He noted key problems: 1) attrition rate of NC teachers, 2) turnover rate of teachers from 1998 to 2001, and 3) goals set out in the bill to increase salaries over the next four years and to increase salaries of beginning teachers.

Representative Preston explained Sections 3 and 4 of the proposed committee substitute, emphasizing the crisis in the state regarding teachers and substitute teachers. Action is needed to make \$3-\$5 million available to the State Board to allocate money to recruit these teachers. Representative L. Johnson explained further what the problem was and possible solutions of an increase in the number of teacher training programs and creation of a tax credit for public school teachers. Representative Carney spoke on the state's high standards of quality education and funding for recruitment of new non-resident students to become certified teachers in North Carolina. She spoke further on the need of a long-range plan for recruitment and retention of teachers and amendment of the law governing lateral entry teachers to align with NCLB requirements.

Representative Yongue introduced the following speakers: Sofi Frankowski, Wake County 2002 Teacher of the Year, Southeast Raleigh High School, who spoke of her experiences in many states and schools and on the crisis and critical need to get more certified teachers; Jim Cosby, who received the Jay Robinson Award and is Superintendent of Johnston County

Schools, who expressed that his concerns have become realities and further addressed issues that need to be dealt with as soon as possible. He also noted that it was his experience that out-of-state teachers seem to be better trained than North Carolina teachers. Representative Womble questioned the training of state teachers measuring up to non-resident teachers and "hoops to jump through" regarding procedural processes for higher out-of-state teacher salaries.

Representative Yongue then introduced Dr. Annie Laura Pickett, with Human Resources of Kannapolis City. Dr. Pickett spoke on the need to meet the requirements of No Child Left Behind saying that this process had been invoked by North Carolina for the poorer schools. She also spoke on waivers for teacher qualifications and needs to make this process for out-of-state teachers easier. Jeff Merritt, representing Urban Chambers, was then introduced. Mr. Merritt reiterated the seriousness of the recruitment and retention problems. He said it was vital that the state address these issues now and that it was also vital for our state to grow in its economy and education. Maurice Green, General Counsel for the Charlotte/Mecklenburg Board of Education, stated that in his opinion the most critical issue facing the state is how to get out-of-state teachers to come and to stay. A solution in the proposed committee substitute to compensate teachers well and to address the licensing issues facing teachers from out-of-state is badly needed.

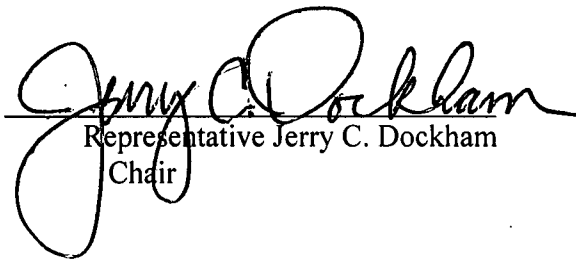
Representative Yongue asked that members of the committee discuss these issues with local public school superintendents and administrators. Representative Lucas rose to congratulate committee members on a job well done creating the committee substitute and stated that he saw a need to influence students to go into teaching and had some ideas that he would like to discuss with committee members who worked on this committee substitute.

There being no further business, the chair adjourned the meeting at 9:55 a.m.

Respectfully submitted,



Representative Edith E. Warren  
Chair



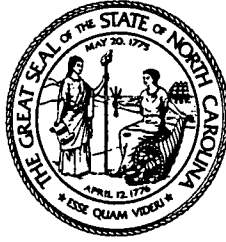
Representative Jerry C. Dockham  
Chair



Nancy S. Willis  
Assistant to the Committee

ATTACHMENTS:

Agenda  
HB 805  
Bill Summaries  
Proposed Committee Substitute  
Visitor Registration Form



**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY  
AND SECONDARY EDUCATION**

**June 5, 2003  
Room 421 LOB  
9:00 AM**

**AGENDA**

**OPENING REMARKS**

**Representative Edith Warren, Chair  
Representative Jerry Dockham, Chair**

**AGENDA ITEMS**

**HB. 805 INITIATIVES TO ADDRESS TEACHER SHORTAGES.**

**Representatives Yongue, Preston, L. Johnson, and Carney (Sponsors)**

**ADJOURNMENT**

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2003**

**H**

**1**

**HOUSE BILL 805\***

**Short Title:** Initiatives to Address Teacher Shortages. (Public)

**Sponsors:** Representatives Yongue, Preston, L. Johnson, Carney (Primary Sponsors); Church, Cole, Crawford, Culp, Gillespie, Glazier, Goodwin, Gorman, Insko, Lucas, Michaux, and Sutton.

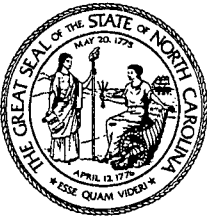
**Referred to:** Rules, Calendar, and Operations of the House.

March 31, 2003

**A BILL TO BE ENTITLED**  
**AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE**  
**NORTH CAROLINA PUBLIC SCHOOLS.**

**The General Assembly of North Carolina enacts:**

**SECTION 1.** This act is effective when it becomes law.



# HOUSE BILL 805: Initiatives to Address Teacher Shortages.

## BILL ANALYSIS

**Committee:** House Ed. Subcomm. on Pre-School, Elem., & Sec. Ed  
**Date:** June 4, 2003  
**Version:** PCS to Second Edition  
H805-CSSF-22[v.2]

**Introduced by:** Reps. Yongue, Preston, L. Johnson, and Carney  
**Summary by:** Shirley Iorio  
Committee Staff

*The Proposed Committee Substitute for House Bill 805 makes technical changes to the second edition.*

### BILL ANALYSIS:

**Section 1:** Directs the Joint Legislative Education Oversight Committee (Committee) to develop and recommend to the General Assembly a Compensation Program for Teachers in North Carolina. The purpose of this Program is to (i) recruit and retain highly-qualified teachers by offering competitive salaries and (ii) provide cost-of-living increases, longevity, and benefits, necessary to ensure that teacher compensation in North Carolina remains at or above the national average. The Committee would report their Program recommendations to the 2004-2005 regular session of the 2003 General Assembly.

**Section 2:** States that the goal of the General Assembly is to appropriate funds for the 2004-2005 fiscal year to increase the salaries of beginning teachers on the first four steps of the teacher salary schedule as shown in included tables.

**Section 3:** Provides that the goal of the General Assembly is to appropriate recurring funds beginning with the 2004-2005 fiscal year for local initiatives to recruit and retain teachers. The State Board of Education would allocate the funds as follows: 40% to local school administrative units on the basis of projected average daily membership, 35% on the basis of the 2003-2004 low-wealth supplemental funding formula, and 25% on the basis of growth in average daily membership over the last four school years. Local school administrative units would be directed to use these funds for: recruiting bonuses; interest-free loans to teachers; stipends for teacher training; teacher as leader programs; annual bonuses for teachers certified in mathematics, science, special education, or other fields in which there is a shortage of qualified teachers; annual bonuses for teachers at schools with high percentages of low-performing students; and other local initiatives to recruit and retain teachers. Local boards would be required to report to the State Board of Education on the local initiatives they implemented and on their effectiveness in recruiting and retaining teachers. The State Board would then report to the Committee on the effectiveness of the different local initiatives by December 15, 2005.

**Section 4:** Creates an exception to State law governing teacher certification of teachers who are licensed and have taught in another state. For those teachers who (i) have less than three years of full-time classroom teaching experience, (ii) are fully certified and highly qualified, as provided in the No Child Left Behind Act of 2001 (NCLB), in that other State, and (iii) are employed as a teacher by a local school administrative unit in North Carolina, this section would deem them to have satisfied the academic and professional preparation required to receive initial certification in North Carolina. This initial certification would be for one year or until the teacher has three years of full-time teaching experience, whichever is longer. Unless the employing local school administrative unit recommends otherwise, a teacher would receive continuing certification when he or she has three years of full-time teaching experience and has taught for one full year in that unit. The teacher is then subject to the same continuing certification and

# HOUSE BILL 805

Page 2

certificate renewal requirements as other NC teachers. The teacher would not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, unless NCLB requires otherwise.

For a teacher from another state who (i) has three or more years of experience as a full-time teacher, (ii) is fully certified and highly qualified, as provided in NCLB, in that other State, and (iii) is employed as a teacher by a local school administrative unit in North Carolina, the section would deem that teacher to have satisfied the academic and professional preparation required to receive continuing certification for one year in North Carolina. If, at the end of one year of employment, the employing local board of education recommends to the State Board that the teacher's continuing certification be renewed, that teacher would retain continuing certification. The teacher would not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, except as otherwise provided by NCLB. This teacher also would be subject to the same continuing certification and certificate renewal requirements as other NC teachers.

**Section 5.** Directs the State Board to modify the standards for approval of institutions of teacher education to encourage them to (i) increase the number of students in teacher education programs each year, (ii) ensure that all students in the programs take the standard examination required for certification before graduation, and (iii) increase the number of students passing the standard examination requirement before graduation.

**Section 6:** Creates a tax credit for public school teachers, for taxable years beginning on or after January 1, 2004, and ending on or after January 1, 2014. Public school teachers with one to five years of teaching service who are employed for at least 16 weeks in a year would be allowed a \$500 credit. Public school teachers with five to 10 years of teaching service who are employed for at least 16 weeks in a year would be allowed a \$1,000 credit. Teachers must be full-time permanent employees who spend at least 50% of the school day providing classroom instruction in a public school. Public schools include traditional public schools, charter schools approved by the State Board, State operated schools, schools operated by the federal government, and schools operated by a federally recognized Indian tribe.

