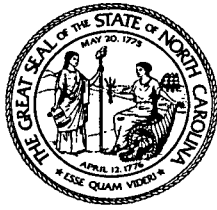


2005

**HOUSE
EDUCATION-
PRE-SCHOOL,
ELEMENTARY &
SECONDARY**

**COMMITTEE
MINUTES**



**HOUSE EDUCATION SUBCOMMITTEE
ON
PRESCHOOL, ELEMENTARY AND
SECONDARY EDUCATION**

2005 LEGISLATIVE SESSION

**REPRESENTATIVE RICK GLAZIER, CHAIR
REPRESENTATIVE EARLINE W. PARMON, CHAIR**

**PAT CHRISTMAS, COMMITTEE ASSISTANT
CARIN SAVEL, COMMITTEE ASSISTANT**

**STAFF COUNSEL
DR. SHIRLEY IORIO
ROBIN JOHNSON
SARA KAMPRATH**

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY
AND SECONDARY EDUCATION
2005 – 2006 SESSION



REP. RICK GLAZIER
Chair



REP. EARLINE PARMON
Chair



REP. CURTIS BLACKWOOD
Vice Chair



REP. BRUCE D. GOFORTH
Vice Chair



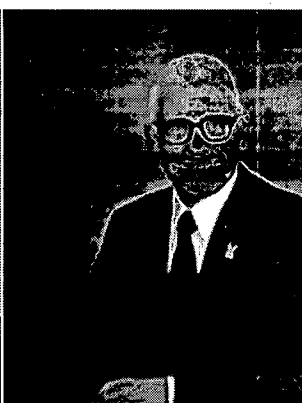
REP. BERNARD ALLEN



REP. LARRY BELL



REP. BECKY CARNEY



REP. GEORGE CLEVELAND



REP. SUSAN FISHER



REP. DALE FOLWELL



REP. PRICEY HARRISON



REP. MARK HILTON



REP. BRYAN HOLLOWAY



REP. MARGARET JEFFUS



REP. LINDA JOHNSON

NORTH CAROLINA GENERAL ASSEMBLY

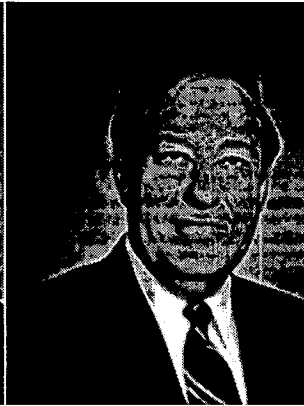
**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL, ELEMENTARY
AND SECONDARY EDUCATION
2005 – 2006 SESSION**



REP. JAMES LANGDON



REP. PAUL LUEBKE



REP. EDD NYE



REP. LOUIS PATE



REP. JEAN PRESTON



REP. TRACY WALKER



REP. EDITH WARREN



REP. LAURA WILEY



REP. LARRY WOMBLE



REP. DOUGLAS YONGUE



**Rep. Culpepper
Ex-officio**



**Rep. Cunningham
Ex-officio**



**Rep. Eddins
Ex-officio**



**Rep. Hackney
Ex-officio**

**HOUSE EDUCATION SUBCOMMITTEE ON PRE-SCHOOL,
ELEMENTARY AND SECONDARY EDUCATION**
2005 – 2006

<u>MEMBER</u>		<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
GLAZIER, Rick	Chairman	Carin Savel Committee Assistant	733-5601	2215	81
PARMON, Earline	Chairman	Pat Christmas Committee Assistant	733-5829	632	66
BLACKWOOD, Curtis	Vice-Chair	Mizie Finke	733-2406	1317	97
GOFORTH, D. Bruce	Vice-Chair	Ann Jordan	733-5746	1220	21
ALLEN, Bernard		Latisha Dumas	733-5772	1325	79
BELL, Larry		Carolyn Edwards	733-5863	530	12
CARNEY, Becky		Joyce Langdon	733-5827	1221	54
CLEVELAND, George		Susan West	715-6707	504	110
FISHER, Susan		Meredith Woodlief	715-2013	420	30
FOLWELL, Dale		Mary Marchman	733-5787	304	104
HARRISON, Pricey		Anne Wilson	733-5771	2119	82
HILTON, Mark		Carol Wilson	733-5988	1021	61
HOLLOWAY, Bryan		Chad Hinton	733-5609	1409	98
JEFFUS, Margaret		Mary Lee Robinson	733-5191	2204	6
JOHNSON, Linda		Rachel Faison	733-5861	1006	28
LANGDON, James		Jackson Stancil	733-5849	503	101
LUEBKE, Paul		Joyce Harris	733-7663	529	44
NYE, Edd		Jo Bobbitt	733-5477	639	23

PATE, Louis	Edna Pearce	733-5755	607	63
PRESTON, Jean	Suzanne Castleberry	733-5706	603	90
WALKER, Tracy	Barbara Powell	733-5935	1111	39
WARREN, Edith	Nancy Willis	715-3023	416A	35
WILEY, Laura	Susan Brothers	733-5877	538	88
WOMBLE, Larry	Dorothy McLean	733-5777	537	56
YONGUE, Douglas	Katie Stanley	733-5821	1303	84

Ex-Officio

CULPEPPER, Bill	Dot Crocker	715-3028	404	36
CUNNINGHAM, Pete	Valerie Rustin	733-5778	541	7
EDDINS, Rick	Susan Phillips	733-5828	1002	26
HACKNEY, Joe	Emily Reynolds	733-5752	2207	69

Dr. Shirley Iorio, Staff

733-2578 545

Ms. Robin Johnson, Staff

733-2578 545

Ms. Sara Kamprath, Staff

733-2578 545

HOUSE COMMITTEE ON EDUCATION

BELL, Larry, Chairman	Carolyn Edwards	733-5863	530	12
LUCAS, Marvin, Chairman	Thelma Utley	733-5775	1323	20
McLAWHORN, Marian, Chairman	Susan Burleson	733-5757	1217	34

ATTENDANCE

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

2005-2006

DATES	3/17/05	3/24/05	3/31/05	4/7/05	4/14/05	4/21/05	4/28/05	5/5/05	5/12/05	5/19/05	5/26/05	5/31/05	6/9/05	
GLAZIER, Rick CHAIR	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	
PARMON, Earline CHAIR	✓	✓	✓	✓	✓					✓	✓	✓	✓	
BLACKWOOD, Curtis VICE- CHAIR	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	
GOFORTH, D. Bruce VICE- CHAIR		✓	✓					✓		✓	✓		✓	
ALLEN, Bernard	✓	✓	✓	✓	✓	✓	ed	✓	ed	✓	✓	✓	✓	
BELL, Larry	✓	✓	✓	✓		✓	ed		ed					
CARNEY, Becky	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	
CLEVELAND, George	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
FISHER, Susan	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
FOLWELL, Dale		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	
HARRISON, Pricey	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	
HILTON, Mark		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
HOLLOWAY, Bryan	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
JEFFUS, Margaret			✓	✓	✓	✓		✓		✓	✓			
JOHNSON, Linda		✓	✓	✓	✓	✓					✓	✓	✓	
LANGDON, James	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	
LUEBKE, Paul			✓	✓	✓						✓			
NYE, Edd	✓	✓	✓	✓	✓	✓		✓						
PATE, Louis	✓	✓	✓	✓	✓	✓				✓	✓	✓	✓	
PRESTON, Jean			✓	✓	✓	✓		✓		✓	✓	✓	✓	
WALKER, Tracy	✓	✓	✓	✓	✓			✓		✓	✓		✓	
WARREN, Edith		✓	✓	✓				✓			✓	✓		

North Carolina General Assembly
 Pending House Committee on
 Education Subcommittee on Pre-School, Elementary and Secondary Education

Date: 09/21/2005
 Time: 13:24
 Page: 001 of 001
 Leg. Day: H-126/S-126

2005-2006 Biennium

Bill	Introducer	Short Title		Date	Latest Action
H 638	Nye	DHHS SCHOOLS GET FEDERAL EDUCATION FUNDS.	H	03-15-2005	Ref To Com On Education Subcommittee on Pre-School, Elementary and Secondary Education
H 805	Glazier	UPDATE LIST OF HIGH PRIORITY SCHOOLS.	H	05-10-2005	Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education
H1317	Glazier	STUDY/EDUCATION OF STUDENTS WITH DISABILITIES.	H	04-27-2005	Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education
H1546	Preston	STUDENTS WITH DISABILITIES CHGS.	H	04-27-2005	Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education

'\$' indicates the bill is an appropriations bill.

A bold line indicates the bill is an appropriations bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

North Carolina General Assembly
Through House Committee on

Date: 09/21/2005

Time: 13:25

Education Subcommittee on Pre-School, Elementary and Secondary Education

Page: 001 of 0

2005-2006 Biennium

Leg. Day: H-126/S-126

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
H0403	Glazier	AMEND LAW ON PURCHASE OF PSAT FOR SCHOOLS.	HR Ch. SL 2005-154	03-09-05	03-17-05
H0415	Frye	MAKE UP INSTRUCTIONAL DAYS/HURRICANES.	*HR Ch. SL 2005-48	03-09-05	04-13-05
H0469=	Current	LEASE PURCHASE FOR SCHOOL WAREHOUSE.	*H Re-ref Com On Finance	03-09-05	03-28-05
H0496	Harrison	STUDENT ASTHMA MEDICATIONS.	*HR Ch. SL 2005-22	03-09-05	03-28-05
H0638	Nye	DHHS SCHOOLS GET FEDERAL EDUCATION FUNDS.	H Ref To Com On Education Subcommittee on Pre-School, Elementary and Secondary Education	03-15-05	
H0683	Haire	INSTRUCTION/INFO. TO PROTECT NEWBORN	*H Ref To Com On Education/Higher Education	03-17-05	05-10-05
H0706	Yongue	FACILITATE HIRING OF TEACHERS.	*H Pres. To Gov. 8/23/2005	03-24-05	04-04-05
H0805	Glazier	UPDATE LIST OF HIGH PRIORITY SCHOOLS.	H Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education	05-10-05	
H1032	Glazier	PLACING STUDENTS IN SECLUSION.	*HR Ch. SL 2005-205	03-31-05	04-18-05
H1059	Wright	PUBLIC SCHOOL HEALTH CURRICULUM.	*H Re-ref Com On Education/Higher Education	04-27-05	05-31-05
H1074	Daughtry	CLARIFY SCHOOL ADMISSIONS PROCEDURES.	*H Ref To Com On Education/Higher Education	04-13-05	05-10-05
H1074	Daughtry	CLARIFY SCHOOL ADMISSIONS PROCEDURES.	*H Ref To Com On Education/Higher Education	05-17-05	06-01-05
H1151	Jeffus	PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS.	*H Ref To Com On Education/Higher Education	05-10-05	06-01-05
H1317	Glazier	STUDY/EDUCATION OF STUDENTS WITH DISABILITIES.	H Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education	04-27-05	
H1491	Glazier	INSURANCE FOR SCHOOL SOCIAL WORKERS.	*HR Ch. SL 2005-355	04-27-05	05-19-05
H1502	Martin	SCHOOLCHILDREN'S HEALTH ACT.	*H Ref To Com On Education/Higher Education	05-10-05	05-23-05
H1546	Preston	STUDENTS WITH DISABILITIES CHGS.	H Assigned To Education Subcommittee on	04-27-05	

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A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

North Carolina General Assembly
Through House Committee on

Date: 09/21/2005
Time: 13:25

Education Subcommittee on Pre-School, Elementary and Secondary Education
2005-2006 Biennium
Page: 002 of 0
Leg. Day: H-126/S-126

<u>Bill</u>	<u>Introducer</u>	<u>Short Title</u>	<u>Latest Action</u>	<u>In Date</u>	<u>Out Date</u>
			Pre-School, Elementary and Secondary Education		
S0821	Clark Jenkins	PERMISSIBLE SCHOOL BUS ROUTES MODIFIED.	*HR Ch. SL 2005-151	05-05-05	06-13-05

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MINUTES

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

Thursday, March 17, 2005

11:00 a.m.

Room 421, Legislative Office Building

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, March 17, 2005, at 11:00 A. M. in Room 421, of the Legislative Office Building. Representative Earline W. Parmon, presiding Chair, called the meeting to order and recognized the Pages and Sergeant-At-Arms. She also announced the passing of Representative John Hall and requested a moment of silence in his honor.

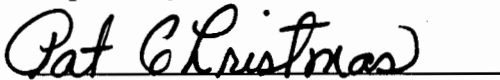
The following Committee members were present: Representative Glazier, Chair, Representative Blackwood, Vice Chair, Members: Representatives Bernard Allen, Bell, Carney, Cleveland, Fisher, Harrison, Holloway, Langdon, Nye, Pate, Walker, Wiley and Womble. The Visitor Registration Sheet (*Attachment 1*) is attached hereto and incorporated into the minutes.