This section is effective only if the General Assembly states in the General Fund Availability Statement set out in Current Operations and Capital Improvements Appropriations Act of 2004 that funds are available to implement it.

**Section 7:** Directs the UNC Board of Governors to establish guidelines and regulations to allow each of the constituent institutions that receives funds for focused enrollment growth to allocate up to \$178,380 of those funds to provide for a maximum of 20 Prospective Teacher Scholars at each institution. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study leading to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. The institution must ensure there is space for additional State residents for each new Prospective Teacher Scholarship an institution provides to a nonresident student with these funds.

The Board of Governors also would be directed to establish a methodology for determining its success in increasing the supply of qualified teachers in the State. The Board must report its guidelines and regulations, the progress of the pilots, and their costs to the Committee by November 15, 2003, and annually thereafter.



# HOUSE BILL 805

Page 3

**Section 8:** Directs the Education Cabinet to develop a long-range plan for the recruitment and retention of teachers, to consult with public and private agencies in the development of this plan, and to report to the Committee by December 1, 2004, on the plan it develops.

**Section 9:** Amends the law governing lateral entry teachers so that it aligns with NCLB requirements. The changes would require these individuals to hold at least a bachelors degree and would direct the State Board to issue provisional certificates for no more than three years to individuals required by NCLB to obtain a certificate by the fourth year of teaching. All other individuals would continue to be allowed to receive a provisional teaching certificate for five years. This section also directs the State Board to ensure that teacher preparation programs that provide training for lateral entry candidates provide that training in a uniform and consistent manner to enable lateral entry candidates to obtain certification as required by NCLB while working as full-time teachers.

The State Board would be directed to report to the Committee by July 1, 2004, on revisions the Board makes to the curriculum requirements for lateral entry candidates as a result of the changes required in this section.

**Section 10:** The bill would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 805\*

Committee Substitute Reported Without Prejudice 6/4/03  
PROPOSED COMMITTEE SUBSTITUTE H805-CSSF-22 [v.2]

6/5/2003 8:30:52 AM

Short Title: Initiatives to Address Teacher Shortages.

(Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE  
NORTH CAROLINA PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

**DEVELOP A COMPENSATION PROGRAM FOR TEACHERS IN NORTH  
CAROLINA**

**SECTION 1.** 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, the Joint Legislative Education Oversight Committee shall develop and recommend to the General Assembly a Compensation Program for Teachers in North Carolina. The purpose of this Program shall be to (i) recruit and retain highly qualified teachers by offering competitive salaries and (ii) provide cost-of-living increases, longevity, and benefits necessary to ensure that teacher compensation in North Carolina remains at or above the national average.

It is the intent of the General Assembly that local school administrative units will not use these State-funded salary increments to supplant local salary supplements.

The Committee shall report their Program recommendations to the 2004-2005 regular session of the 2003 General Assembly.

**SALARY INCREASE FOR BEGINNING TEACHERS**

**SECTION 2.(a)** It is the goal of the General Assembly to appropriate funds for the 2004-2005 fiscal year to increase the salaries of teachers on the first four steps of the teacher salary schedule as indicated in the following tables. All other increases in the teacher salary schedules for the 2004-2005 fiscal year shall be based on the salary schedules as modified in this section.

**SECTION 2.(b)** The first four steps of the salary schedule for "A" Teachers shall be as follows:

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,600	N/A
1	\$2,650	N/A
2	\$2,700	N/A
3	\$2,775	\$3,108

**SECTION 2.(c)** The first four steps of the salary schedule for "M" Teachers shall be as follows:

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,860	N/A
1	\$2,915	N/A
2	\$2,970	N/A
3	\$3,053	\$3,419

#### **LOCAL INITIATIVES TO RECRUIT AND RETAIN TEACHERS**

**SECTION 3.(a)** It is the goal of the General Assembly to appropriate funds for the 2004-2005 fiscal year for local initiatives to recruit and retain teachers. The State Board of Education shall allocate forty percent (40%) of any such funds to local school administrative units on the basis of projected average daily membership, thirty-five percent (35%) on the basis of the 2003-2004 low-wealth supplemental funding formula, and twenty-five percent (25%) on the basis of growth in average daily membership over the last four school years. Local school administrative units shall use these funds for one or more of the following initiatives to recruit and retain teachers:

- (1) Recruiting bonuses;
- (2) Interest-free loans to teachers;
- (3) Stipends for teacher training;
- (4) Teacher as leader programs;
- (5) Annual bonuses for teachers certified in the fields of mathematics, science, special education, or other fields in which there is a shortage of qualified teachers;
- (6) Annual bonuses for teachers at schools with high percentages of low-performing students; and
- (7) Other local initiatives to recruit and retain teachers.

Local boards of education shall report to the State Board of Education on local initiatives implemented with these funds and on the effectiveness of those local initiatives in recruiting and retaining teachers.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the effectiveness of the different local initiatives by December 15, 2005.

SECTION 3.(b) It is the goal of the General Assembly to fund the items set out in this section with recurring funds, beginning with the 2004-2005 fiscal year.

#### LICENSURE OF TEACHERS LICENSED IN OTHER STATES

SECTION 4. Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-296.3. Certification of highly qualified teachers from other states.**

Notwithstanding any other provision of law, a teacher from another state shall be granted North Carolina certification under the following conditions:

- (1) New hires to the profession from other states. – A teacher from another state who (i) has less than three years of experience as a full-time classroom teacher, (ii) is fully certified and highly qualified, as provided in the No Child Left Behind Act of 2001, in that other state; and (iii) is employed as a teacher by a local school administrative unit in North Carolina, is deemed to have satisfied the academic and professional preparation required to receive initial certification in North Carolina. The initial certification shall be granted for one year or for the period of time necessary for the teacher to acquire three years of full-time teaching experience in North Carolina and the other state combined, whichever is longer.

Once the teacher has three years of experience as a full-time teacher with at least one full year in a local school administrative unit in North Carolina, the teacher shall receive continuing certification unless the employing local school administrative unit recommends that the teacher not be granted continuing certification. The teacher shall be subject to the same requirements for continuing certification and certificate renewal as other teachers in North Carolina.

The teacher shall not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, except as otherwise provided by the No Child Left Behind Act of 2001.

- (2) New hires with at least three years of experience from other states. – A teacher from another state who (i) has three or more years of experience as a full-time teacher, (ii) is fully certified and highly qualified as provided in the No Child Left Behind Act of 2001 in that other state, and (iii) is employed as a teacher by a local school administrative unit in North Carolina is deemed to have satisfied the academic and professional preparation required to receive continuing certification for one year in North Carolina.

If at the end of one year of employment, the employing local board of education recommends to the State Board of Education that the teacher's certification be renewed, the teacher shall retain continuing certification. The teacher shall be subject to the same requirements for

1           continuing certification and certificate renewal as other teachers in  
2           North Carolina.

3           The teacher shall not be required to take and pass a standard  
4           examination to demonstrate adequate academic and professional  
5           preparation for certification, except as otherwise provided by the No  
6           Child Left Behind Act of 2001."

7  
8           **INITIATIVES TO INCREASE THE NUMBER OF STUDENTS IN TEACHER**  
9           **TRAINING PROGRAMS**

10           **SECTION 5.** G.S. 115C-296(b) reads as rewritten:

11           "(b) It is the policy of the State of North Carolina to maintain the highest quality  
12 teacher education programs and school administrator programs in order to enhance the  
13 competence of professional personnel certified in North Carolina. To the end that  
14 teacher preparation programs are upgraded to reflect a more rigorous course of study,  
15 the State Board of Education, as lead agency in coordination and cooperation with the  
16 University Board of Governors, the Board of Community Colleges and such other  
17 public and private agencies as are necessary, shall continue to refine the several  
18 certification requirements, standards for approval of institutions of teacher education,  
19 standards for institution-based innovative and experimental programs, standards for  
20 implementing consortium-based teacher education, and standards for improved  
21 efficiencies in the administration of the approved programs. The certification program  
22 shall provide for initial certification after completion of preservice training, continuing  
23 certification after three years of teaching experience, and certificate renewal every five  
24 years thereafter, until the retirement of the teacher. The last certificate renewal received  
25 prior to retirement shall remain in effect for five years after retirement.

26           The State Board of Education shall modify the standards for approval of institutions  
27 of teacher education to encourage the institutions to (i) increase the number of students  
28 in teacher education programs each year, (ii) ensure that all students in the program take  
29 the standard examination required for certification prior to graduation, and (iii) increase  
30 the number of students passing the standard examination requirement prior to  
31 graduation.

32           The State Board of Education, as lead agency in coordination with the Board of  
33 Governors of The University of North Carolina and any other public and private  
34 agencies as necessary, shall continue to raise standards for entry into teacher education  
35 programs.

36           The State Board of Education, in consultation with the Board of Governors of The  
37 University of North Carolina, shall evaluate and develop enhanced requirements for  
38 continuing certification. The new requirements shall reflect more rigorous standards for  
39 continuing certification and to the extent possible shall be aligned with quality  
40 professional development programs that reflect State priorities for improving student  
41 achievement.

42           The State Board of Education, in consultation with local boards of education and the  
43 Board of Governors of The University of North Carolina, shall reevaluate and enhance  
44 the requirements for renewal of teacher certificates. The State Board shall consider

1 modifications in the certificate renewal achievement and to make it a mechanism for  
2 teachers to renew continually their knowledge and professional skills. The State Board  
3 shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

4 The standards for approval of institutions of teacher education shall require that  
5 teacher education programs for students who do not major in special education include  
6 demonstrated competencies in the identification and education of children with learning  
7 disabilities. The State Board of Education shall incorporate the criteria developed in  
8 accordance with G.S. 116-74.21 for assessing proposals under the School Administrator  
9 Training Program into its school administrator program approval standards.