Representative Parmon advised the committee that only one bill would be considered; House Bill 403 AMEND LAW ON PURCHASE OF PSAT FOR SCHOOLS.

HB 403, A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW REGARDING THE PURCHASE OF THE PRELIMINARY SCHOLASTIC APTITUDE TEST (PSAT) FOR THE PUBLIC SCHOOLS. Representative Glazier explained the bill (*Attachment 2*). At the conclusion of his presentation, Representative Womble asked if there was opposition to the bill. After discussion, Representative Womble moved for a favorable report as to the original bill and recommended that the bill be reported directly to the floor. The motion was unanimously passed.

There being no further business, the chair adjourned the meeting at 11:15a.m.

Respectfully submitted,



Pat Christmas

Committee Assistant



Representative Earline W. Parmon

Chair

ATTACHMENTS:

Attachment 1 Visitor Registration Sheet

Attachment 2 HB 403

Attachment 3 Bill Analysis

Attachment 4 Subcommittee Report

Attachment 5 Meeting Notice

VISITOR REGISTRATION SHEET

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

March 17, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Stephanie Erba	Intern, State Board of Ed.
Molly Ryan	NCSBA
Mr. C. Walker	The Mullen Co.
Sherry McDowell	NCSBA Inter
Katherine Jace	NCSBA
John Ayer	SBE/IDPI
Marnie Lucas	Education Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 403

Short Title: Amend Law on Purchase of PSAT for Schools. (Public)

Sponsors: Representatives Glazier, Parmon (Primary Sponsors); and Harrison.

Referred to: Education.

March 1, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE PURCHASE OF THE PRELIMINARY
SCHOLASTIC APTITUDE TEST (PSAT) FOR THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-174.18 reads as rewritten:

"§ 115C-174.18. Opportunity to take Preliminary Scholastic Aptitude Test.

Every student in the eighth through tenth grades who has completed Algebra I or who is in the last month of Algebra I shall be given an opportunity to take a version of the Preliminary Scholastic Aptitude Test (PSAT) one time at State expense. ~~The State Board of Education shall contract with the College Board for the tests and for comprehensive diagnostic information to accompany PSAT score reports."~~

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



HOUSE BILL 403:

Amend Law on Purchase of PSAT for Schools

BILL ANALYSIS

Committee: House Education Subcommittee
on K-12

Date: March 17, 2005

Version: First Edition

Introduced by: Reps. Glazier and Parmon

Summary by: Shirley Iorio, Ph D
Committee Analyst

SUMMARY: *The State Board of Education requested House Bill 403. This bill would amend G.S. 115C-174.18 by removing the requirement that the State Board of Education contract with the College Board for the Preliminary Scholastic Aptitude Tests (PSAT) and the diagnostic materials that accompany the PSAT score reports.*

BILL ANALYSIS: This change would eliminate a practice that the State Board no longer uses to provide LEAs with the Preliminary Scholastic Aptitude Tests (PSAT). Rather than the State Board contracting with the College Board for the tests, the Department of Public Instruction distributes the appropriate State funds to each LEA to purchase the number of PSATs they need. Students in grades eight through ten who have completed Algebra I or students who are in the last month of Algebra I will still have the opportunity to take, free of charge, the PSAT.

BACKGROUND: G.S. 115C-174.18, Opportunity to take Preliminary Scholastic Aptitude Test, was created in 1989. The PSAT (Preliminary SAT) is a test sponsored by The College Board, which measures verbal reasoning, critical reading, math problem solving, and writing skills developed by students over many years, both in and out of school. The test assesses students' ability to reason with facts and concepts as opposed to their ability to recall and recite them.

Students (usually high school sophomores and juniors) take the PSAT because it is an opportunity for them to practice for the SAT. In addition to providing students an opportunity to practice for the SAT, schools and school systems are provided a comprehensive overview of their students' performance on the PSAT through the Summary of Answers. The optional Summary of Answers report with graphs and tables shows how students compare, item by item, to a comparable group of students and to the national cohort. This diagnostic information assists schools and school systems in identifying students' strengths and weaknesses in verbal, reading, writing, and mathematical reasoning skills. Depending upon the diagnostic results, appropriate course work and/or tutorials may be planned.

HB403-SMSF-001

Pat Christman

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 403

A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW REGARDING THE PURCHASE OF THE PRELIMINARY SCHOLASTIC APTITUDE TEST (PSAT) FOR THE PUBLIC 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:

Representatives Bell, Lucas, and McLawhorn for the Standing Committee on EDUCATION.

s/ Maureen McLawhorn

- ☒ 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

Pat Christmas (Rep. Parmon)

To: Pat Christmas (Rep. Parmon); Rep. Rick Glazier; Rep. Pricey Harrison; Rep. Verla Insko; Rep. Bill Current; Rep. Debbie Clary; Rep. John Rayfield

Cc: Carin Savel (Rep. Glazier); Anne Wilson (Rep. Harrison); Pam Evans (Rep. Insko); Wendy Miller (Rep. Current); Shirley Winstead (Rep. Clary); Brenda Olls (Rep. Rayfield)

Subject: AMENDED NOTICE FOR MEETING ON THURSDAY, MARCH 17, 2005

**AMENDED NOTICE
HB 469 & HB 496 ARE DELETED FROM THE AGENDA**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

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

DAY & DATE: Thursday, March 17, 2005

TIME: 11:00 AM

LOCATION: 421 LOB

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

**HB 403 AMEND LAW ON PURCHASE OF PSAT FOR SCHOOLS - REP. GLAZIER AND
REP. PARMON**

Respectfully,
Representatives Glazier and Parmon
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **3:00** on **March 16, 2005**.

____ Principal Clerk
____ Reading Clerk - House Chamber

Pat Christmas (Committee Assistant)

Carin Savel (Rep. Glazier)

From: Carin Savel (Rep. Glazier)
Sent: Tuesday, March 22, 2005 2:50 PM
To: Rep. Pricey Harrison; Rep. Verla Insko; Rep. Bill Current; Rep. Debbie Clary; Rep. John Rayfield
Cc: Pat Christmas (Rep. Parmon); Pam Evans (Rep. Insko); Anne Wilson (Rep. Harrison); Carin Savel (Rep. Glazier); Wendy Miller (Rep. Current); Shirley Winstead (Rep. Clary); Brenda Olls (Rep. Rayfield)
Subject: House Committee Meeting March 24, 2005

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

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

DAY & DATE: Thursday, March 24, 2005
TIME: 11:00 AM
LOCATION: 421 LOB

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

HB 469 -- LEASE PURCHASE FOR SCHOOL WAREHOUSE, Reps. Current, Clary and Rayfield
HB 496 -- STUDENT ASTHMA MEDICATIONS, Reps. Harrison and Insko

Respectfully,
Representatives Glazier and Parmon
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **3:00** on **March 22, 2005**.

____Principal Clerk
____Reading Clerk - House Chamber

Carin Savel (Committee Assistant)

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

Thursday, March 24, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEMS

HB 469 Lease Purchase For School Warehouse
Representatives Current, Clary, and Rayfield

HB 496 Student Asthma Medications
Representatives Harrison and Insko

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

March 24, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, March 24, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chairs: Representatives Blackwood and Goforth, Members: Representatives Bernard Allen, Carney, Cleveland, Fisher, Folwell, Harrison, Hilton, Holloway, Jeffus, Langdon, Luebke, Pate, Preston, Walker, Warren, Wiley and Womble. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.

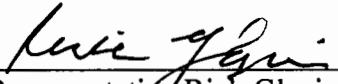
The following bills were considered:

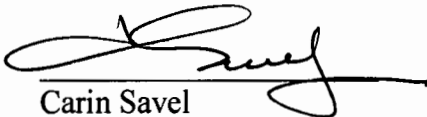
HB 469, AN ACT TO ALLOW A LOCAL SCHOOL ADMINISTRATIVE UNIT THAT OPERATES A CENTRAL KITCHEN TO ACQUIRE BY LEASE PURCHASE OR INSTALLMENT PURCHASE A WAREHOUSE FOR THE CENTRAL KITCHEN. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Current presented the bill. Upon motion made by Representative Womble, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

HB 496 AN ACT REQUIRING LOCAL SCHOOL BOARDS TO ADOPT POLICIES PERMITTING STUDENTS WITH ASTHMA OR STUDENTS SUBJECT TO ANAPHYLACTIC REACTIONS, OR BOTH, TO POSSESS AND SELF-ADMINISTER ASTHMA MEDICATION, AND TO RECODIFY CERTAIN STATUTES TO CREATE A NEW ARTICLE 26A IN CHAPTER 115C OF THE GENERAL STATUTES. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Harrison presented the bill. Representative Wiley made a motion for an amendment to provide back-up medications to the bill. The amendment carried. Upon motion made by Representative Allen, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported directly to the floor of the house.

There being no further business, the Chair adjourned the meeting at 11:47 AM.

Respectfully submitted,


Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

VISITOR REGISTRATION SHEET

EDUCATION K-12

Name of Committee

MARCH 24, 2005

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

Cindy Moseley

Guilford County Resident

STEVEN TAYLOR

DPI - SCHOOL PLANNING

Rebecca Trank

NCACC

43 Tapscott Racer

NLA CC

Walter G.

УСПАХ

Shen Gueaves

Rev

Leanne Vimin

NCSBA

Molly Ryan

NCSBA

Katherine, Joyce

NCA SA

Susan Harris

WCPSS

Frank Fields

Custom County Schools

John Harris

Public School

Michael / House

NR AE

Dávid Irgán

WSJ

Jessica Sage

NCFPC

Melissa Reed

NARRAL

Prize Johnson

Planned Parenthood

John Moltze

Govt office

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 469*

PROPOSED COMMITTEE SUBSTITUTE H469-CSRH-2 [v.4]

3/23/2005 8:58:58 PM

Short Title: Lease Purchase for School Warehouse.

(Public)

Sponsors:

Referred to:

March 3, 2005

A BILL TO BE ENTITLED

AN ACT TO ALLOW A LOCAL SCHOOL ADMINISTRATIVE UNIT THAT OPERATES A CENTRAL KITCHEN TO ACQUIRE BY LEASE PURCHASE OR INSTALLMENT PURCHASE A WAREHOUSE FOR THE CENTRAL KITCHEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20 reads as rewritten:

""§ 160A-20. Security interests.

(a) Purchase. – A unit of local government may purchase, or finance or refinance the purchase of, real or personal property by installment contracts that create in some or all of the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Improvements. – A unit of local government may finance or refinance the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for the construction or repair.

(c) Accounts. – A unit of local government may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of the advance funding are invested pending disbursement. A unit of local government may also use other accounts, such as debt service payment accounts and debt service reserve accounts, to facilitate transactions authorized by this section. To secure transactions authorized by this section, a unit of local government may also create security interests in these accounts.

(d) Nonsubstitution. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

1 (1) Continue to provide a service or activity; or

2 (2) Replace or provide a substitute for any fixture, improvement, project,
3 or property financed, refinanced, or purchased pursuant to the contract.

4 (e) Oversight. – A contract entered into under this section is subject to approval
5 by the Local Government Commission under Article 8 of Chapter 159 of the General
6 Statutes if it:

7 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and
8 159-148(a)(3), or involves the construction or repair of fixtures or
9 improvements on real property; and

10 (2) Is not exempted from the provisions of that Article by one of the
11 exemptions contained in G.S. 159-148(b).

12 (e1) Public Hospitals. – A nonprofit entity operating or leasing a public hospital
13 may enter into a contract pursuant to this section only if the nonprofit entity will have an
14 ownership interest in the property being financed or refinanced, including a leasehold
15 interest. The security interest granted in the property shall be only to the extent of the
16 nonprofit entity's property interest. In addition, any contract entered into by a nonprofit
17 entity operating or leasing a public hospital pursuant to this section is subject to the
18 approval of the city, county, hospital district, or hospital authority that owns the
19 hospital. Approval of the city, county, hospital district, or hospital authority may be
20 withheld only under one or more of the following circumstances:

21 (1) The contract would cause the city, county, hospital district, or hospital
22 authority to breach or violate any covenant in an existing financing
23 instrument entered into by the nonprofit entity.

24 (2) The contract would restrict the ability of the city, county, hospital
25 district, or hospital authority to incur anticipated bank-eligible
26 indebtedness under federal tax laws.

27 (3) The entering into of the contract would have a material, adverse
28 impact on the credit ratings of the city, county, hospital district, or
29 hospital authority or would otherwise materially interfere with an
30 anticipated financing by the nonprofit entity.

31 (f) Limit of Security. – No deficiency judgment may be rendered against any
32 unit of local government in any action for breach of a contractual obligation authorized
33 by this section. The taxing power of a unit of local government is not and may not be
34 pledged directly or indirectly to secure any moneys due under a contract authorized by
35 this section.

36 (g) Public Hearing. – Before entering into a contract under this section involving
37 real property, a unit of local government shall hold a public hearing on the contract. A
38 notice of the public hearing shall be published once at least 10 days before the date
39 fixed for the hearing.

40 (h) Local Government Defined. – As used in this section, the term "unit of local
41 government" means any of the following:

42 (1) A county.

43 (2) A city.

- (3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
- (3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
- (3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.
- (4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.
- (5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.
- (5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.
- (5b) A local airport authority that was created pursuant to a local act of the General Assembly.
- (6) A local school administrative unit whose board of education is authorized to levy a school tax.
- (6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (6c) A local school administrative unit that operates a central kitchen, but only for the purpose of purchasing or financing the purchase of warehouse space for use with the central kitchen.
- (7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.
- (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- (9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.
- (10) A regional natural gas district, as defined by Article 28 of this Chapter.
- (11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.
- (12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

1 **SECTION 2.** G.S. 115C-441 is amended by adding the following new
2 subsection to read:

3 "(c2) Installment Contracts for Financing Warehouse for Central Kitchen. - A local
4 school administrative unit may enter into a contract under G.S. 160A-20, some portion
5 or all of which is to be performed or paid in ensuing fiscal years, or both, to purchase or
6 finance the purchase of warehouse space for a central kitchen, without the budget
7 resolution including an appropriation for the entire obligation, provided:

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

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

13 (3) The board of county commissioners approves the contract by adopting
14 a resolution that binds the board of county commissioners to
15 appropriate sufficient funds in ensuing fiscal years to meet the
16 amounts to be paid under the contract in those years."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 496

PROPOSED COMMITTEE SUBSTITUTE H496-CSRH-1 [v.7]

3/24/2005 9:27:56 AM

Short Title: Student Asthma Medications.

(Public)

Sponsors:

Referred to:

March 7, 2005

A BILL TO BE ENTITLED

AN ACT REQUIRING LOCAL SCHOOL BOARDS TO ADOPT POLICIES PERMITTING STUDENTS WITH ASTHMA OR STUDENTS SUBJECT TO ANAPHYLACTIC REACTIONS, OR BOTH, TO POSSESS AND SELF-ADMINISTER ASTHMA MEDICATION, AND TO RECODIFY CERTAIN STATUTES TO CREATE A NEW ARTICLE 26A IN CHAPTER 115C OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 26A.

Special Medical Needs of Students.

"§ 115C-375.2. Possession and Self-Administration of Asthma Medication by Students with Asthma or Students Subject to Anaphylactic Reactions, or Both.

(a) Local boards of education shall adopt a policy authorizing a student with asthma or a student subject to anaphylactic reactions, or both, to possess and self-administer asthma medication on school property during the school day, at school-sponsored activities, or while in transit to or from school or school-sponsored events. As used in this section, "asthma medication" means a medicine prescribed for the treatment of asthma or anaphylactic reactions and includes a prescribed asthma inhaler or epinephrine auto-injector. The policy shall include a requirement that the student's parent or guardian provide to the school:

(1) Written authorization from the student's parent or guardian for the student to possess and self-administer asthma medication.

(2) A written statement from the student's health care practitioner verifying that the student has asthma or an allergy that could result in an anaphylactic reaction, or both, and that the health care practitioner

prescribed medication for use on school property during school day, at school-sponsored activities, or while in transit to or from school or school-sponsored events.

(3) A written statement from the student's health care practitioner who prescribed the asthma medication that the student understands, has been instructed in self-administration of the asthma medication, and has demonstrated the skill level necessary to use the asthma medication and any device that that is necessary to administer the asthma medication.

(4) A written treatment plan and written emergency protocol formulated by the health care practitioner who prescribed the medicine for managing the student's asthma or anaphylaxis episodes and for medication use by the student.

(5) A statement provided by the school and signed by the student's parent or guardian acknowledging that the local school administrative unit and its employees and agents are not liable for an injury arising from a student's possession and self-administration of asthma medication.

(6) Other requirements necessary to comply with State and federal laws.

~~(b) If the school is served by a school nurse, then~~ the student must demonstrate to the school nurse, or their designee, the skill level necessary to use the asthma medication and any device that is necessary to administer the medication.

(c) Backup asthma medication, if provided by the student's parent or guardian, shall be kept at the student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(d) Information provided to the school by the student's parent or guardian shall be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(e) If a student uses asthma medication prescribed for the student in a manner other than as prescribed, a school may impose on the student disciplinary action according to the school's disciplinary policy. A school may not impose disciplinary action that limits or restricts the student's immediate access to the asthma medication.

(f) The requirement that permission granted for a student to possess and self-administer asthma medication shall be effective only for the same school and for 365 calendar days and must be renewed annually.

(g) No local board of education, nor its members, employees, designees, agents or volunteers, shall be liable in civil damages to any party for any act authorized by this subsection, or for any omission relating to that act, unless that act or omission amounts to gross negligence, wanton conduct or intentional wrongdoing."

SECTION 2.(a) G.S. 115C-307(c) reads as rewritten:

(c) To Provide Some Medical Care to Students. – It is within the scope of duty of teachers, including substitute teachers, teacher assistants, student teachers or any other public school employee when given such authority by the board of education or its designee, ~~(i) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (ii) to give emergency health care when reasonably apparent~~

1 ~~circumstances indicate that any delay would seriously worsen the physical condition or~~
2 ~~endanger the life of the pupil, and (iii) to perform any other first aid or life saving~~
3 ~~techniques in which the employee has been trained in a program approved by the State~~
4 ~~Board of Education: Provided, that no one shall be required to administer drugs or~~
5 ~~medication or attend life saving techniques programs.~~

6 ~~Any public school employee, authorized by the board of education or its designee to~~
7 ~~act under (i), (ii), or (iii) above, shall not be liable in civil damages for any such~~
8 ~~authorized act or for any omission relating to such act unless such act or omission~~
9 ~~amounts to gross negligence, wanton conduct or intentional wrongdoing. Any person,~~
10 ~~serving in a voluntary position at the request of or with the permission or consent of the~~
11 ~~board of education or its designee, who has been given the authority by the board of~~
12 ~~education or its designee to act under (ii) above shall not be liable in civil damages for~~
13 ~~any such authorized act or for any omission relating to such act unless the act amounts~~
14 ~~to gross negligence, wanton conduct or intentional wrongdoing.~~

15 ~~At the commencement of each school year, but prior to the beginning of classes, and~~
16 ~~thereafter as circumstances require, the principal of each school shall determine which~~
17 ~~persons will participate in the medical care program. designee to provide medical care to~~
18 ~~students as provided in G.S. 115C-375.1"~~

19 **SECTION 2.(b)** Article 26A, as created in Section 1 of this act, is amended
20 by adding the following new section to read:

21 **"§ 115C-375.1. To Provide Some Medical Care to Students.**

22 It is within the scope of duty of teachers, including substitute teachers, teacher
23 assistants, student teachers or any other public school employee when authorized by the
24 board of education or its designee, (i) to administer any drugs or medication prescribed
25 by a doctor upon written request of the parents, (ii) to give emergency health care when
26 reasonably apparent circumstances indicate that any delay would seriously worsen the
27 physical condition or endanger the life of the pupil, and (iii) to perform any other first
28 aid or life saving techniques in which the employee has been trained in a program
29 approved by the State Board of Education. No employee, however, shall be required to
30 administer drugs or medication or attend life saving techniques programs.

31 Any public school employee, authorized by the board of education or its designee to
32 act under (i), (ii), or (iii) above, shall not be liable in civil damages for any authorized
33 act or for any omission relating to that act unless the act or omission amounts to gross
34 negligence, wanton conduct or intentional wrongdoing. Any person, serving in a
35 voluntary position at the request of or with the permission or consent of the board of
36 education or its designee, who has been given the authority by the board of education or
37 its designee to act under (ii) above shall not be liable in civil damages for any
38 authorized act or for any omission relating to the act unless the act amounts to gross
39 negligence, wanton conduct or intentional wrongdoing.

40 At the commencement of each school year, but before the beginning of classes, and
41 thereafter as circumstances require, the principal of each school shall determine which
42 persons will participate in the medical care program.

43 **SECTION 3.(a)** G.S. 115C-47(42) is recodified as G.S. 115C-375.3.

1 **SECTION 3.(b)** G.S. 115C-375.3, as established in subsection (a) of this
2 section, reads as rewritten:

3 **"§ 115C-375.3. ~~To Implement~~ Guidelines to Support and Assist Students With**
4 **Diabetes.**

5 Local boards of education shall ensure that the guidelines adopted by the State
6 Board of Education under G.S. 115C- 12(31) are implemented in schools in which
7 students with diabetes are enrolled. In particular, the boards shall require the
8 implementation of the procedures set forth in those guidelines for the development and
9 implementation of individual diabetes care plans. Local boards also shall make available
10 necessary information and staff development to teachers and school personnel in order
11 to appropriately support and assist students with diabetes in accordance with their
12 individual diabetes care plans."

13 **SECTION 4.(a)** G.S. 115C-47(44) is recodified as G.S. 115C-375.4.

14 **SECTION 4.(b)** G.S. 115C-375.4, as established in subsection (a) of this
15 section reads as rewritten:

16 **"§ 115C-375.4. ~~To Ensure that Schools Provide Information Concerning~~**
17 **Meningococcal Meningitis and Influenza and Their Vaccines.**

18 Local boards of education shall ensure that schools provide parents and guardians
19 with information about meningococcal meningitis and influenza and their vaccines at
20 the beginning of every school year. This information shall include the causes,
21 symptoms, and how meningococcal meningitis and influenza are spread and the places
22 where parents and guardians may obtain additional information and vaccinations for
23 their children."

24 **SECTION 5.** G.S. 115C-288(e) reads as rewritten:

25 "(e) To Discipline Students and to Assign Duties to Teachers with Regard to the
26 Discipline, General Well-being, and Medical Care of Students. – The principal shall
27 have authority to exercise discipline over the pupils of the school ~~pursuant to under~~
28 policies adopted by the local board of education as prescribed by G.S. 115C-391(a). The
29 principal shall use reasonable force to discipline students ~~and shall assign duties to~~
30 ~~teachers with regard to the general well-being and the medical care of students pursuant~~
31 ~~to the provisions of G.S. 115C-307 and 115C-390. The principal also under G.S. 115C-~~
32 ~~390 and may suspend or dismiss pupils pursuant to the provisions of under~~ G.S.
33 115C-391. The principal shall assign duties to teachers with regard to the general
34 well-being and the medical care of students under G.S. 115C-307 and Article 26A of
35 this Chapter."

36 **SECTION 6.** The Department of Health and Human Services, Department
37 of Public Instruction or other appropriate State agencies shall apply for any federal
38 grants for which the entity is eligible under 42 U.S.C. 280g or other federal statutes or
39 regulations related to treating, preventing or training on children's asthma.

40 **SECTION 7.** This act is effective when it becomes law. G.S. 115C-375.2,
41 as established in Section 1 of this act, applies beginning with the 2005-2006 school
42 year.

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 469

A BILL TO BE ENTITLED AN ACT TO ALLOW A LOCAL SCHOOL ADMINISTRATIVE UNIT THAT OPERATES A CENTRAL KITCHEN TO ACQUIRE BY LEASE PURCHASE OR INSTALLMENT PURCHASE A WAREHOUSE FOR THE CENTRAL KITCHEN.

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

s/ Maurice W. Lucas

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

03/26/03

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 496

A BILL TO BE ENTITLED AN ACT REQUIRING LOCAL SCHOOL BOARDS TO ADOPT POLICIES PERMITTING STUDENTS DIAGNOSED WITH ASTHMA TO POSSESS AND SELF-ADMINISTER certain ASTHMA or anaphylaxis MEDICATIONS.

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

s/ Martin W. Lucas

- ☐ 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.

03/26/03

MINUTES

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

Thursday, March 31, 2005

11:00 a.m.

Room 421, Legislative Office Building

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, March 31, 2005, at 11:00 a.m. in Room 421 of the Legislative Office Building. Representative Earline W. Parmon, presiding Chair, called the meeting to order and recognized the Pages and Sergeant-At-Arms.

The following Committee members were present: Representative Glazier, Chair, Vice Chairs: Representatives Blackwood and Goforth, Members: Representatives Bernard Allen, Bell, Carney, Cleveland, Fisher, Folwell, Harrison, Hilton, Holloway, Jeffus, Johnson, Langdon, Luebke, Nye, Pate, Preston, Walker, Warren, Wiley, Womble and Yongue. The Visitor Registration Sheet (*Attachment 2*) is attached hereto and incorporated into the minutes.