10 All North Carolina institutions of higher education that offer teacher education  
11 programs, masters degree programs in education, or masters degree programs in school  
12 administration shall provide performance reports to the State Board of Education. The  
13 performance reports shall follow a common format, shall be submitted according to a  
14 plan developed by the State Board, and shall include the information required under the  
15 plan developed by the State Board."

## 16 17 TAX CREDIT FOR TEACHERS

18 SECTION 6.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is  
19 amended by adding a new section to read:

### 20 "§ 105-151.29. Credit for public school teachers.

21 (a) Credit. – An individual who is employed as a public school teacher for at  
22 least 16 weeks during the taxable year is allowed as a credit against the tax imposed by  
23 this Part an amount equal to the following:

24 (1) Five hundred dollars (\$500.00) for an individual who has, as of the last  
25 day of the taxable year, completed at least one but less than five years  
26 of service as a public school teacher.

27 (2) One thousand dollars (\$1,000) for an individual who has, as of the last  
28 day of the taxable year, completed at least five but less than 10 years  
29 of service as a public school teacher.

30 (b) Credit Limitation. – This credit may not exceed the amount of tax imposed by  
31 this Part for the taxable year reduced by the sum of all credits allowable, except tax  
32 payment made by or on behalf of the taxpayer. Any unused portion of the credit may be  
33 carried forward for the succeeding five years.

34 (c) Definitions. – The following definitions apply in this section:

35 (1) Public school. – Any elementary or secondary school located within  
36 the borders of this State that is operated by a local school  
37 administrative unit, any charter school approved by the State Board of  
38 Education and operated in the State, the State, a branch of the federal  
39 government, or a federally recognized Indian tribe.

40 (2) Public school teacher. – A full-time permanent employee of a public  
41 school who spends at least fifty percent (50%) of the school day  
42 providing classroom instruction."

43 SECTION 6.(b) G.S. 105-160.3(b) is amended by adding a new subdivision  
44 to read:

"(8) G.S. 105-151.29. Credit for public school teachers."

**SECTION 6.(c)** This section becomes available only if the General Assembly states in the General Fund Availability Statement set out in the Current Operations and Capital Improvements Appropriations Act of 2004 that funds are available to implement this section.

**SECTION 6.(d)** This section is effective for taxable years beginning on or after January 1, 2004. This section is repealed effective for taxable years beginning on or after January 1, 2014.

**SECTION 6.(e)** This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

#### **TUITION SCHOLARSHIP LOANS FOR NONRESIDENT STUDENTS WHO AGREE TO TEACH IN NORTH CAROLINA**

**SECTION 7.** The Board of Governors of The University of North Carolina may allow each of the constituent institutions that receive funds for focused enrollment growth to allocate up to one hundred seventy-eight thousand three hundred eighty dollars (\$178,380) of those funds to provide for a maximum of 20 Prospective Teacher Scholars at each such institution. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study that will lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. For each new Prospective Teacher Scholarship an institution provides to a nonresident student with these funds, the institution shall ensure that there is space for an additional North Carolina resident to enter the teacher preparation program. The Board of Governors shall establish guidelines and regulations for this program, including methodology for determining its success in increasing the supply of qualified teachers for North Carolina public schools. The Board shall report its guidelines and regulations to guide these pilot programs to the Joint Legislative Education Oversight Committee by November 15, 2003. The Board shall report annually to the Committee on the progress of the pilot programs and their costs.

#### **LONG-RANGE PLAN FOR TEACHER RECRUITMENT AND RETENTION**

**SECTION 8.** The Education Cabinet shall develop a long-range plan for the recruitment and retention of teachers. The Education Cabinet shall consult with public and private agencies, as necessary, in the development of this plan. The Education Cabinet shall report to the Joint Legislative Education Oversight Committee prior to December 1, 2004, on the plan it develops.

#### **ALIGNMENT OF THE LATERAL ENTRY PROGRAM WITH THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT OF 2001**

**SECTION 9.(a)** G.S. 115C-296(c) reads as rewritten:

1       "(c) It is the policy of the State of North Carolina to encourage lateral entry into  
2 the profession of teaching by ~~skilled individuals from the private sector~~qualified  
3 individuals who hold a postsecondary degree that is at least a bachelors degree. To this  
4 end, before the ~~1985-86~~2004-2005 school year begins, the State Board of Education  
5 shall develop criteria and procedures to accomplish the employment of such individuals  
6 as ~~classroom teachers~~review and revise the curriculum requirements for lateral entry  
7 candidates to receive certification. ~~Regardless of credentials or competence, no one~~  
8 ~~shall begin teaching above the middle level of differentiation.~~ Skilled individuals who  
9 choose to enter the profession of teaching laterally

10       Qualified first-year lateral entry candidates who are required by federal law to obtain  
11 certification before contracting to teach for a fourth year may be granted a provisional  
12 teaching certificate for no more than three years. Other qualified lateral entry candidates  
13 may be granted a provisional teaching certificate for no more than five years and shall  
14 be required to obtain certification before contracting for a sixth year of service with any  
15 local administrative unit in this State. The State Board of Education shall ensure that the  
16 teacher preparation programs in the State that are providing training to lateral entry  
17 candidates shall provide that training in a uniform and consistent manner that enables  
18 lateral entry candidates to obtain certification in accordance with the requirements of the  
19 No Child Left Behind Act of 2001 while working as full-time teachers.

20       ~~It is further the policy of the State of North Carolina to ensure that local boards of~~  
21 ~~education can provide the strongest possible leadership for schools based upon the~~  
22 ~~identified and changing needs of individual schools. To this end, before the 1994-95~~  
23 ~~school year begins, the State Board of Education shall carefully consider a lateral entry~~  
24 ~~program for school administrators to ensure that local boards of education will have~~  
25 ~~sufficient flexibility to attract able candidates."~~

26       **SECTION 9.(b)** The State Board of Education shall report to the Joint  
27 Legislative Education Oversight Committee prior to July 1, 2004, on revisions the  
28 Board made to the curriculum requirements for lateral entry candidates pursuant to G.S.  
29 115C-296(c), as rewritten by subsection (a) of this section.

30  
31 **EFFECTIVE DATE**

32       **SECTION 10.** This act is effective when it becomes law.



## VISITOR REGISTRATION SHEET

EDUCATION Subcommittee on Pre-School,  
Elementary and Secondary Education

June 5, 2003

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Michael Houser	NCAE
Katherine Geyer	NCASA
Mary Leah Singletary	Intern - Rep Jeffus
Leanne Winn	NCSEA
Jenna Ashley	Carolina Journal
Roz Smith	NC Child Care Coalition
Betty Turner	NCNB/BANK of America
Mrs Ellis Hankins	
Sofia Frankowski	Wake Co. Public Schools
Jeff Herritt	Greater Raleigh Chamber of Commerce
Susan Harris	WCPS

## VISITOR REGISTRATION SHEET

EDUCATION Subcommittee on Pre-School,  
Elementary and Secondary Education

June 5, 2003

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

<i>Phyllis Norris</i>	<i>Public School Form</i>
<i>Annie Laura Pulley</i>	<i>Kannapolis City Schools</i>
<i>Jim Cane</i>	<i>Johnston Co. Schools</i>
<i>Julie Woodson</i>	<i>NCCBI</i>
<i>Maurice Green</i>	<i>CHARLOTTE-MECKLENBURG SCHOOLS</i>
<i>Joyce W. Wade</i>	<i>Asst Supt. - HR - Johnston County Schools</i>
<i>Peggy Mays</i>	<i>ang</i>

**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY**  
**AND SECONDARY EDUCATION**  
**June 12, 2003**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 1425 of the Legislative Building on June 12, 2003, at 9:10 a.m. Representative Dockham called the meeting to order and introduced the pages, Lucy Rogers and Elise Dorsett (Wake County – Rep. Munford), Meredith Matney (Buncombe County – Rep. Goforth), and Laura Fox (Wake County – Rep. Fox). The following Committee members were present: Representative Warren, Co-Chair, and Representatives Goforth, Gulley, Glazier, Gorman, Jeffus, C. Johnson, Lucas, McGee, McMahan, Walend, and Walker. Representatives Hilton and Wood, Co-Chairs of the Standing Committee on Education, and Robin Johnson, Staff Counsels, were in attendance. A Visitor Registration list is attached and made part of these minutes (Attachment). The following bill was considered.

**SB 359, entitled, A BILL TO BE ENTITLED AN ACT TO AUTHORIZING THE FORSYTH COUNTY BOARD OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL.** The Chair recognized Representative Hilton who presented a Proposed House Committee Substitute bill and moved to adopt the PCS for consideration. The motion passed. Representative Hilton proceeded to explain the PCS. The Proposed House Committee Substitute bill would allow the Winston-Salem/Forsyth County School System to open their charter schools, but also give this choice to all LEAs across the state. House Bill 31, raising the statewide cap from 100 charter schools to 110, supported by the Department of Public Instruction, passed the Committee on Education and the full House. However, House Bill 31 has languished in Senate Committee on Education/Higher Education since the Senate received it on April 28, 2003. This House Committee Substitute bill is a vehicle to address this issue again in the hope that the Senate will concur. Representative Hilton also stated, should the House Committee Substitute fail in the Senate or go to Conferees, he will make every effort to remove the cap, so that the bill will pass for the Winston-Salem/Forsyth County School System.