Changing the order of the agenda (*Attachment 1*), Representative Parmon announced that **HB 706 FACILITATE THE HIRING OF TEACHERS** would be considered. With a proposed committee substitute for the bill (*Attachment 3*) Representative Parmon moved, without objection, to adopt the proposed committee substitute for discussion purposes. The motion was unanimously passed.

HB 706, entitled, AN ACT TO AMEND THE TEACHER CERTIFICATION LAW TO FACILITATE THE HIRING OF TEACHERS. Representatives Yongue, Carney, Preston and Johnson were recognized to explain the bill. Staff Counsel Shirley Iorio was asked to explain the proposed committee substitute and technical corrections.

Representative Yongue spoke on the need for this bill and that it originated from the plea of the North Carolina Association of School Administrators that represents the superintendents from across the state. Representative Linda Johnson of Cabarrus County spoke on how the bill would assist in making good hiring decisions and remove the barriers to bring in highly qualified individuals from other states. Representative Preston stated that the bill would ensure well-qualified and certified teachers in the classroom. Representative Carney made comments on how this bill raises the standards with highly qualified certified teachers and how support of the bill will improve educational opportunities offered to every child in North Carolina.


Explanation of the bill was followed by a question and answer discussion regarding the need to recruit highly qualified certified teachers and the barriers created moving from state to state as well as comments by committee members in support of the bill.

Cecil Banks, Director of Government Relations, North Carolina Association of Educators (NCAE) voiced the Association's concern of wanting language in the bill assuring that teachers coming into the state would meet comparable North Carolina standards. Jim Causby of the North Carolina Association of School Administrators expressed appreciation for the committee's support of the bill. J. B. Buxton of Governor Easley's office expressed that the Governor appreciated the intent of the bill and its bill sponsors. However, what he did not support in the bill is the intent to remove North Carolina standards and accept the standards of other states. He further stated that the State Board of Education would take action the following week to incorporate flexibility for out-of-state teachers to meet North Carolina standards. He stated that, additionally, the bill stripped authority of the State Board of Education in licensing teachers. Representative Womble was recognized and moved for a favorable report as to the committee substitute bill and unfavorable to the original bill with the report made directly to the floor of the House. The motion was unanimously passed.

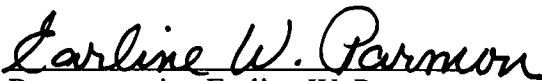
Due to the level of interest in this bill, Representative Parmon announced that HB 683 would be rescheduled and considered at another time.

There being no further business, the chair adjourned the meeting at 11:50 a.m.

Respectfully submitted,



Pat Christmas
Committee Assistant



Representative Earline W. Parmon
Chair

ATTACHMENTS:

- Attachment 1* Agenda
- Attachment 2* Visitor Registration Sheet
- Attachment 3* Proposed Committee Substitute
- Attachment 4* HB 706
- Attachment 5* Bill Analysis
- Attachment 6* Subcommittee Report
- Attachment 7* HB 683
- Attachment 8* Meeting Notice

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

Thursday, March 31, 2005
11:00 AM
Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Earline W. Parmon, Presiding Chair

II. AGENDA ITEMS

HB 683 ADD INFO ON PROTECTING NEWBORN TO CURRICULUM
Representatives Haire, Fisher and Justice

HB 706 FACILITATE HIRING OF TEACHERS
Representatives Yongue, Carney, Preston and Johnson

III. ADJOURN

VISITOR REGISTRATION SHEET

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

March 31, 2005

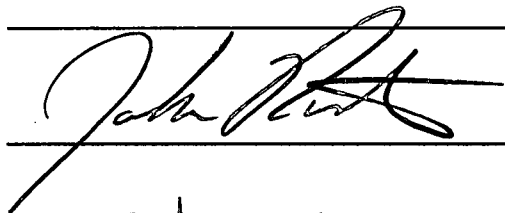
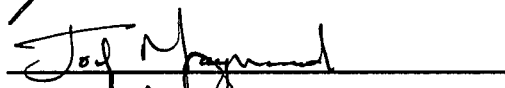

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

	NC Family Policy Council
	CMS
	NCLCH
Michael Nelson	CONSERVATION Council
Michael House	NCAE
Leanne Winice	NCSBA
Butter Gurnells	NCSDA
Mary Morgan Reeve	Schoolbook.com - Cary

VISITOR REGISTRATION SHEET

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

March 31, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Pymmy	S
Qua Larner	WCPSS
Jim Hyn	SBE/DPI
Alma Noma	PSF
B B	Gov office
Molly Ryan	NCSBA
May Don	VIF
Ann McArthur	Governor's Office
Natalie Fixmer	Planned Parenthood of Central MS
Paige Johnson	Planned Parenthood of Central NC
Tim Crowley	UNC 7V

VISITOR REGISTRATION SHEET

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

March 31, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>Ang May</i>	<i>RT</i>
BRIAN LEWIS	Covenant w/ NC's Children
<i>Hyd Hm</i>	NCPPM
<i>Karen Jean</i>	NCAEA
<i>Cecil Bork</i>	NCAE
Melissa Reed	NARAL
Jim Casby	NCAEA
Ann C. Greaser	PGMC
MARCUS DONNS	NCAE
Stephanie Dorko	Charlotte Chamber
<i>Pat Gilpin</i>	APPCNC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 706
PROPOSED COMMITTEE SUBSTITUTE H706-CSSF-3 [v.1]

3/30/2005 4:04:59 PM

Short Title: Facilitate Hiring of Teachers.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE TEACHER CERTIFICATION LAW TO FACILITATE
3 THE HIRING OF TEACHERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-296 reads as rewritten:

6 "**§ 115C-296. Board sets certification-Certification requirements.**

7 (a) State Board of Education Shall Certify Teachers. – The State Board of
8 Education shall have ~~entire~~ control of certifying all applicants for teaching positions in
9 all public elementary and high schools of North Carolina; ~~and it~~ Carolina, subject to
10 laws enacted by the General Assembly. An applicant must meet the requirements for a
11 highly qualified teacher under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301,
12 et seq., to be certified in North Carolina. The State Board shall prescribe the rules and
13 regulations for the renewal and extension of all certificates and shall determine and fix
14 the salary for each grade and type of certificate ~~which~~ that it authorizes.

15 ~~The State Board of Education may require an applicant for an initial bachelors~~
16 ~~degree certificate or graduate degree certificate to demonstrate the applicant's academic~~
17 ~~and professional preparation by achieving a prescribed minimum score on a standard~~
18 ~~examination appropriate and adequate for that purpose. The~~

19 (a1) Certification of Beginning In-State and Out-of-State Teachers. – The
20 certification requirements for an initial bachelors degree certificate or masters degree
21 certificate for a beginning teacher who has completed an approved teacher education
22 program and who is an in-State applicant or an applicant from another state shall
23 include the following:

24 (1) An applicant for a certificate as an elementary education teacher or a
25 special education teacher shall demonstrate academic and professional
26 preparation by either (i) achieving a prescribed minimum score on a
27 standard examination appropriate and adequate for that purpose or (ii)

otherwise meeting the requirements for a highly qualified teacher under the No Child Left Behind Act of 2001.

(2) An applicant for a certificate in all other areas of certification shall demonstrate academic and professional preparation by either (i) achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose, (ii) completing an appropriate academic major, graduate degree, or comparable coursework, or (iii) otherwise meeting the requirements for a highly qualified teacher under the No Child Left Behind Act of 2001.

(a2) Certification of Teachers from Other States with Less Than Three Years of Experience. – 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, except as otherwise provided in the No Child Left Behind Act of 2001. The initial certification shall be granted 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.

(a3) Certification of In-State and Out-of-State Teachers with at Least Three Years of Experience. – A teacher from North Carolina or 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 North Carolina or 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 in North Carolina, except as otherwise provided in the No Child Left Behind Act of 2001.

(a4) Certification of Visiting International Faculty. – The State Board of Education shall issue an international faculty certificate to an individual on a cultural exchange visa who (i) has a university degree and a teaching certificate in his or her country, (ii) is qualified in his or her home country to teach the subjects he or she will teach, (iii) speaks English proficiently and (iv) meets the definition of highly qualified under the No Child Left Behind Act of 2001. The certificate shall be granted for the period of time during which the teacher holds a cultural exchange visa, not to exceed three consecutive years.

An individual on a cultural exchange visa shall not be eligible to receive any other teacher certificate.

(a5) Testing Requirements. – An applicant for teacher certification shall not be required to take and pass a standard examination except as required by subsection (a1) of this section or the No Child Left Behind Act of 2001.

The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial certification exam

1 sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that
2 each applicant has adequate academic and professional preparation to teach.

3 (a1) The State Board shall adopt policies that establish the minimum scores for
4 any required standard examinations and other measures necessary to assess the
5 qualifications of professional personnel as required under subsection (a)(a1) of this
6 ~~section~~ section or the No Child Left Behind Act of 2001. For purposes of this
7 subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the
8 General Statutes. At least 30 days prior to changing any policy adopted under this
9 subsection, the State Board shall provide written notice to all North Carolina schools of
10 education and to all local boards of education. The written notice shall include the
11 proposed revised policy.

12 (a2)(a6) Fees for Teacher Certification. – The State Board of Education shall
13 impose the following schedule of fees for teacher certification and administrative
14 changes:

- 15 (1) Application for demographic or administrative changes to a certificate,
16 \$30.00.
- 17 (2) Application for a duplicate certificate or for copies of documents in the
18 certification files, \$30.00.
- 19 (3) Application for a renewal, extension, addition, upgrade, and variation
20 to a certificate, \$55.00.
- 21 (4) Initial application for New, In-State Approved Program Graduate,
22 \$55.00.
- 23 (5) Initial application for ~~Out of State certificate~~, certificate for a teacher
24 from another state, \$85.00.
- 25 (6) All other applications, \$85.00.

26 The applicant must pay the fee at the time the application is submitted.

27 (b) Standards for Teacher and School Administrator Education Programs, Entry
28 into Teacher Education Programs, and Continuing Certification. – It is the policy of the
29 State of North Carolina to maintain the highest quality teacher education programs and
30 school administrator programs in order to enhance the competence of professional
31 personnel certified in North Carolina. To the end that teacher preparation programs are
32 upgraded to reflect a more rigorous course of study, the State Board of Education, as
33 lead agency in coordination and cooperation with the University Board of Governors,
34 the Board of Community Colleges and such other public and private agencies as are
35 necessary, shall continue to refine the several certification requirements, standards for
36 approval of institutions of teacher education, standards for institution-based innovative
37 and experimental programs, standards for implementing consortium-based teacher
38 education, and standards for improved efficiencies in the administration of the approved
39 programs. The certification program shall provide for initial certification after
40 completion of preservice training, continuing certification after three years of teaching
41 experience, and certificate renewal every five years thereafter, until the retirement of the
42 teacher. The last certificate renewal received prior to retirement shall remain in effect
43 for five years after retirement.

1 The State Board of Education, as lead agency in coordination with the Board of
2 Governors of The University of North Carolina and any other public and private
3 agencies as necessary, shall continue to raise standards for entry into teacher education
4 programs.

5 The State Board of Education, in consultation with the Board of Governors of The
6 University of North Carolina, shall evaluate and develop enhanced requirements for
7 continuing certification. The new requirements shall reflect more rigorous standards for
8 continuing certification and to the extent possible shall be aligned with quality
9 professional development programs that reflect State priorities for improving student
10 achievement.

11 ~~The State Board of Education, in consultation with local boards of education and the~~
12 ~~Board of Governors of The University of North Carolina, shall reevaluate and enhance~~
13 ~~the requirements for renewal of teacher certificates. The State Board shall consider~~
14 ~~modifications in the certificate renewal achievement and to make it a mechanism for~~
15 ~~teachers to renew continually their knowledge and professional skills. The State Board~~
16 ~~shall adopt new standards for the renewal of teacher certificates by May 15, 1998.~~

17 The standards for approval of institutions of teacher education shall require that
18 teacher education programs for students who do not major in special education include
19 demonstrated competencies in the identification and education of children with learning
20 disabilities. The State Board of Education shall incorporate the criteria developed in
21 accordance with G.S. 116-74.21 for assessing proposals under the School Administrator
22 Training Program into its school administrator program approval standards.

23 All North Carolina institutions of higher education that offer teacher education
24 programs, masters degree programs in education, or masters degree programs in school
25 administration shall provide performance reports to the State Board of Education. The
26 performance reports shall follow a common format, shall be submitted according to a
27 plan developed by the State Board, and shall include the information required under the
28 plan developed by the State Board.

29 (b1) Performance Reports for Teacher and School Administrator Education
30 Programs. – The State Board of Education shall develop a plan to provide a focused
31 review of teacher education programs and the current process of accrediting these
32 programs in order to ensure that the programs produce graduates that are well prepared
33 to teach. The plan shall include the development and implementation of a school of
34 education performance report for each teacher education program in North Carolina.
35 The performance report shall include at least the following elements: (i) quality of
36 students entering the schools of education, including the average grade point average
37 and average score on preprofessional skills tests that assess reading, writing, math and
38 other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average
39 scores of graduates on professional and content area examination for the purpose of
40 certification; (v) percentage of graduates receiving initial certification; (vi) percentage
41 of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for
42 four years; (viii) graduate satisfaction based on a common survey; and (ix) employer
43 satisfaction based on a common survey. The performance reports shall follow a
44 common format. The performance reports shall be submitted annually. The State Board

1 of Education shall develop and implement a plan ~~to be implemented beginning in the~~
2 ~~1998-99 school year~~ to reward and sanction approved teacher education programs and
3 masters of education programs and to revoke approval of those programs based on the
4 performance reports and other criteria established by the State Board of Education.

5 The State Board also shall develop and implement a plan for annual performance
6 reports for all masters degree programs in education and school administration in North
7 Carolina. To the extent it is appropriated, the performance report shall include similar
8 indicators to those developed for the performance report for teacher education
9 programs. The performance reports shall follow a common format.

10 Both plans for performance reports also shall include a method to provide the annual
11 performance reports to the Board of Governors of The University of North Carolina, the
12 State Board of Education, and the boards of trustees of the independent colleges. The
13 State Board of Education shall review the schools of education performance reports and
14 the performance reports for masters degree programs in education and school
15 administration each year the performance reports are submitted. The State Board shall
16 submit the performance report for the 1999-2000 school year to the Joint Legislative
17 Education Oversight Committee by December 15, 2000. Subsequent performance
18 reports shall be submitted to the Joint Legislative Education Oversight Committee on an
19 annual basis by October 1.

20 (c) Lateral Entry. – It is the policy of the State of North Carolina to encourage
21 lateral entry into the profession of teaching by skilled individuals from the private
22 sector. To this end, before the 1985-86 school year begins, the State Board of Education
23 shall develop criteria and procedures to accomplish the employment of such individuals
24 as classroom teachers. ~~Regardless of credentials or competence, no one shall begin~~
25 ~~teaching above the middle level of differentiation.~~ Skilled individuals who choose to
26 enter the profession of teaching laterally may be granted ~~a provisional~~ an alternative
27 teaching certificate for no more than five-three years prior to completing the
28 requirements for lateral entry and shall be required to obtain certification before
29 contracting for a ~~sixth~~ fourth year of service with any local administrative unit in this
30 State.

31 It is further the policy of the State of North Carolina to ensure that local boards of
32 education can provide the strongest possible leadership for schools based upon the
33 identified and changing needs of individual schools. To this end, before the 1994-95
34 school year begins, the State Board of Education shall carefully consider a lateral entry
35 program for school administrators to ensure that local boards of education will have
36 sufficient flexibility to attract able candidates.

37 (d) Suspension and Revocation of Certificates. – The State Board shall adopt
38 rules to establish the reasons and procedures for the suspension and revocation of
39 certificates. The State Board shall revoke the certificate of a teacher or school
40 administrator if the State Board receives notification from a local board or the Secretary
41 of Health and Human Services that a teacher or school administrator has received an
42 unsatisfactory or below standard rating under G.S. 115C-333(d). In addition, the State
43 Board may revoke or refuse to renew a teacher's certificate when:

- (1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- (2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.
- (3) In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

- a. The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- b. The assistance team assigned to that school makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates. In addition, the Board shall have the authority to contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by certificated persons.

(e) Mentor Program. – The State Board of Education shall develop a mentor program to provide ongoing support for teachers entering the profession. In developing the mentor program, the State Board shall conduct a comprehensive study of the needs of new teachers and how those needs can be met through an orientation and mentor support program. For the purpose of helping local boards to support new teachers, the State Board shall develop and distribute guidelines which address optimum teaching load, extracurricular duties, student assignment, and other working condition considerations. These guidelines shall provide that initially certified teachers not be assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties of these teachers be minimized. The State Board shall develop and coordinate a mentor teacher training program. The State Board shall develop criteria for selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher training program.

(f) Masters/Advanced Competencies Certificate. – The State Board of Education, after consultation with the Board of Governors of The University of North Carolina, shall develop a new category of teacher certificate known as the "Masters/Advanced Competencies" certificate. To receive this certificate, an applicant shall successfully complete a masters degree program that includes rigorous academic preparation in the subject area which the applicant will teach and in the skills and knowledge expected of a master teacher or the applicant shall demonstrate to the satisfaction of the State Board that the candidate has acquired the skills and knowledge expected of a master teacher.

Persons who qualify for a "G" certificate prior to September 1, 2000, shall be awarded a "Masters/Advanced Competencies" certificate without meeting additional requirements. On and after September 1, 2000, no additional "G" certificates shall be awarded.

(g) Provisional Licenses, Temporary Permits, and Emergency Permits. – Notwithstanding any other provision of this section, the State Board of Education shall continue to issue provisional licenses, temporary permits, and emergency permits that are valid through June 30, 2006, on the same basis as they were issued prior to the date this act becomes law."

1 **SECTION 2.** This act is effective when it becomes law and applies to all
2 persons initially employed as teachers by a local school administrative unit in North
3 Carolina beginning with the 2005-2006 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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1

HOUSE BILL 706

Short Title: Facilitate Hiring of Teachers.

(Public)

Sponsors: Representatives Yongue, Carney, Preston, Johnson (Primary Sponsors); L. Allen, Barnhart, Bell, Brown, Brubaker, Cole, Coleman, Dickson, Dockham, Dollar, Earle, England, Faison, Farmer-Butterfield, Fisher, Frye, Gillespie, Glazier, Goforth, Haire, Harrison, Hill, Holmes, Insko, Jones, Justice, Justus, LaRoque, Lucas, Luebke, McGee, McLawhorn, Parmon, Pate, Pierce, Ray, Ross, Sauls, Steen, Stiller, Sutton, Underhill, Warren, Weiss, Wiley, Wilkins, and Womble.

Referred to: Education.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TEACHER CERTIFICATION LAW TO FACILITATE
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(2) An applicant for a certificate in all other areas of certification shall demonstrate academic and professional preparation by either (i) achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose, (ii) completing an appropriate academic major, graduate degree, or comparable coursework, or (iii) otherwise meeting the requirements for a highly qualified teacher under the No Child Left Behind Act of 2001.

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6 each applicant has adequate academic and professional preparation to teach.

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The State Board also shall develop and implement a plan for annual performance reports for all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those developed for the performance report for teacher education programs. The performance reports shall follow a common format.

Both plans for performance reports also shall include a method to provide the annual performance reports to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted. The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. Subsequent performance reports shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1.

(c) Lateral Entry. – It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. ~~Regardless of credentials or competence, no one shall begin teaching above the middle level of differentiation.~~ Skilled individuals who choose to enter the profession of teaching laterally may be granted a provisional ~~an alternative~~ teaching certificate for no more than five ~~three~~ years prior to completing the requirements for lateral entry and shall be required to obtain certification before contracting for a sixth ~~fourth~~ year of service with any local administrative unit in this State.

It is further the policy of the State of North Carolina to ensure that local boards of education can provide the strongest possible leadership for schools based upon the identified and changing needs of individual schools. To this end, before the 1994-95 school year begins, the State Board of Education shall carefully consider a lateral entry program for school administrators to ensure that local boards of education will have sufficient flexibility to attract able candidates.

(d) Suspension and Revocation of Certificates. – The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates. The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school administrator has received an

unsatisfactory or below standard rating under G.S. 115C-333(d). In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

- (1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- (2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.
- (3) In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

- a. The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- b. The assistance team assigned to that school makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates. In addition, the Board shall have the authority to contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by certificated persons.

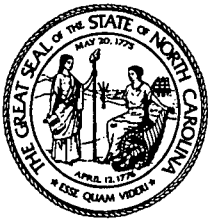
(e) Mentor Program. – The State Board of Education shall develop a mentor program to provide ongoing support for teachers entering the profession. In developing the mentor program, the State Board shall conduct a comprehensive study of the needs of new teachers and how those needs can be met through an orientation and mentor support program. For the purpose of helping local boards to support new teachers, the State Board shall develop and distribute guidelines which address optimum teaching load, extracurricular duties, student assignment, and other working condition considerations. These guidelines shall provide that initially certified teachers not be assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties of these teachers be minimized. The State Board shall develop and coordinate a mentor teacher training program. The State Board shall develop criteria for selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher training program.

(f) Masters/Advanced Competencies Certificate. – The State Board of Education, after consultation with the Board of Governors of The University of North Carolina, shall develop a new category of teacher certificate known as the "Masters/Advanced Competencies" certificate. To receive this certificate, an applicant shall successfully complete a masters degree program that includes rigorous academic preparation in the subject area which the applicant will teach and in the skills and knowledge expected of a master teacher or the applicant shall demonstrate to the satisfaction of the State Board that the candidate has acquired the skills and knowledge expected of a master teacher.

Persons who qualify for a "G" certificate prior to September 1, 2000, shall be awarded a "Masters/Advanced Competencies" certificate without meeting additional requirements. On and after September 1, 2000, no additional "G" certificates shall be awarded.

(g) Provisional Licenses, Temporary Permits, and Emergency Permits. – Notwithstanding any other provision of this section, the State Board of Education shall continue to issue provisional licenses, temporary permits, and emergency permits that are valid through June 30, 2006, on the same basis as they were issued prior to the date this act becomes law.

1 **SECTION 2.** This act is effective when it becomes law and applies to all
2 persons initially employed as teachers by a local school administrative unit in North
3 Carolina for the 2005-2006 school year.



HOUSE BILL 706: Facilitate Hiring of Teachers

BILL ANALYSIS

Committee:	House Education Subcommittee on K-12	Introduced by:	Reps. Yongue, Carney, Preston, Johnson
Date:	March 31, 2005	Summary by:	Shirley Iorio, Ph D
Version:	First Edition		Committee Analyst

SUMMARY: *This PCS would amend G.S. 115C-296, the teacher certification law, by eliminating a standard examination (currently Praxis II) for any applicant for teacher certification except for beginning teachers seeking an initial certificate, or as may be required by the federal No Child Left Behind Act of 2001 (NCLB). Several of the changes would make the statute more compatible with the highly qualified teacher requirements in NCLB.*

The act would also reorganize the existing statute, make technical corrections, and add captions to various subsections.

The act would become effective when it becomes law and would apply to all persons initially employed as teachers in North Carolina beginning with the 2005-2006 school year.

The PCS makes technical changes.

CURRENT LAW: G.S. 115C-296 gives the State Board of Education (Board) the authority to certify all applicants for teaching positions in all North Carolina public schools, to prescribe the rules and regulations for the renewal and extension of all certificates, and to fix the salary for each grade and type of certificate that it authorizes.

The State Board may require an applicant for an initial certificate to achieve a prescribed minimum score on a standard examination appropriate and adequate for that purpose, and the exam must be sufficiently rigorous. The State Board must permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching.

The Board must adopt policies that establish the minimum scores for any required standard examinations. The Board is further required to raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach.

The certification program provides for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement remains in effect for five years after retirement.

BILL ANALYSIS:

Section 1 (a) would require that an applicant meet the requirements for a highly qualified teacher under the No Child Left Behind Act of 2001 to be certified to teach in North Carolina.

Section 1 (a1) would apply to both in-state applicants and applicants from other states who have completed an approved program. This subsection would set out the certification requirements for beginning teachers seeking an initial certificate:

- An applicant for a certificate as an elementary education teacher or a special education teacher must either take and pass an appropriate standard examination (currently Praxis II) or otherwise meet the requirements for a highly qualified teacher under NCLB.

HOUSE BILL 706

Page 2

- An applicant for a certificate in all other areas of certification must either take and pass the appropriate Praxis II test, or complete an appropriate academic major, graduate degree, or comparable coursework, or otherwise meet the requirements for a highly qualified teacher under NCLB.

Section 1 (a2) would authorize the initial certification for a teacher from another state who meets all of the following criteria:

- Has less than three years of full-time classroom teaching experience.
- Is fully certified and highly qualified, as provided in No Child Left Behind, in that other state.
- Is employed as a teacher by a local school administrative unit in North Carolina.

Under this provision, initial certification would be 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.

Section 1 (a3) would authorize continuing certification for a teacher from North Carolina or another state who meets all of the following criteria:

- Has three or more years of experience as a full-time teacher.
- Is fully certified and highly qualified, as provided in No Child Left Behind, in North Carolina or in that other state.
- Is employed as a teacher by a local school administrative unit in North Carolina.