Representative Hilton referred to Robin Johnson, Staff Counsel, to further explain and clarify the PCS. The Proposed House Committee Substitute to Senate Bill 359 would authorize the local boards of education to apply to establish a charter school or to convert an existing public school to a charter school. If the applicant is to convert an existing school, the applicant, other than a local board of education, must still have a signed statement from a majority of teachers and instructional support personnel currently employed at the school who are in favor of conversion. There must also be evidence that a significant number of parents of children enrolled at the school support the conversion. However, if the application is to convert an existing school and the applicant is a local board of education, the application must include input from the teachers and instructional support personnel currently employed at the school and evidence that a significant number of parents and children enrolled in the school favor conversion. These charter schools would be accountable to the local board of education. They would be operated by the local board of education or by a board of directors appointed by that board. The State Board would continue to authorize no more than five charter schools per year in one

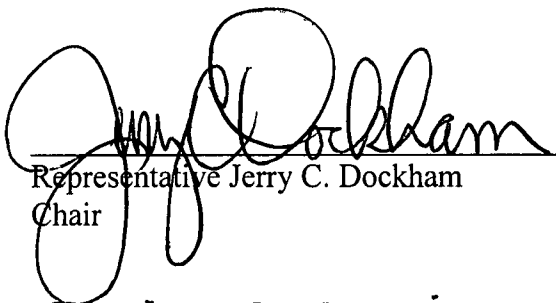
local school administrative unit. However, the State Board would be permitted to authorize ten more charter schools **statewide**, raising the statewide cap from 100 charter schools to 110. Any charter school approved where the applicant was a local board of education would not be counted among the 110 charter schools.

The Chair recognized Senator Garrou, the original bill sponsor to comment on the Proposed House Committee Substitute. Senator Garrou stated that the Winston-Salem/Forsyth County School District is acting in good faith and believing they had the authority to do so, is in the process of organizing a new charter school. She also indicated that with the changes made to her bill, the bill would not pass out of the Senate. She urged the committee to remove the cap amendment and stated that she was supporting the new language, applicable to converted schools where the applicant is the local board of education; in which cases the bill would simply require input from the teachers and instructional support personnel. Senator Garrou requested to allow her local bill to be heard on the floor of the House and be referred back to the Senate. Senator Garrou strongly opposes the changes made to Senate Bill 359.

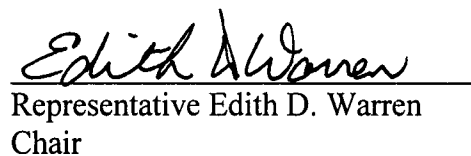
After much discussion by the committee members, Representative McMahan moved to give the Proposed House Committee Substitute a favorable report, which changes the title, unfavorable to the original bill and with the approval of standing committee Chairs for report to be made directly to the floor of the House. The motion passed.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

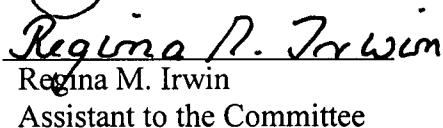
Respectfully submitted,



Representative Jerry C. Dockham  
Chair

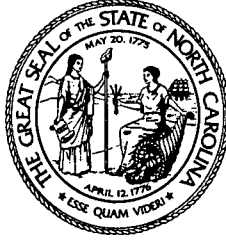


Representative Edith D. Warren  
Chair



Regina M. Irwin  
Assistant to the Committee

ATTACHMENTS:  
Visitor Registration Form  
SB 359  
House Committee Substitute  
Bill Summary



**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY  
AND SECONDARY EDUCATION**

**June 12, 2003  
Room 1425 LB  
9:00 AM**

**AGENDA**

**OPENING REMARKS**

**Representative Jerry Dockham, Chair  
Representative Edith Warren, Chair**

**AGENDA ITEMS**

**SB 359 LEA's AUTHORITY TO OPERATE CHARTER SCHOOL.  
Senator Garrou (Sponsor)**

**ADJOURNMENT**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

2

SENATE BILL 359  
Education/Higher Education Committee Substitute Adopted 4/17/03

Short Title: LEA's Authority to Operate Charter School.

(Local)

Sponsors:

Referred to:

March 11, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING THE FORSYTH COUNTY BOARD OF EDUCATION TO  
3 APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER  
4 SCHOOL.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-238.29B(a) reads as rewritten:

7 "(a) Any person, group of persons, or nonprofit ~~corporation~~ corporation, including  
8 a local board of education, seeking to establish a charter school may apply to establish a  
9 charter school. If the applicant seeks to convert a public school to a charter school, the  
10 application shall include a statement signed by a majority of the teachers and  
11 instructional support personnel currently employed at the school indicating that they  
12 favor the conversion and evidence that a significant number of parents of children  
13 enrolled in the school favor conversion."

14 SECTION 2. G.S. 115C-238.29E reads as rewritten:

15 "§ 115C-238.29E. Charter school operation.

16 (a) A charter school that is approved by the State shall be a public school within  
17 the local school administrative unit in which it is located. It shall be accountable to the  
18 local board of education if it applied for and received preliminary approval from that  
19 local board for purposes of ensuring compliance with applicable laws and the provisions  
20 of its ~~charter~~ charter or if the local board of education was the applicant for the charter.  
21 All other charter schools shall be accountable to the State Board for ensuring  
22 compliance with applicable laws and the provisions of their charters, except that any of  
23 these charter schools may agree to be accountable to the local board of the school  
24 administrative unit in which the charter school is located rather than to the State Board.

25 (b) A charter school shall be operated by a private nonprofit corporation that  
26 shall have received federal tax-exempt status no later than 24 months following final  
27 approval of the ~~application~~ application unless a local board of education applied for and  
28 was granted a charter for the conversion of an existing public school or for the creation

1 of a new charter school. In such a case, a charter school shall be operated by the local  
2 board of education or by a board of directors appointed by the local board of education.

3 (c) A charter school shall operate under the written charter signed by the entity to  
4 which it is accountable under subsection (a) of this section and the applicant. A charter  
5 school is not required to enter into any other contract. The charter shall incorporate the  
6 information provided in the application, as modified during the charter approval  
7 process, and any terms and conditions imposed on the charter school by the State Board  
8 of Education. No other terms may be imposed on the charter school as a condition for  
9 receipt of local funds.

10 (d) The board of directors of the charter school shall decide matters related to the  
11 operation of the school, including budgeting, curriculum, and operating procedures.

12 (e) A charter school's specific location shall not be prescribed or limited by a  
13 local board or other authority except a zoning ~~authority~~ authority unless the local board  
14 of education applied for and was granted the charter for the conversion of a public  
15 school or the creation of a new charter school. The school may lease space from a local  
16 board of education or as is otherwise lawful in the local school administrative unit in  
17 which the charter school is located. If a charter school leases space from a sectarian  
18 organization, the charter school classes and students shall be physically separated from  
19 any parochial students, and there shall be no religious artifacts, symbols, iconography,  
20 or materials on display in the charter school's entrance, classrooms, or hallways.  
21 Furthermore, if a charter school leases space from a sectarian organization, the charter  
22 school shall not use the name of that organization in the name of the charter school.

23 At the request of the charter school, the local board of education of the local school  
24 administrative unit in which the charter school will be located shall lease any available  
25 building or land to the charter school unless the board demonstrates that the lease is not  
26 economically or practically feasible or that the local board does not have adequate  
27 classroom space to meet its enrollment needs. Notwithstanding any other law, a local  
28 board of education may provide a school facility to a charter school free of charge;  
29 however, the charter school is responsible for the maintenance of and insurance for the  
30 school facility.

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

34 **SECTION 3.** This act applies only to the Winston-Salem/Forsyth School  
35 System.

36 **SECTION 4.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

S

D

**SENATE BILL 359**

**Education/Higher Education Committee Substitute Adopted 4/17/03**  
**PROPOSED HOUSE COMMITTEE SUBSTITUTE S359-CSRH-49 [v.2]**

6/10/2003 5:48:00 PM

Short Title: LEAs Operate Charter Schs/Raise Cap.

(Public)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED  
AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO APPLY FOR  
AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL, AND  
TO RAISE THE CAP ON CHARTER SCHOOLS TO 110 SCHOOLS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-238.29B(a) reads as rewritten:

"(a) Any person, group of persons, or nonprofit ~~corporation~~ corporation, including a local board of education, seeking to establish a charter school may apply to establish a charter school. If the ~~applicant~~ applicant, other than a local board of education, seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of input from 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. If the applicant, who is the local board of education, seeks to convert a public school to a charter school, the application shall include input from the teachers and instructional support personnel currently employed at the school and evidence that a significant number of parents of children enrolled in the school favor conversion."

**SECTION 2.** 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 if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its ~~charter~~ charter or if the local board of education was the applicant for the charter. All other charter schools shall be accountable to the State Board for ensuring compliance with applicable laws and the provisions of their charters, except that any of



these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.

(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~~. application unless a local board of education applied for and was granted a charter for the conversion of an existing public school or for the creation of a new charter school. In such a case, a charter school shall be operated by the local board of education or by a board of directors appointed by the local board of education.

(c) A charter school shall operate under the written charter signed by the entity to which it is accountable under subsection (a) of this section and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate 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. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(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's specific location shall not be prescribed or limited by a local board or other authority except a zoning ~~authority~~. authority unless the local board of education applied for and was granted the charter for the conversion of a public school or the creation of a new charter school. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

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. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

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

**SECTION 3.** G.S. 115C-238.29D(b) reads as rewritten:

"(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than ~~400~~ 110 charter schools statewide. If more than five charter schools in one local school administrative unit or more than ~~400~~ 110 schools statewide meet the

1 standards for final approval, the State Board shall give priority to applications that are  
2 most likely to further State education policies and to strengthen the educational program  
3 offered in the local school administrative units in which they are located. This  
4 subsection shall not apply to any charter school if the applicant for that charter school  
5 was the local board of education."