Section 1 (a4) would authorize the State Board of Education (State Board) to issue an international faculty certificate to an individual on a cultural exchange visa who meets all of the following criteria:

- Has a university degree and a teaching certificate in his or her country.
- Is qualified in his or her home country to teach the subjects he or she will teach'
- Speaks English proficiently.
- Meets the definition of highly qualified under the No Child Left Behind Act of 2001.

The certificate would be granted for a period of time during which the teacher holds a cultural exchange visa, not to exceed three consecutive years. An individual on a cultural exchange visa would not be eligible to receive any other teacher certificate.

Section 1 (a5) would eliminate a testing requirement for applicants for teacher certification except for those teachers in subsection (a1) who are required to take Praxis, or as required by the No Child Left Behind Act of 2001.

Section 1 (c) would reduce from five years to three years the amount of time a lateral entry teacher has to complete the certification requirements. Three years is the time frame required by the No Child Left Behind Act.

Section 1 (g) would authorize the State Board of Education to continue to issue provisional licenses, temporary permits, and emergency permits that are valid through June 30, 2006, on the same basis as they were issued prior to the date this act would become law. The No Child Left Behind Act prohibits the State Board from issuing these licenses after June 30, 2006.

Section 2 gives the effective date.

BACKGROUND: In 2004 legislation was passed that removed the statutory requirement for a standard examination for all applicants for a North Carolina teaching license. The State Board of Education **may** (rather than shall) require an applicant for a teaching license to take and achieve a prescribed minimum score on a standard examination appropriate and adequate for that purpose.

No Child Left Behind Act

The federal definition of a "Highly Qualified" teacher is one who is: fully certified and/or licensed by the state; holds at least a bachelor's degree from a four-year institution; and demonstrates competence in each core academic subject area in which the teacher teaches. The law applies to teachers in core subject areas which include: English, reading, language arts, mathematics, science, foreign languages, civics and government, social studies, economics, arts, history, geography, and kindergarten through Grade 6 (K-6). The federal regulations do not apply to non-core subject area teachers such as those in most vocational (workforce development/career-technical education) programs or physical education.

To demonstrate competence in a core academic subject area and be considered "Highly Qualified," an elementary teacher hired after the beginning of the 2002-03 school year must pass the required state tests (currently PRAXIS II). A middle or secondary school teacher hired after the beginning of the 2002-03 school year must:

- pass the required PRAXIS II test; or
- hold an undergraduate degree in the core subject area; or
- have coursework equivalent to an undergraduate major (24 semester hours) in the core subject area; or
- hold a graduate degree in the core subject area; or
- have master's level licensure or above in the core subject area; or
- hold National Board of Professional Teaching Standards (NBPTS) certification in the core subject area.

NCLB Concerns: While NCLB does set a definition for "highly qualified" teachers, each state has a certain amount of discretion to determine exactly how it will meet that definition. As a result, a highly qualified teacher may not "look" the same from one state to another. Furthermore, while the U.S. Secretary of Education has not yet granted any, some states are pressuring the Secretary to use her power to grant a waiver from certain NCLB requirements, including this definition. Finally, it is possible that a State could opt out of participating in NCLB (which has been threatened, but not yet done), in which case that state would not have a NCLB requirement.

Constitutional Concerns: Section 5 of Article IX of the North Carolina Constitution states, "The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly." In 2003, the General Assembly enacted a bill (SB 931) that would have amended the same statute being amended in SB 706. That bill would have eliminated the portfolio as a requirement for continuing certification and would have prohibited the Board from adding any new requirements to the teacher certification process in the future "without explicit legislative authorization." Governor Easley vetoed SB 931 on the grounds that it would impair the State Board's ability to execute its constitutional duty. While he acknowledged the General Assembly had "certain powers," he concluded, "Removing the authority of the State Board of Education to ensure teacher standards is not only bad public policy, but it is also constitutionally questionable." By establishing NCLB as the State's certification standard, Senate Bill 706 may raise similar concerns because it, in essence, would shift the authority to set teacher certification standards to the federal government.

**2005 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 Glazier and Parmon (Chairs) for the Education Subcommittee On Pre-School, Elementary and Secondary Education .

- ☐ Committee Substitute for
H.B. 706 AN ACT TO AMEND THE TEACHER CERTIFICATION LAW TO
FACILITATE THE HIRING OF TEACHERS.

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 Bell, Lucas, and McLawhorn for the Standing Committee on EDUCATION.

(Signature)

S/ Gary M. Bell

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

03/26/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 683

Short Title: Add Info on Protecting Newborn to Curriculum.

(Public)

Sponsors: Representatives Haire, Fisher, Justice (Primary Sponsors); and Jones.

Referred to: Education Subcommittee on Pre-School, Elementary and Secondary Education.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO INCLUDE INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(e1) reads as rewritten:

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

- a. Mental and emotional health;
- b. Drug and alcohol abuse prevention;
- c. Nutrition;
- d. Dental health;
- e. Environmental health;
- f. Family living;
- g. Consumer health;
- h. Disease control;
- i. Growth and development;
- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that

1 students become proficient in order to pass a test approved by
2 the American Heart Association, or American Red Cross;

3 k. Preventing sexually transmitted diseases, including Acquired
4 Immune Deficiency Syndrome (AIDS) virus infection, and
5 other communicable diseases;

6 l. Abstinence until marriage education; and

7 m. Bicycle ~~safety~~-safety; and

8 n. Information on the manner in which a parent may lawfully
9 abandon a newborn baby with a responsible person, in
10 accordance with G.S. 7B-500."

11 **SECTION 2.** G.S. 115C-47 is amended by adding a new subdivision to read:

12 **"§ 115C-47. Powers and duties generally.**

13 In addition to the powers and duties designated in G.S. 115C-36, local boards of
14 education shall have the power or duty:

15 ...
16 (45) To Ensure That High School Students Receive Annual Instruction on
17 Lawfully abandoning a Newborn Baby. – Local boards of education
18 shall adopt policies to ensure that high school students receive
19 instruction annually on the manner in which a parent may lawfully
20 abandon a newborn baby with a responsible person, in accordance with
21 G.S. 7B-500."

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

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

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

DAY & DATE: Thursday, March 31, 2005

TIME: 11:00 AM

LOCATION: 421 LOB

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

HB 683 ADD INFO ON PROTECTING NEWBORN TO CURRICULUM,

Reps. Haire, Fisher and Justice

HB 706 FACILITATE HIRING OF TEACHERS, Reps. Yongue, Carney, Preston and Johnson

Respectfully,
Representatives Glazier and Parmon
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at 3:00 on **March 29, 2005**.

____Principal Clerk
____Reading Clerk - House Chamber

Pat Christmas (Committee Assistant)

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

Thursday, April 7, 2005
11:00 AM
Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEMS

**HB 415 – SCHOOL CALENDAR FLEXIBILITY AFTER HURRICANE
FLOODING, Rep. Frye**

**HB 683 – ADD INFO ON PROTECTING NEWBORN TO CURRICULUM,
Reps. Haire, Fisher and Justice**

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

April 7, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, April 7, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chair Representative Blackwood, Members: Representatives Bernard Allen, Bell, Carney, Cleveland, Fisher, Folwell, Harrison, Hilton, Holloway, Jeffus, Johnson, Langdon, Nye, Pate, Preston, Walker, Wiley, Womble, and Yongue. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.

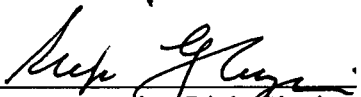
The following bills were considered:

HB 415, AN ACT TO GIVE FLEXIBILITY IN THE SCHOOL CALENDAR TO ACCOMMODATE EXTRAORDINARY CIRCUMSTANCES CAUSED BY HURRICANES FRANCES AND IVAN. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Frye presented the bill. The chair recognized staff members to further explain the bill. Upon motion made by Representative Blackwood, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.


HB 683, AN ACT TO INCLUDE INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Haire presented the bill. There was no vote taken for this bill.

There being no further business, the Chair adjourned the meeting at 11:50 AM.

Respectfully submitted,



Representative Rick Glazier
Chair



Carin Savel
Committee Assistant

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 415*

Short Title: Sch. Calendar Flex. After Hurricane Flooding. (Public)

Sponsors: Representatives Frye; Church, England, Fisher, Gillespie, Goforth, Haire, Harrell, Justus, Moore, Pate, Rapp, Setzer, Sherrill, Starnes, Walend, Walker, West, Wilson, and Wray.

Referred to: Education.

March 1, 2005

A BILL TO BE ENTITLED
AN ACT TO GIVE FLEXIBILITY IN THE SCHOOL CALENDAR TO ACCOMMODATE
EXTRAORDINARY CIRCUMSTANCES CAUSED BY HURRICANES FRANCES AND
IVAN.

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 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of either 180 days ~~and~~ or 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the ~~180~~ instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among 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.

If, due to inclement weather, a local board of education complies with this subdivision by scheduling 1,000 hours of instruction on less than 180 days, the local school administrative unit is deemed to have a minimum of 180 days of instruction, teachers employed for a 10-month term are deemed to have been employed for 180 instructional days, and all other employees shall be compensated as if they had worked their regularly scheduled hours for 180 instructional days."

SECTION 2. This act applies only to local school administrative units located in

whole or in part in the counties that (i) were declared by the President of the United States to be a disaster area for Hurricane Frances, Hurricane Ivan, or both and (ii) have missed more than 10 instructional days during the 2004-2005 school year due to all inclement weather including flooding from Hurricane Frances, Hurricane Ivan, or both.

SECTION 3. This act applies to the 2004-2005 school year only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 415*

PROPOSED COMMITTEE SUBSTITUTE H415-CSSF-5 [v.1]

4/6/2005 7:12:47 PM

Short Title: Make Up Instructional Days/Hurricanes.

(Public)

Sponsors:

Referred to:

March 1, 2005

A BILL TO BE ENTITLED

AN ACT TO GIVE FLEXIBILITY TO MAKE UP INSTRUCTIONAL DAYS
MISSED DURING THE 2004-2005 SCHOOL YEAR IN LOCAL SCHOOL
ADMINISTRATIVE UNITS LOCATED IN WHOLE OR IN PART IN THE
COUNTIES THAT THE PRESIDENT OF THE UNITED STATES DECLARED
TO BE DISASTER AREAS FOR HURRICANES FRANCES AND IVAN.

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 215 days all of which shall fall within the fiscal year. A school
calendar shall include the following:

- (1) A minimum of either 180 days and or 1,000 hours of instruction
covering at least nine calendar months. The local board shall designate
when the ~~180~~ instructional days shall occur. The number of
instructional hours in an instructional day may vary according to local
board policy and does not have to be uniform among 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.

If, due to inclement weather, a local board of education complies
with this subdivision by scheduling 1,000 hours of instruction on less
than 180 days, the local school administrative unit is deemed to have a
minimum of 180 days of instruction, teachers employed for a

1 10-month term are deemed to have been employed for 180
2 instructional days, and all other employees shall be compensated as if
3 they had worked their regularly scheduled hours for 180 instructional
4 days."

5 **SECTION 2.** This act applies only to local school administrative units
6 located in whole or in part in the counties that (i) were declared by the President of the
7 United States to be a disaster area for Hurricane Frances, Hurricane Ivan, or both and
8 (ii) have missed more than 10 instructional days during the 2004-2005 school year due
9 to all inclement weather including flooding from Hurricane Frances, Hurricane Ivan, or
10 both.

11 **SECTION 3.** This act applies to the 2004-2005 school year only.

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



HOUSE BILL 415: Make Up Instructional Days/Hurricanes

BILL ANALYSIS

Committee: House Education K-12
Subcommittee
Date: April 7, 2005
Version: PCS to the First Edition
H415-CSSF-5 [v.1]

Introduced by: Rep. Frye
Summary by: Shirley Iorio, Ph.D.
Committee Analyst

SUMMARY: *This bill would create an exception to the required time for instruction for all school systems in North Carolina. The bill would apply to local school administrative units located in whole or in part in certain counties that have missed instructional days due to inclement weather including flooding from Hurricane Frances, Hurricane Ivan, or both.*

The bill would provide that local boards of education that comply with this exception by scheduling 1,000 hours on less than 180 days due to inclement weather are deemed to have a minimum of 180 days of instruction, and employees must be compensated accordingly.

The bill would apply only to the 2004-2005 school year, and would become effective when it becomes law.

The PCS changes both the short and the long titles to make them more accurate.

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 215 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 35 days must be scheduled as follows:

- 10 as annual vacation leave days;
- 10-11 as holidays;
- 5 days, as designated by the local board, for use as teacher workdays. These days are protected for teachers to complete instructional and classroom administrative duties. The local boards must designate on which of these days teachers with accumulated vacation leave may take that leave.
- 9-10 days scheduled by the local board in consultation with each school's principal for use as teacher workdays, additional instructional days, or other lawful purposes, including vacation days for teachers with accumulated vacation leave. A local board may designate any of these days as additional make-up days for days missed due to school closing because of inclement weather. These make-up days are to be scheduled after the last day of student attendance.
- School cannot be held on Sundays or Veteran's Day. Actual workdays for teachers employed for 10-month terms cannot exceed 195 days, and, in most cases, there must be 42 consecutive days when teacher attendance is not required.

HOUSE BILL 415

Page 2

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.

The school calendar must include a plan for making up days and instructional hours missed when schools are closed due to inclement weather.

Local boards are required to set the first instructional day of school no earlier than August 25 and the last day no later than June 10 for all schools except year-round schools. A local board of education may ask the State Board of Education for a waiver of this requirement if it can show good cause. The State Board also may waive this requirement for an educational purpose.

BILL ANALYSIS: This bill would amend G.S. 115C-84.2(a)(1) by changing the word "and" to the word "or" in reference to the required time for instruction. The bill also specifies that if a local board, due to inclement weather, schedules 1000 hours of instruction on less than 180 days, the local school administrative unit is deemed to have a minimum of 180 days of instruction, teachers employed for a 10 month term are deemed to have been employed for 180 instructional days, and all other employees must be compensated as if they had worked their regularly scheduled hours for 180 instructional days. These changes would apply only to the 2004-2005 school year.

This bill would only apply to local school administrative units who meet the following criteria:

- *Are located in whole or in part in the counties that were declared by the President of the United States to be a disaster area for Hurricane Frances, Hurricane Ivan, or both; and
- *Have missed more than 10 instructional days during the 2004-2005 school year due to all inclement weather including flooding from Hurricane Frances, Hurricane Ivan, or both.

***See attached chart**

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 students were not required to make them up, and the first 15 of those days did not affect teachers' pay.¹ 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

¹ 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."

HOUSE BILL 415

Page 3

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. 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.

In 1999, after Hurricane Floyd, there was legislation that provided a limited exception to G.S. 115C-84.2(a)(1) by changing the word "and" to the word "or" in reference to the required time for instruction. 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 both cases the lawsuits have been settled. Teachers and certain other employees received one annual leave day to be used during a specified period of time.

In 2003, a bill similar to the 1999 Hurricane Floyd bill was enacted. However, this bill contained a provision which clarified that local boards that made up instructional time by adding instructional hours to previously scheduled instructional days were deemed to have a minimum of 180 days of instruction and employees were deemed to have been employed for the days being made up and must be compensated accordingly.

In 2004, legislation was passed that reduced the number of required days in the school calendar; required schools to open for students no earlier than August 25 and close by June 10 except in unusual circumstances or in year-round schools; reduced the number of teacher workdays; and provided that salaries were not reduced as a result of the reduction in teacher workdays.

CONSTITUTIONAL ISSUES

Article IX, Sec. 2, NC Const. There is a question as to how the courts would interpret the mandate that "[t]he General Assembly shall provide ... for a ... system of free public schools, which shall be maintained at least nine months in every year." On the one hand, it could merely mean that there are school calendars covering nine calendar months, not necessarily limited to instructional time. If it means instructional time, then there remains a question as to whether it means a minimum number of days or minimum number of hours. And it is unclear whether days or hours, or both, can be waived.

Leandro. The State is obligated to provide to all students the opportunity for a sound basic education. There is a question as to whether the State can forgive instructional time and still meet this responsibility.

House Bill 415

School Calendar Flexibility After Hurricane Flooding

Inclement Weather
2004-05 School Year

Designated Disaster Counties	Total Days Missed Due to Weather	Days Missed for Hurricanes	Comments/Notes
Avery	22	7	
Buncombe	10	4	
Asheville City	9	4	
Burke	?	?	Left message with school system. Waiting for response.
Caldwell	3	1	
Haywood	13	4	
Henderson	6	2	
Jackson	?	?	On Spring Break April 4-8. Left message with school system.
Macon	1	1	
Madison	13	3	
McDowell	5	3	
Mitchell	11	2	
Polk	3	2	
Rutherford	2	1	
Transylvania	6	3	
Watauga	15	4	
Yancey	14	5	

Note: Hurricane Frances - 15 counties were declared as disaster areas by the President
Hurricane Ivan – The same 15 counties were declared as disaster areas with one addition – Macon County

Florida Schools 2004-05 School Year Missed/Make-Up Days Due to Hurricanes

Charlotte School District

Missed 13 days due to hurricanes

The State waived 6 days and they made up the remaining 7 days by extending the school year by 1 day and shortening holidays and breaks. They lost 6 schools.

Indian River County School District

Missed 11 days due to hurricanes

They made up the days by:

- Using 2 emergency days that were built into the calendar

- Using 2 teacher workdays and made them school days

- Shortening Thanksgiving and Christmas breaks

- Making 2 full days out of their Modified Instructional Wednesdays (Every Wednesday, children are released 2 hours early. They took 21 of the Wednesdays to full days which equated to making up 2 days)

Martin School District

Missed 14 days

The State waived 3 days and they made up the remaining 11 by shortening holidays and breaks.

Palm Beach School District

Missed 12 days due to hurricanes

The Board decided to have the schools make up 9 of those days and waive the other 3. For the 2005-06 school year, the school system has already built in 15 days into the calendar for hurricanes.

St. Lucie School District

Missed 21 days due to hurricanes

Made up 18 days. By statute, the commissioner of education can grant three (3) days' waiver. St. Lucie School District made up the remaining days by:

- Shortening Spring and Winter Breaks

- Having school on Veteran's Day and President's Day (Invited Veterans and different organizations in as a celebratory event)

- Extending the school year by a week

- Bargaining with teachers' unions to take back all of the teachers work days (Made them early dismissal days)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

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HOUSE BILL 683

Short Title:	Add Info on Protecting Newborn to Curriculum.	(Public)
Sponsors:	Representatives Haire, Fisher, Justice (Primary Sponsors); and Jones.	
Referred to:	Education Subcommittee on Pre-School, Elementary and Secondary Education.	

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO INCLUDE INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(e1) reads as rewritten:

- "(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem":
- a. Mental and emotional health;
 - b. Drug and alcohol abuse prevention;
 - c. Nutrition;
 - d. Dental health;
 - e. Environmental health;
 - f. Family living;
 - g. Consumer health;
 - h. Disease control;
 - i. Growth and development;
 - j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students become proficient in order to pass a test approved by the American Heart Association, or American Red Cross;

- k. Preventing sexually transmitted diseases, including Acquired Immune Deficiency Syndrome (AIDS) virus infection, and other communicable diseases;
- l. Abstinence until marriage education; ~~and~~
- m. Bicycle ~~safety-safety~~; and
- n. Information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

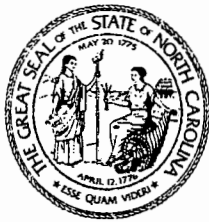
SECTION 2. G.S. 115C-47 is amended by adding a new subdivision to read:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- (45) To Ensure That High School Students Receive Annual Instruction on Lawfully abandoning a Newborn Baby. – Local boards of education shall adopt policies to ensure that high school students receive instruction annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

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



HOUSE BILL 683:

Add Info on Protecting Newborn to Curriculum

BILL ANALYSIS

Committee: House Education Subcommittee
on Pre-School, Elementary and
Secondary Education

Date: March 31, 2005

Version: First

Introduced by: Reps. Haire, Fisher and Justice

Summary by: Robin Johnson *Robin*
Committee Counsel

SUMMARY: *House Bill 683 would require the comprehensive school health education program, provided to students in kindergarten through ninth grade, to include information on how parents may lawfully abandon a newborn. The bill also would direct local boards of education to adopt policies requiring high school students to receive annual instruction on the lawful abandonment of newborns.*

The bill would become effective when it becomes law.

CURRENT LAW: [See attached S.L. 2001-291; HB 275]

In 2001, the General Assembly enacted legislation to establish the requirements for the parent of an infant under 7 days of age to deliver the newborn to one of the following persons:

1. A health care provider who is on duty or at a hospital, local or district health department, or nonprofit community health center.
2. A law enforcement officer who is on duty or at a police station or sheriff's department.
3. A social services worker who is on duty or at a local department of social services.
4. A certified emergency medical service worker who is on duty or at a fire station or emergency medical services station.
5. Any adult who willingly accepts the infant.

If the law is followed, the parent is not subject to prosecution under G.S. 14-318.2, misdemeanor child abuse, for acts or omissions related to the care of the infant. The parent may be prosecuted under G.S. 14-318.4, child abuse a felony, but following the law is to be treated as a mitigating factor in the sentencing of a conviction under that law.

The individual taking an infant into temporary custody must protect the health and well being of the infant and must immediately inform the department of social services or a local law enforcement agency.

The individual may inquire as to the parents' identities and medical history, but the parent is not required to provide this information.

An individual taking an infant into temporary custody is immune from civil or criminal liability so long as the individual acted in good faith. However, the immunity does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

When abandonment is alleged (abandonment is considered a type of neglect), the Director of the department of social services must initiate an investigation immediately, to take temporary custody of the juvenile, and to secure an order of nonsecure custody. The Director must also request that law enforcement investigate through the N.C. Center for Missing Persons and other resources as to whether or not the juvenile is a missing child.

The court may terminate parental rights when a parent voluntarily abandons an infant under seven days old for at least 60 consecutive days immediately preceding the filing of the petition.

Currently, there are no requirements that students be informed as to the provisions of this law.

H863-SMRH-1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-291
HOUSE BILL 275

AN ACT TO DECRIMINALIZE ABANDONMENT OF AN INFANT UNDER
CERTAIN CIRCUMSTANCES AND TO MODIFY SOME PROCEDURES
INVOLVING ABANDONED JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-302(a) reads as rewritten:

"(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect or dependency, the director shall initiate the investigation within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an investigation, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The investigation and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the investigation shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department."

SECTION 2. G.S. 7B-500 reads as rewritten:

"§ 7B-500. Taking a juvenile into temporary custody; civil and criminal immunity.

(a) Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a department of social services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order. If a department of social services worker takes a juvenile into temporary custody under this section, the worker may arrange for the placement, care, supervision, and transportation of the juvenile.

(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

- (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A law enforcement officer who is on duty or at a police station or sheriff's department.
- (3) A social services worker who is on duty or at a local department of social services.

(4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station.

(c) An individual who takes an infant into temporary custody under subsection (b) of this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. Any individual who takes an infant into temporary custody under subsection (b) of this section may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(d) Any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(e) An individual described in subsection (b) or (d) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of subsection (c) or (d) of this section as long as that individual was acting in good faith. The immunity established by this subsection does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 3. G.S. 7B-1111(a)(7) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

(7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or ~~motion~~ motion, or the parent has voluntarily abandoned an infant pursuant to G.S. 7B-500 for at least 60 consecutive days immediately preceding the filing of the petition or motion."

SECTION 4. G.S. 14-318.2 is amended by adding a new subsection to read:

"(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant."

SECTION 5. G.S. 14-318.4 is amended by adding a new subsection to read:

"(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant."

SECTION 6. The Department of Health and Human Services, Division of Public Health, shall develop recommendations for a plan to inform the public as to the provisions of this act. The plan shall contain information on responsible parenting in addition to information about the provisions of the act. The plans shall be targeted at adolescents and young adults, and shall be developed in consultation with law enforcement officials, medical professionals, and representatives of the Department of Public Instruction. Not later than April 1, 2002, the Department of Health and Human Services shall report its recommendations, and the projected cost for implementing its recommendations, to the chairpersons of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Justice and Public Safety, and the House Appropriations Subcommittee on Justice and Public Safety.

SECTION 7. Article 40 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-322.3. Abandonment of an infant under seven days of age.

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under G.S. 14-322 or G.S. 14-322.1."