6       **SECTION 4.** This act is effective when it becomes law.

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Edith D. Warren and Jerry C. Dockham (Chairs) for the Education

Subcommittee on Pre-School, Elementary and Secondary Education.

☒ Committee Substitute for

**S.B. 359**

A BILL TO BE ENTITLED AN ACT AUTHORIZING THE  
FORSYTH COUNTY BOARD OF EDUCATION TO APPLY FOR AND BE GRANTED A  
CHARTER TO OPERATE A CHARTER SCHOOL.

REPORTED TO THE STANDING COMMITTEE ON

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**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

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WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

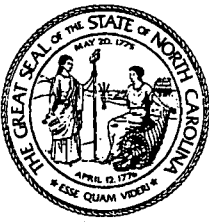
Representative Warner and Hilton for the Standing Committee on EDUCATION.

*Edith D. Warner*

*Mark Hilton*

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the House committee substitute bill ( # \_\_\_\_\_ ), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ (Senate Committee Substitute Bill # \_\_\_\_\_ ). ~~(and recommendation that the committee substitute bill (# \_\_\_\_\_ ) be referred to the Committee on \_\_\_\_\_ )~~

03/26/03



# SENATE BILL 359: LEAs Operate Charter Schs/Raise Cap

## BILL ANALYSIS

**Committee:** House Education Subcommittee  
for S 359

**Date:** June 11, 2003

**Version:** PCS to 2<sup>nd</sup> Edition  
S359-CSRH-49[v.2]

**Introduced by:** Sen. Garrou

**Summary by:** \*Shirley Iorio  
Committee Staff

**SUMMARY:** *The Proposed Committee Substitute (PCS) to Senate Bill 359 would authorize local boards of education to apply for and be granted a charter to establish and operate a charter school or to convert an existing public school to a charter school. Local boards of education that seek to convert a public school to a charter school would be required to include in the application input from teachers and evidence that parents of children enrolled in the school favor the conversion.*

*The PCS would raise the cap to 110 charter schools statewide, and any charter school approved where the applicant was the local board of education would not be counted toward the cap of 110.*

*The bill would take effect when it becomes law.*

*The PCS made the following changes:*

*-changes the title from LEAs Authority to Operate Charter School to LEAs Operate Charter Schs/Raise Cap;*

*- the bill now applies statewide rather than just to the Winston-Salem/Forsyth School System;*

*-the charter school cap is raised from 100 to 110; and*

*-teachers and instructional support personnel in public schools that are converted to charter schools do not have to sign a statement indicating that they favor the conversion when the applicant is a local board of education. The application must include input from teachers and instructional support personnel and evidence that parents of children enrolled in the school favor the conversion.*

**CURRENT LAW:** Charter schools are public schools. Currently, any person, group of persons, or nonprofit corporation may apply for a charter to establish a charter school or to convert an existing public school to a charter school. Application for preliminary approval is made to the local board of education of the local school administrative unit where the school will be located, the board of trustees of a UNC constituent institution, or the State Board of Education. If the charter is granted, the charter school is accountable to the entity that grants preliminary approval. (In the majority of cases, this is the State Board of Education.)

If the charter is granted, the charter school must be operated by a private nonprofit corporation that receives tax-exempt status within 24 months of final approval of the charter. In order to convert an existing public school to a charter school, the application must include a statement signed by the majority of the teachers and instructional support personnel currently employed at the school who are in favor of the conversion. In addition, evidence must be included that a significant number of parents of children enrolled at the school favor the conversion.

Charter schools are exempt from most laws and regulations applicable to traditional public schools. Charter schools must provide 180 days of instruction; traditional schools must have 180 days and 1000

# SENATE BILL 359

Page 2

hours of instruction. Teachers in traditional schools must be certified or working towards certification; in charter schools, at least 75% of teachers in grades K-5 and at least 50% of teachers in grades 6-12 must hold certificates. Charter schools are not subject to class size reduction requirements, the standard course of study, the State salary schedules for teachers and principals, or the laws governing career status for teachers (aka "tenure"). Charter schools receive the State's average per pupil funding for each student, including funds for children with special needs, and local per pupil funding, but these schools are not required to spend the funds for the specific purposes for which they are allocated.

**BILL ANALYSIS:** The bill would authorize the local boards of education to apply to establish a charter school or to convert an existing public school to a charter school. If the application is to convert an existing school, the applicant, other than a local board of education, must still have a signed statement from a majority of teachers and instructional support personnel currently employed at the school who are in favor of the conversion. There must also be evidence that a significant number of parents of children enrolled at the school support the conversion. However, if the application is to convert an existing school and the applicant is a local board of education, the application must include input from the teachers and instructional support personnel currently employed at the school and evidence that a significant number of parents and children enrolled in the school favor conversion. These charter schools would be accountable to the local board of education. They would be operated by the local board of education or by a board of directors appointed by that board.

The State Board would continue to authorize no more than five charter schools per year in one local school administrative unit. However, the State Board would be permitted to authorize ten more charter schools statewide, raising the statewide cap from 100 charter schools to 110. Any charter school approved where the applicant was a local board of education would not be counted among the 110 charter schools.

The bill would become effective when it becomes law.

# VISITOR REGISTRATION SHEET

**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY, & SECONDARY EDUCATION**

**Wednesday, June 11, 2003**

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Jonathan L Jones	John Locke Foundation
Marvyn Danner	NCAE
Leanne Winner	NCSBA
Susan Harrison	WCPS
Katherine Joyce	NCAAA
John Norris	Public School Forum
Jim Nye	SBE
Gene Causby	NCSFSA
Ann McArthur	Governor's Ofc.
Julie Allen	NC Statewatch
John R. ...	NCFPC

## VISITOR REGISTRATION SHEET

HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,  
ELEMENTARY. & SECONDARY EDUCATION

Wednesday, June 11, 2003

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mary Leah Singletary

Intern - Rep. Seffrus

**2003-2004**

**HOUSE  
EDUCATION  
PRESCHOOL,  
ELEMENTARY &  
SECONDARY**

**COMMITTEE  
MINUTES**



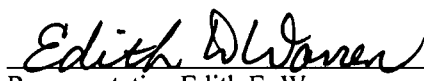
**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**JUNE 25, 2003**

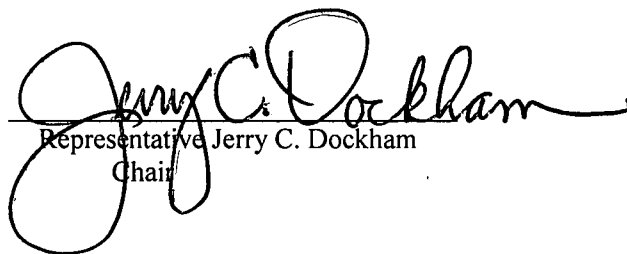
The House Education Subcommittee on Pre-School, Elementary and Secondary Education met in Room 421 of the Legislative Office Building on June 5, 2003, at 11:05 a.m. Representative Edith Warren called the meeting to order and introduced the Sergeant-At-Arms, Paul Rucho, Philip Schreibman and Brian Doherty. The following Committee members were present: Vice Chairs: Representatives Bell and Gulley; Members: Representatives Blackwood, Jeffus, McGee, Nesbitt, Walend and Walker. Shirley Iorio and Robin Johnson, Staff Counsel, were in attendance. A Visitor Registration list is attached and made part of the minutes (**See Attachment**). The following bills were considered:

**HB 701, entitled, A BILL TO BE ENTITLED AN ACT TO FACILITATE JOB SHARING BY CERTAIN PUBLIC SCHOOL PROFESSIONAL PERSONNEL.** Representative Nesbitt explained the bill. This bill comes from the Senate as a job-sharing bill for specific public school employees. There is a proposed House Committee Substitute (**See Attachment**) that would allow all public school personnel to participate in job sharing. Representative McGee made a motion, seconded by Representative Blackwood, that the proposed committee substitute come before the committee for discussion. Representative Nesbitt presented the proposed committee substitute which is identical to a previously passed house bill. The main difference is that the Senate bill allowed only instructional personnel to be allowed to job share. The House proposed committee substitute allows all public school employees to job share. Both require that employees work 50 percent of the time in order to participate in state benefits. Representative Jeffus moved for a favorable report as to the House Committee Substitute, changing the title, unfavorable to the original bill and re-referring the committee substitute to the Committee on Pensions and Retirement. The motion was unanimously passed.

There being no further business, the chair adjourned the meeting at 11:25 a.m.

Respectfully submitted,

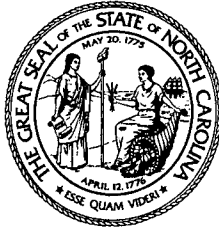
  
Representative Edith E. Warren  
Chair

  
Representative Jerry C. Dockham  
Chair

  
Nancy S. Willis  
Assistant to the Committee

**ATTACHMENTS:**

Agenda  
SB 701  
Subcommittee Report  
Proposed Committee Substitute  
Visitor Registration Form



**HOUSE EDUCATION SUBCOMMITTEE ON  
PRE-SCHOOL, ELEMENTARY AND SECONDARY  
EDUCATION**

**June 25, 2003  
Room 421 LOB  
11:00 AM**

**AGENDA**

**OPENING REMARKS**

**Representative Jerry Dockham, Chair  
Representative Edith Warren, Chair**

**AGENDA ITEMS**

**SB 701      JOB SHARING FOR SCHOOL PERSONNEL  
Senator Metcalf (Sponsor)**

**ADJOURNMENT**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

1

SENATE BILL 701

Short Title: Job Sharing for School Personnel.

(Public)

Sponsors: Senators Metcalf, Albertson, Dalton, Garwood, Kerr, Rand, and Soles.

Referred to: Education/Higher Education.

April 2, 2003

A BILL TO BE ENTITLED  
AN ACT TO FACILITATE JOB SHARING BY CERTAIN PUBLIC SCHOOL  
PROFESSIONAL PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-302.2 reads as rewritten:

"§ 115C-302.2. Job sharing by ~~classroom~~ teachers.

(a) The General Assembly finds that there is a shortage of qualified ~~classroom~~ teachers available in certain areas of certification, grade levels, and geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make teaching an attractive option for well-qualified ~~classroom~~ teachers who do not wish to work full time.

(b) A "~~classroom teacher~~ teacher in a job-sharing position" is a person who:

- (1) Is employed by a local board of education as a ~~public school~~ teacher for fifty percent (50%) of the teacher workweek, as defined by that local board of education;
- (2) Is paid on the teacher salary schedule;
- (3) Spends at least seventy percent (70%) of his or her work time in classroom instruction; instruction or in working as a guidance counselor, media coordinator or media specialist, psychologist, or social worker; and
- (4) Is sharing a ~~teacher~~ position with one other employee of that local board of education who meets the requirements of subdivisions (1) through (3) of this subsection.

The term includes guidance counselors, media coordinators and media specialists, psychologists, and social workers. The term does not include other certified instructional support personnel or certified school services personnel such as guidance counselors, media coordinators, psychologists, social workers, audiologists, speech and language pathologists, and nurses.

1 (c) The State Board of Education shall adopt rules to facilitate job sharing by  
2 ~~classroom~~-teachers. These rules shall provide that a ~~classroom~~ teacher in a job-sharing  
3 position shall receive paid legal holidays, annual vacation leave, sick leave, and  
4 personal leave on a pro rata basis. Such a teacher shall also receive service credit under  
5 the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and  
6 insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes."

7 SECTION 2. G.S. 135-1(25), as rewritten by Section 1 of S.L. 2002-110,  
8 reads as rewritten:

9 "(25) "Teacher" shall mean any teacher, helping teacher, ~~classroom~~-teacher  
10 in a job-sharing position as defined in G.S. 115C-302.2(b) except for a  
11 beneficiary in that position, librarian, principal, supervisor,  
12 superintendent of public schools or any full-time employee, city or  
13 county, superintendent of public instruction, or any full-time employee  
14 of Department of Public Instruction, president, dean or teacher, or any  
15 full-time employee in any educational institution supported by and  
16 under the control of the State: Provided, that the term "teacher" shall  
17 not include any part-time, temporary, or substitute teacher or employee  
18 except for a ~~classroom~~-teacher in a job-sharing position, and shall not  
19 include those participating in an optional retirement program provided  
20 for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of  
21 Trustees, hereinbefore defined, shall determine whether any person is a  
22 teacher as defined in this Chapter. On and after August 1, 2001, a  
23 person who is a nonimmigrant alien and who otherwise meets the  
24 requirements of this subdivision shall not be excluded from the  
25 definition of "teacher" solely because the person holds a temporary or  
26 time-limited visa. Notwithstanding the foregoing, the term "teacher"  
27 shall not include any nonimmigrant alien employed in elementary or  
28 secondary public schools (whether employed in a full-time, part-time,  
29 temporary, permanent, or substitute teacher position) and participating  
30 in an exchange visitor program designated by the United States  
31 Department of State pursuant to 22 C.F.R. Part 62."

32 SECTION 3. G.S. 135-4(b) reads as rewritten:

33 "(b) The Board of Trustees shall fix and determine by appropriate rules and  
34 regulations how much service in any year is equivalent to one year of service, but in no  
35 case shall more than one year of service be creditable for all services in one year.  
36 Service rendered for the regular school year in any district shall be equivalent to one  
37 year's service. Service rendered by a ~~classroom~~-teacher in a job-sharing position shall be  
38 credited at the rate of one-half year for each regular school year of employment."

39 SECTION 4. G.S. 135-40.2(a2) reads as rewritten:

40 "(a2) A ~~classroom~~-teacher in a job-sharing position as defined in G.S.  
41 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially contributory  
42 basis, subject to the provisions of G.S. 135-40.3. If these employees elect to participate  
43 in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total

1 noncontributory premiums. Individual employees shall pay the balance of the total  
2 noncontributory premiums not paid by the employing unit."

3 **SECTION 5.** Nothing in this act shall be construed to require local school  
4 administrative units to place part-time employees in job-sharing positions or to hire  
5 employees in job-sharing positions.

6 **SECTION 6.** Sections 1 through 4 of this act become effective January 1,  
7 2004. The remainder of this act is effective when it becomes law.

2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives Edith D. Warren and Jerry C. Dockham (Chairs) for the Education  
Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

**S.B. 701**

A BILL TO BE ENTITLED AN ACT TO FACILITATE JOB  
SHARING BY CERTAIN PUBLIC SCHOOL PROFESSIONAL PERSONNEL.

REPORTED TO THE STANDING COMMITTEE ON

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**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative Warner and Hilton for the Standing Committee on EDUCATION.

s/ Mark Hilton  
Edith Warren

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the House committee substitute bill, ☒ which changes the title, unfavorable as to the original bill (~~Committee Substitute Bill #~~ \_\_\_\_\_). (and recommendation that the House committee substitute bill (# \_\_\_\_\_) be referred to the Committee on PENSIONS AND RETIREMENT.)

03/26/03

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

D

SENATE BILL 701  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S701-PCS65331-RH-56

Short Title: Local Flex. Regarding Job Sharing in Schools.

(Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO FACILITATE JOB SHARING BY PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-302.2 is repealed.

SECTION 2. Article 22 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 3A. Job Sharing by School Employees.

"§ 115C-326.5. Job sharing by school employees.

(a) The General Assembly finds that there is a shortage of qualified public school employees available in certain geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make employment in a public school an attractive option for well-qualified persons who do not wish to work full time.

(b) A "school employee in a job-sharing position" is a person who is employed by a local board of education as a public school employee for at least fifty percent (50%) of the applicable workweek, as defined by that local board of education.

(c) The State Board of Education shall adopt rules to facilitate job sharing by public school employees. These rules shall provide that an employee in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. Such an employee shall also receive service credit under the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes."

SECTION 3. G.S. 135-4(b) reads as rewritten:

"(b) The Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all services in one year. Service rendered for the regular school year in any district shall be equivalent to one

1 year's service. Service rendered by a ~~classroom teacher~~ school employee in a  
2 job-sharing position shall be credited at the rate of one-half year for each regular school  
3 year of employment."

4 **SECTION 4.** G.S. 135-40.2(a2) reads as rewritten:

5 "(a2) A ~~classroom teachers~~ school employee in a job-sharing position as defined in  
6 G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially  
7 contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect  
8 to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's  
9 total noncontributory premiums. Individual employees shall pay the balance of the total  
10 noncontributory premiums not paid by the employing unit."

11 **SECTION 5.** Nothing in this act shall be construed to require local school  
12 administrative units to place part-time employees in job-sharing positions or to hire  
13 employees in job-sharing positions.

14 **SECTION 6.** Sections 1 through 4 of this act become effective January 1,  
15 2004. The remainder of this act is effective when it becomes law.



## VISITOR REGISTRATION SHEET

**EDUCATION Subcommittee on Pre-School,  
Elementary and Secondary Education**

June 25, 2003

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Fred Agnew

SBE

Adm. Bidmore

NC ASIA

Mary Leach Singletary

## Intern-Rep. Selfcs

Genise Nicholson

NASW

Venai L. P. J. J.

NAJW. NC

Leanne Kinnier

NKSPBA

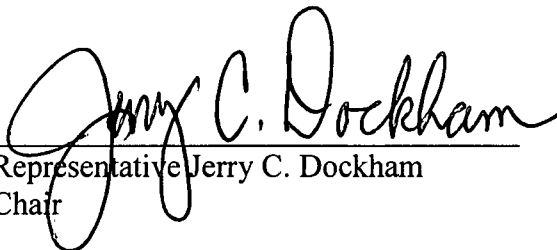
**MINUTES**  
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY**  
**AND SECONDARY EDUCATION**  
**July 7, 2004**

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met around the chamber desk of Representative Dockham on July 7, 2004, at 1:55 p.m. Representative Dockham called the meeting to order. The following Committee members were present: Representative Warren, Co-Chair, and Representatives Goforth, Gulley, Blackwood, Carney, Jeffus, McGee, and Walend. The following bill was considered.

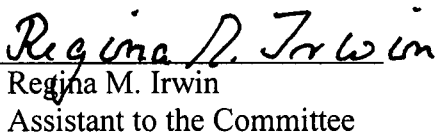
**HB 102, entitled, A BILL TO BE ENTITLED AN ACT TO GIVE THE ALAMANCE-BURLINGTON BOARD OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER.** Representative Blackwood moved that HB 102 be referred to the House Committee on EDUCATION and be given an indefinite postponement report. The motion passed.

There being no further business, the Chair adjourned the meeting at 2:00 p.m.

Respectfully submitted,

  
Representative Jerry C. Dockham  
Chair

  
Representative Edith D. Warren  
Chair

  
Regina M. Irwin  
Assistant to the Committee

ATTACHMENTS:

HB 102  
Bill Analysis

**2003 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representatives **Edith D. Warren and Jerry C. Dockham** (Chairs) for the Education  
Subcommittee on **Pre-School, Elementary and Secondary Education** .

☐ Committee Substitute for

**H.B. 102**

A BILL TO BE ENTITLED AN ACT TO GIVE THE ALAMANCE-  
BURLINGTON BOARD OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO  
INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER.

REPORTED TO THE STANDING COMMITTEE ON **EDUCATION**

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**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on \_\_\_\_\_.
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on \_\_\_\_\_.
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill, ☐ which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☒ Other recommended action: **With an indefinite postponement report.**

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WITH APPROVAL OF STANDING COMMITTEE CHAIR(S) FOR REPORT TO BE MADE  
DIRECTLY TO THE FLOOR OF THE HOUSE:

Representative \_\_\_\_\_ for the Standing Committee on \_\_\_\_\_.

s/ \_\_\_\_\_

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to the committee substitute bill ( # \_\_\_\_\_ ), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # \_\_\_\_\_ ). (and recommendation that the committee substitute bill ( # \_\_\_\_\_ ) be referred to the Committee on \_\_\_\_\_ .)

03/26/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 102

Short Title: School Calendar Flexibility/Alamance Co.

(Local)

Sponsors: Representatives Allred and Bordsen (Primary Sponsors).

Referred to: Education.

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO GIVE THE ALAMANCE-BURLINGTON BOARD OF EDUCATION  
ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME  
LOST DUE TO INCLEMENT WEATHER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-84.2(a)(1) reads as rewritten:

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

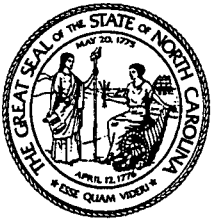
(1) A minimum of 180 days ~~and 1,000~~ or 1,050 hours of instruction  
covering at least nine calendar months. The local board shall designate  
when the 180 instructional days shall occur. The number of  
instructional hours in an instructional day may vary according to local  
board policy and does not have to be uniform among the 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 to the extent allowed by State Board policy. The  
school calendar shall include a plan for making up days and  
instructional hours missed when schools are not opened due to  
inclement weather.

...."

SECTION 2. This act applies only to the Alamance-Burlington School  
System.

SECTION 3. This act applies only to the 2002-2003 and the 2003-2004  
school years.

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



# HOUSE BILL 102: School Calendar Flexibility/Alamance Co.

## BILL ANALYSIS

**Committee:** House Education Subcommittee  
on Preschool, Elementary &  
Secondary Education

**Introduced by:** Rep. Allred  
**Summary by:** Robin Johnson  
Committee Counsel

**Date:** April 16, 2003

**Version:** First Edition

**SUMMARY:** *House Bill 102 would create an exception to the required time for instruction for the Alamance-Burlington School System. The exception would allow the system to have 180 days OR 1,050 hours of instruction. The exception is for both the 2002-2003 school year and the 2003-2004 school year.*

**CURRENT LAW:** The NC Constitution requires that the State provide "for a general and uniform system of free public schools, which shall be maintained at least nine months in every year." This is echoed in G.S. 115C-1, which requires the operation in every LEA of "a uniform school term of nine months." School calendars must have a minimum of 220 days, all of which fall in the fiscal year. Of those days, local boards must adopt annual school calendars consisting of 180 days AND 1,000 hours of instruction during nine calendar months. The remaining 40 days must be scheduled as follows: 10 as teacher vacation days; 10-11 as holidays; 8 as designated by the local board for teacher workdays, additional instructional days, or other lawful purposes; and the remainder (11-12)<sup>1</sup> as designated by each school's principal for teacher workdays, additional instructional days, or other lawful purposes. School cannot be held on Sundays or Veteran's Day. Actual workdays for teachers employed for 10-month terms cannot exceed 200 days, but they are paid for 220 days. And, in most cases, there must be 42 consecutive days when teacher attendance is not required. The State Board has authority to order general school closings during any emergency in any section of the State where emergency conditions make it necessary.

**BILL ANALYSIS:** The bill would amend G.S. 115C-84.2(a)(1) by changing the phrase "AND 1,000 hours" to the phrase "OR 1,050 hours". The bill would become effective when it becomes law, and would apply only to the Alamance-Burlington School System.

**BACKGROUND:** The laws governing the school calendar have evolved over the past 90 years. The first major rewrite seems to have occurred in 1987. At that time, the law was rewritten to require local boards to have school calendars that provided for 180 days of instruction. (The State Board had a rule that defined the minimum number of hours of instruction in a school day.) The law also required the calendar to include makeup days for school closings due to hazardous weather, natural disaster, or other emergencies. The required number of makeup days varied from one school system to another. The law required 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 board used all of its scheduled makeup days, it was permitted to excuse up to three additional days when it found it was "impracticable to make up the additional days." (This had to be reported to the State Board of Education.) In addition to those three days, the State Board was allowed to forgive an unlimited number of additional days when it found that "conditions justify such suspension of school." If the State Board forgave days, then teachers and

<sup>1</sup> Two of these days may be designated as additional make-up days after the last day of student attendance if the LEA made up an average of at least 8 days for school closings in the last two years.

# HOUSE BILL 102

Page 2

students were not required to make them up, and the first 15 of those days did not affect teachers' pay.<sup>2</sup> In addition to the general law, local legislation was introduced (and usually adopted) creating additional exceptions, almost every Session.

By 1997, legislators and policymakers had become concerned because so many exceptions and reasons to excuse days of instruction had appeared over time. Their primary concern was that research strongly correlates instructional time with student learning. In addition, the concerns included: (i) it seemed too easy for local boards to cancel school and then not schedule makeup days; (ii) there did not appear to be a difference from one part of the state to another, even though winter weather tends to be worse in the western part; and (iii) the growing belief that the exceptions eroded the constitutional mandate of a nine-month school year.

In 1997 the law was significantly amended to its current state. The goals were to simplify the statute, put more responsibility at the local level for planning for makeup days, and provide much more flexibility to local boards when they "build" their school calendars. The flexibility was provided so that school systems could prepare for and anticipate events such as snow and ice storms and other generally unpredictable events that interfere with the act of getting to the schoolhouse.

After Hurricane Floyd, in 1999, there was legislation that provided the limited exception that is proposed in House Bill 102. That legislation was limited to counties affected by the hurricane and applied only to that school year. However, there were several lawsuits filed, some of which were settled out of court. In two counties (Guilford and Union), the North Carolina Association of Educators (NCAE) brought lawsuits concerning extra pay for teachers and other staff members. In the Guilford litigation, judgment at the trial level was for the school system, but NCAE appealed to the NC Court of Appeals, where it is still pending.

Earlier this month, the General Assembly enacted and the Governor signed House Bill 340. This bill allows LEAs to make up to three instructional days by adding the instructional hours in those days to other days so long as they meet certain prerequisites. HB 340 applied only to the present school year.

## POSSIBLE ISSUES:

### Constitutional Issues

- **What does it mean to maintain a general and uniform system of free public schools at least nine months in every year?** The statutes have defined nine months to be 180 days since the mid-1940's. Can a month be defined by a number of hours, rather than by days? If different LEAs have calendars with a different number of school days (the practical effect of going to hours only), would this violate the constitutional mandate of a "general and uniform" system of public schools?<sup>3</sup>
- **What impact could forgiving days or using hours rather than days have on the pending Leandro litigation or on the Leandro requirement that the State must provide a sound basic education?**

<sup>2</sup> Interestingly, these 15 days originated in 1971 at which time school could be suspended up to 60 days "due to low average of daily attendance, or the needs of agriculture, or any other condition."

<sup>3</sup> In 1985, the NC Court of Appeals ruled that the Constitution does not require a uniform 180 day term. Morgan v. Polk County Bd. Of Educ., 74 NCApp 169 (1985) (noting, but not addressing the constitutionality of, the law allowing fewer than 180 days when days could be waived up to five days due to weather).

# HOUSE BILL 102

Page 3

- **Article I, Sec. 32 prohibits the compensation of public employees absent consideration of public services.** Will teachers be required to work the 200 days for which they are paid? Can a workday be redefined by hours in order to meet this requirement?

## Policy Issues

- **If "time on task" is in fact important to student achievement, are there minimum and maximum hours in a school day that are more effective?**
- **Which school systems would be included? Is it fair to only provide an "out" when LEAs in the middle of the State have bad weather?** Each year, the western part of the State typically misses more school days due to inclement weather than other parts of the State. They have been required to and do make up all these days.
- **Are school calendars starting too early?** In the past decade, the opening day of school has shifted from late to early August in many LEAs, arguably to finish the first semester before the Christmas/Winter break. At the same time, these LEAs include a significant number of days (typically staff development days) in the first part of the calendar that, if saved for later in the school year, could be used as make-up dates.
- **If days are forgiven for students, should they be forgiven for school personnel? If different LEAs have significantly different hours in school days, should teachers be paid the same?** Teachers as professional employees are not paid on an hourly rate. Local LEA's set the anticipated workweek. If LEA's are then allowed to vary significantly from the days required, there could be potentially significant differences in the daily rates of pay. In addition, by allowing school systems to hold school fewer days by simply scheduling 1,000 hours, this could create pressure from teachers to be paid the same amount for working fewer days. For example:

LEA 1	LEA 2	LEA 3	LEA 4	LEA 5
180 days x 5.5 hrs. per day = <b>990 hrs.</b> of instructional time per year	180 days x 6.0 hrs. per day = <b>1080 hrs.</b> of instructional time per year	1000 hrs./5.5 hrs. per day = <b>182 days</b> of instruction per year	1000 hrs./6.0 hrs. per day = <b>167 days</b> of instruction per year	1000 hrs./8.0 hrs. per day = <b>125 days</b> of instruction per year

- **What impact will going to longer instructional days – and possibly fewer days -- have on school employees who are paid on an hourly basis?**
- **Should the State (i.e., either the State Board or the General Assembly) be in the business of waiving days or prescribing when and how make-up days should occur? Or should this be left at the local level?**

H102-SMRH-003: Shirley Iorio and Sara Kamprath contributed substantially to this summary.

## ATTENDANCE

**EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY &  
SECONDARY EDUCATION**

[illegible]



## MEMORANDUM

DATE: June 30, 2004

TO: Representative Michael Gorman  
Bill Sponsor

FROM: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

SUBJECT: <sup>sub-</sup> House Bill Pending in the Committee on Pre-School,  
Elementary and Secondary Education

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make except in the case where the primary sponsor(s) requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the House bill not be considered.

<sup>sub-</sup> If you would like to request that the Committee on Pre-School, Elementary and Secondary Education not consider HB 32, a form is included at the bottom of this page for that purpose. Please sign, date and return the form to Room 1424. This form may not be returned by e-mail because it requires the original signature of the bill sponsor(s).

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## MEMORANDUM

TO: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

FROM: Representative Michael Gorman  
Bill Sponsor

SUBJECT: HB 32, REMOVE CAP ON CHARTER SCHOOLS. (Short Title)

<sup>sub-</sup> I request that the Committee on Pre-School, Elementary and Secondary Education not consider HB 32.

  
(Sponsor's Signature)

6/29/04

Date

## MEMORANDUM

**DATE:** June 29, 2004

**TO:** Representatives Frank Mitchell, Karen Ray, and Michael Setzer  
Bill Sponsors

**FROM:** Representatives Jerry Dockham & Edith Warren  
Committee Chairs

**SUBJECT:** <sup>Sub-</sup> House Bill Pending in the Committee on Pre-School, Elementary and Secondary Education

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the primary sponsor(s) requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the House bill not be considered.**

<sup>Sub-</sup> If you would like to request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 60**, a form is included at the bottom of this page for that purpose. Please sign, date and return the form to Room 1424. This form may not be returned by e-mail because it requires the original signature of the bill sponsor(s).

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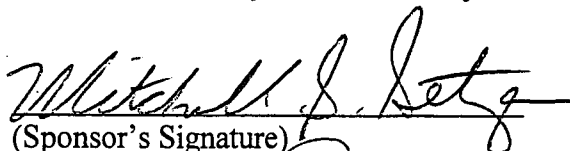
## MEMORANDUM

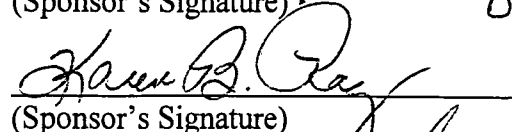
**TO:** Representatives Jerry Dockham & Edith Warren  
Committee Chairs

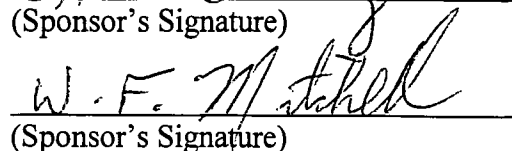
**FROM:** Representatives Frank Mitchell, Michael Setzer, and Karen Ray  
Bill Sponsors

**SUBJECT:** **HB 60 SCHOOL CALENDAR FLEX./IREDELL & CATAWBA.** (Short Title)

<sup>Sub-</sup> I request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 60**.

  
(Sponsor's Signature)

  
(Sponsor's Signature)

  
(Sponsor's Signature)

4/29/04 Date

## MEMORANDUM

DATE: June 30, 2004

TO: Representatives Debbie Clary & Tim Moore  
Bill Sponsors

FROM: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

SUBJECT: *sub-*  
House Bill Pending in the Committee on Pre-School, Elementary and  
Secondary Education

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the primary sponsor(s) requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the House bill not be considered.**

*sub-*  
If you would like to request that the Committee on **Pre-School, Elementary and Secondary Education** not consider **HB 194**, a form is included at the bottom of this page for that purpose. Please sign, date and return the form to Room 1424. This form may not be returned by e-mail because it requires the original signature of the bill sponsor(s).

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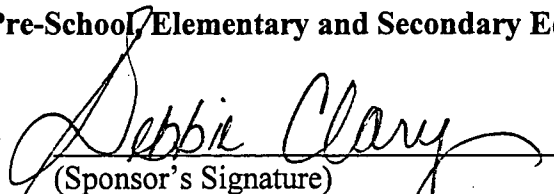
## MEMORANDUM

TO: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

FROM: Representatives Debbie Clary & Tim Moore  
Bill Sponsors

SUBJECT: **HB 194, CALENDAR FLEX./CLEVELAND CO. SCHOOL SYSTEMS.** (Short Title)

*sub-*  
I request that the Committee on **Pre-School, Elementary and Secondary Education** not consider **HB 194**.

  
(Sponsor's Signature)

  
(Sponsor's Signature)

7/1/04

Date

# MEMORANDUM

DATE: June 29, 2004

TO: Representatives Becky Carney, Linda Johnson, Jean Preston, and Douglas Yongue  
Bill Sponsors

FROM: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

SUBJECT: <sup>sub-</sup> House Bill Pending in the Committee on Pre-School, Elementary and Secondary Education

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make except in the case where the primary sponsor(s) requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the House bill not be considered.

<sup>sub-</sup> If you would like to request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 805**, a form is included at the bottom of this page for that purpose. Please sign, date and return the form to Room 1424. This form may not be returned by e-mail because it requires the original signature of the bill sponsor(s).

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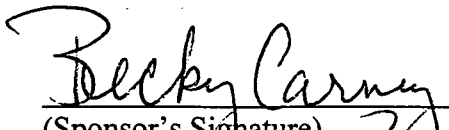
# MEMORANDUM

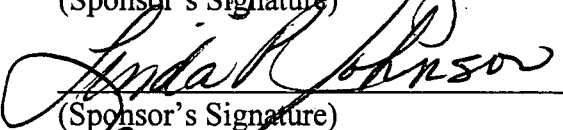
TO: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

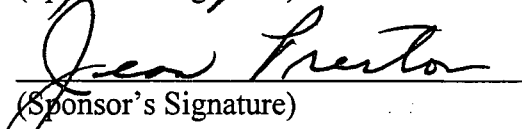
FROM: Representatives Becky Carney, Linda Johnson, Jean Preston, and Douglas Yongue  
Bill Sponsors

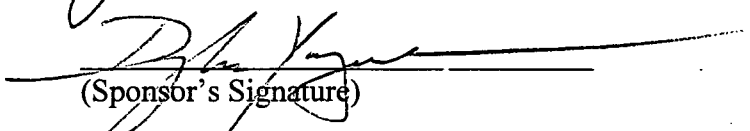
SUBJECT: **HB 805, INITIATIVES TO ADDRESS TEACHER SHORTAGES.** (Short Title)

<sup>sub-</sup> I request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 805**.

  
(Sponsor's Signature)

  
(Sponsor's Signature)

  
(Sponsor's Signature)

  
(Sponsor's Signature)

July 1, 2004

Date

## MEMORANDUM

DATE: June 29, 2004

TO: Representative Verla Insko  
Bill Sponsor

FROM: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

SUBJECT: *sub-*  
House Bill Pending in the Committee on Pre-School, Elementary and  
Secondary Education

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the primary sponsor(s) requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the House bill not be considered.**

*sub-*  
If you would like to request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 873**, a form is included at the bottom of this page for that purpose. Please sign, date and return the form to Room 1424. This form may not be returned by e-mail because it requires the original signature of the bill sponsor(s).

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## MEMORANDUM

TO: Representatives Jerry Dockham & Edith Warren  
Committee Chairs

FROM: Representative Verla Insko  
Bill Sponsor

SUBJECT: **HB 873, HEALTH EDUCATION COURSES/ACCURATE INFO. (Short Title)**

*sub-*  
I request that the Committee on Pre-School, Elementary and Secondary Education not consider **HB 873**.

Verla Insko  
(Sponsor's Signature)

7/1/04

Date

**Regina Irwin (Rep. Dockham)**

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**From:** Anne Cole (House Legislative Assistants Director)  
**Sent:** Monday, June 28, 2004 8:32 PM  
**Subject:** Instructions to comply with House Rule 36(a)  
**Importance:** High

**MEMORANDUM**

**TO:** HOUSE COMMITTEE ASSISTANTS  
**FROM :** Anne Cole  
**SUBJECT:** Sine die adjournment notes - House Rule 36(a)  
**DATE:** June 28, 2004

We are approaching the time to begin preparations to finalize committee work for this session. House Rule 36(a) states that all House bills and resolutions shall be reported from the committee to which it was referred. Senate bills may remain in committee with no action taken. There are two ways to comply with Rule 36(a).

(1) Consider House bills in a committee meeting and report the committee action with a committee report; stamp the bill jacket, make copies - the routine way of reporting bills. **Committee action is required to postpone a bill indefinitely.**

(2) A signed written request (memo or request form) from the primary bill sponsor(s) addressed to the committee chair(s) requesting that the House bill not be considered. If the bill has more than one primary sponsor, a signature is required for each sponsor. All primary sponsors may sign one memo/request or a separate request from each sponsor for the same bill may be sent to the chairs.

The signed written request is attached to the corresponding bill jacket and left in the committee box in the Principal Clerk's Office. Include a copy of the written request in the committee notebook submitted to the Library.

A bill sponsor request form for this purpose is a template located under MS, File New/House Legislative Templates/ Committee-Rule 36(a) Bill Sponsor Form. The form is also attached below.

**It is important to get direction from the committee chair(s) before you begin to finalize committee work.**

**Call if you have questions or need help.**