SECTION 8. This act is effective when it becomes law and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:47 a.m. this 19th day of July, 2001

Inclement Weather Days

Alleghany County -	2 days for flooding 8 days for snow 10 total
Watauga County -	4 days for flooding 13 days for snow 17 total
Buncombe County -	Closes by districts 4 days for flooding in all districts 6 days for snow in all districts 2 additional days for snow in the North Buncombe district 12 total
Haywood County -	5 days for flooding (made up 2 of these days) 8 days for snow 13 total
Burke County -	3 days for flooding 2 for snow 5 total
Polk County -	2 days for hurricane 1 day for snow 2 days for snow at Saluda Elem. 5 total
Mitchell County -	2 days for flooding 9 days for snow 3 days due to water shortage at the beginning of the year 14 total
Yancey County -	5 days for flooding 10 days for snow 15 total
Madison County -	3 days for flooding 10 days for snow 13 total
Ashe County -	3 days for flooding 10 days for snow (have made up 4 of these days so far) 13 total
Henderson County -	4 days for flooding (made these days up before Christmas) 2 days for snow 6 total
Avery County -	7 days for flooding 15 days for snow 22 total

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

Thursday, April 14, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Earline Parmon, Presiding Chair

II. AGENDA ITEMS

HB 1032 PLACING STUDENTS IN SECLUSION

Reps. Glazier, Preston, Farmer-Butterfield and Barnhart

III. ADJOURN

VISITOR REGISTRATION SHEET

EDUCATION K-12

Name of Committee

4/14/05

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	<u>FIRM OR AGENCY</u>
<i>[Signature]</i>	<i>[Signature]</i>
Ellen Russell	The Arc of NC
Jana Ayers	SBE/DPI
Betsy Thompson	ASNC
Katherine Goya	NCAEA
Shannah Smith	UNC Center for Civil Rights
BRIAN LEWIS	Covenant with NC's children
<i>[Signature]</i>	GACPD
Joel Maynard	ame
<i>[Signature]</i>	WCPSS
Spring Agnew	Former VP
Ann C. Gears	PERC
Renee Palmer	Carolina Legal Assistance
Molly [unclear]	NCSBA
<i>[Signature]</i>	NCAPA
Cecil Banks	NCAE
Mary Davis	NCAE
Michael Hager	NCAE
Cynthia Giles	DOA Youth Advocacy + Inc.
Ann McArthur	Governor's Office
Tim Rowley	UNCTV
Shereen [unclear]	CAH
Michael Haley	NC DJJDP
Deborah [unclear]	The Arc of NC
Holly Hunicutt	The Arc of NC

Education

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

April 14, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, April 14, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chair Representatives Blackwood, Members: Representatives Bernard Allen, Carney, Cleveland, Fisher, Folwell, Hilton, Holloway, Jeffus, Langdon, Nye, Pate, Preston, Walker, Wiley, Womble, and Youngue. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.


Chairman Parmon called the meeting to order and introduced the Pages and Sergeant-At-Arms.

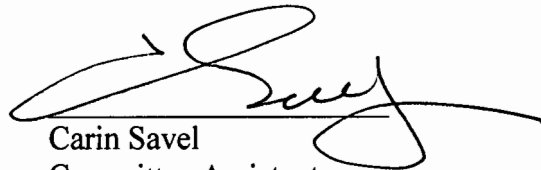
The following bills were considered:

HB 1032, AN ACT TO CLARIFY THE PERMISSIBLE USE OF SECLUSION AND RESTRAINT IN PUBLIC SCHOOLS AND TO PROVIDE FOR TRAINING IN MANAGEMENT OF STUDENT BEHAVIOR. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Parmon adopted the PCS for discussion. Representative Glazier presented the bill. The chair recognized committee counsel Shirley Iorio to further explain the bill. Upon motion made by Representative Preston, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

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

Respectfully submitted,


Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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1

HOUSE BILL 1032*

Short Title:	Placing Students in Seclusion.	(Public)
Sponsors:	Representatives Glazier, Preston, Farmer-Butterfield, Barnhart (Primary Sponsors); Alexander, Brown, Harrison, and Wainwright.	
Referred to:	Education Subcommittee on Pre-School, Elementary and Secondary Education.	

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PERMISSIBLE USE OF SECLUSION AND RESTRAINT IN
PUBLIC SCHOOLS AND TO PROVIDE FOR TRAINING IN MANAGEMENT OF
STUDENT BEHAVIOR.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-391.1. Permissible use of seclusion and restraint.

- (a) It is the policy of the State of North Carolina to:
 - (1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.
 - (2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.
 - (3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.
 - (4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.
 - (5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.
- (b) Definition of Terms:
 - (1) Aversive procedure means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability that causes or reasonably may be expected to cause one or more of the following:
 - a. Significant physical harm, such as tissue damage, physical illness, and/or death.

- b. Serious, foreseeable long-term psychological impairment.
 - c. Obvious repulsion on the part of observers who cannot reconcile such extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extreme auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.
- (2) Isolation means a behavior management technique in which a student is placed alone in an enclosed space from which the student is prevented from leaving.
- (3) Law enforcement officer means a sworn law enforcement officer with the power to arrest.
- (4) Restraint:
 - a. Physical restraint means the use of physical force to restrict the free movement of all or a portion of a student's body.
 - b. Mechanical restraint means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.
- (5) School personnel means:
 - a. Employees of a local board of education.
 - b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.
 - c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.
- (6) Seclusion means the confinement of a student alone in an enclosed space from which the student is:
 - a. Physically prevented from leaving by locking hardware or other means.
 - b. Not capable of leaving due to physical or cognitive incapacity.
- (7) Time-out means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.
- (c) Physical Restraint:
 - (1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:
 - a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
 - b. As reasonably needed to maintain order or prevent or break up a fight.
 - c. As reasonably needed for self-defense.
 - d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.
 - e. As reasonably needed to escort a student safely from one area to another.
 - f. If used as provided for in a student's Individualized Education Plan

(IEP) or Section 504 plan or behavior intervention plan.

g. As reasonably needed to prevent imminent destruction to school or another person's property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.

b. When using seat belts or other safety restraints to secure students during transportation.

c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

d. As reasonably needed for self-defense.

e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.

(2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices, such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:

a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.

e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan.

1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.

2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.

3. The space in which the student is confined has been approved for such use by the local education agency.
 4. The space is appropriately lighted.
 5. The space is appropriately ventilated and heated or cooled.
 6. The space is free of objects that unreasonably expose the student or others to harm.
 - (2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.
 - (3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.
 - (4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.
 - (f) Isolation. – Isolation is permitted as a behavior management technique provided that:
 - (1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.
 - (2) The duration of the isolation is reasonable in light of the purpose of the isolation.
 - (3) The student is reasonably monitored while in isolation.
 - (4) The isolation space is free of objects that unreasonably expose the student or others to harm.
 - (g) Time-Out – Nothing in this section is intended to prohibit or regulate the use of time-out as defined herein.
 - (h) Aversive Procedures. – The use of aversive procedures as defined herein is prohibited in public schools.
 - (i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under G.S. 115C-390 or modifies the rules and procedures governing discipline pursuant to G.S. 115C-391(a).
 - (1) Notice of procedures. – Each board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.
 - (2) Notice of specified incidents:
 - a. School personnel shall promptly notify the principal or principal's designee of:
 1. Any use of aversive procedures.
 2. Any prohibited use of mechanical restraint.
 3. Any use of physical restraint resulting in observable physical injury to a student.
 4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.
 - b. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.
 - (3) As used in subdivision (2) of this subsection, prompt notice means by the end of the workday during which the incident occurred when reasonably possible,

but in no event later than the end of following workday.

(4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

- a. The date, time of day, location, duration, and description of the incident and interventions.
- b. The events or events that led up to the incident.
- c. The nature and extent of any injury to the student.
- d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees."

SECTION 2. G.S. 115C-296 reads as rewritten:

"§ 115C-296. Board sets certification requirements.

...

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement shall remain in effect for five years after retirement.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing certification. The new requirements shall reflect more rigorous standards for continuing certification and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board

of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for ~~all students who do not major in special education~~ include demonstrated competencies in (i) the identification and education of children with learning disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.

...

(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. Beginning with the 2006-2007 school year, such criteria and procedures shall include preservice training in (i) the identification and education of children with disabilities and (ii) positive management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. Regardless of credentials or competence, no one shall begin teaching above the middle level of differentiation. Skilled individuals who choose to enter the profession of teaching laterally may be granted a provisional teaching certificate for no more than five years and shall be required to obtain certification before contracting for a sixth year of service with any local administrative unit in this State.

It is further the policy of the State of North Carolina to ensure that local boards of education can provide the strongest possible leadership for schools based upon the identified and changing needs of individual schools. To this end, before the 1994-95 school year begins, the State Board of Education shall carefully consider a lateral entry program for school administrators to ensure that local boards of education will have sufficient flexibility to attract able candidates.

...."

SECTION 3. G.S. 115C-105.47(b)(9) reads as rewritten:

"(b) Each plan shall include each of the following components:

...

- (9) Professional development clearly matched to the goals and objectives of the plan. This professional development shall include a component to train appropriate school personnel in the management of disruptive or dangerous student behavior. Appropriate school personnel may include, but is not limited to, teachers, teacher assistants, school administrators, bus drivers, school resource officers, school psychologists, and school counselors. The training shall include instruction in positive management of student behavior, effective

communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. The appropriate personnel with priority for the training shall include those staff members who are most likely to be called upon to prevent or address disruptive or dangerous student behavior. Each local board of education shall include in this component of its safe school plan procedures to evaluate the effectiveness of this training in preventing or addressing disruptive or dangerous student behavior. Local boards of education are encouraged to use available sources of discretionary revenue to implement the plan to train personnel in the management of disruptive or dangerous student behavior. Local boards may only be required to implement the behavior management training component of the plan to the extent that funds have been appropriated for this purpose by the General Assembly or by local units of government. By January 1, 2006, local boards of education shall amend their safe school plans to include this training component."

SECTION 4. G.S. 115C-47 is amended by adding a new subdivision to read:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- (45) To report certain incidents of seclusion and restraint. – Local boards of education shall maintain a record of incidents reported under G.S. 115C-391.1(j)(4) and shall provide this information annually to the State Board of Education."

SECTION 5. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing

laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved pursuant to G.S. 115C-391.1(e) (1)e., provided that the special locking mechanism shall be constructed so that it will engage

only when a key, knob, handle, button, or other similar device is being held in position by a person, and provide further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 6. Except as otherwise provided, this act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1032*
PROPOSED COMMITTEE SUBSTITUTE H1032-PCS70342-SF-10

Short Title: Placing Students in Seclusion.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PERMISSIBLE USE OF SECLUSION AND
RESTRAINT IN PUBLIC SCHOOLS AND TO PROVIDE FOR TRAINING IN
MANAGEMENT OF STUDENT BEHAVIOR.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a
new section to read:

"§ 115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

- (1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.
- (2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.
- (3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.
- (4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.
- (5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

- (1) "Aversive procedure" means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

- a. Significant physical harm, such as tissue damage, physical illness, or death.
 - b. Serious, foreseeable long-term psychological impairment.
 - c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extreme loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.
- (2) "IEP" means a student's Individualized Education Plan.
 - (3) "Isolation" means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.
 - (4) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.
 - (5) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.
 - (6) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.
 - (7) "School personnel" means:
 - a. Employees of a local board of education.
 - b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.
 - c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.
 - (8) "Seclusion" means the confinement of a student alone in an enclosed space from which the student is:
 - a. Physically prevented from leaving by locking hardware or other means.
 - b. Not capable of leaving due to physical or cognitive incapacity.
 - (9) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.
- (c) Physical Restraint:
- (1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

- a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
 - b. As reasonably needed to maintain order or prevent or break up a fight.
 - c. As reasonably needed for self-defense.
 - d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.
 - e. As reasonably needed to escort a student safely from one area to another.
 - f. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.
 - g. As reasonably needed to prevent imminent destruction to school or another person's property.
- (2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.
 - (3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.
 - (4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.
- (d) Mechanical Restraint:
- (1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:
 - a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.
 - b. When using seat belts or other safety restraints to secure students during transportation.
 - c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
 - d. As reasonably needed for self-defense.
 - e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.
 - (2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.
 - (3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices, such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:

- a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.
- b. As reasonably needed to maintain order or prevent or break up a fight.
- c. As reasonably needed for self-defense.
- d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.
- e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and
 1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.
 2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.
 3. The space in which the student is confined has been approved for such use by the local education agency.
 4. The space is appropriately lighted.
 5. The space is appropriately ventilated and heated or cooled.
 6. The space is free of objects that unreasonably expose the student or others to harm.

(2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(f) Isolation. – Isolation is permitted as a behavior management technique provided that:

- (1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.
- (2) The duration of the isolation is reasonable in light of the purpose of the isolation.
- (3) The student is reasonably monitored while in isolation.
- (4) The isolation space is free of objects that unreasonably expose the student or others to harm.

1 (g) Time-Out. – Nothing in this section is intended to prohibit or regulate the use
2 of time-out as defined in this section.

3 (h) Aversive Procedures. – The use of aversive procedures as defined in this
4 section is prohibited in public schools.

5 (i) Nothing in this section modifies the rights of school personnel to use
6 reasonable force as permitted under G.S. 115C-390 or modifies the rules and procedures
7 governing discipline under G.S. 115C-391(a).

8 (1) Notice, Reporting, and Documentation. – Each board of education
9 shall provide copies of this section and all local board policies
10 developed to implement this section to school personnel and parents or
11 guardians at the beginning of each school year.

12 (2) Notice of specified incidents:

13 a. School personnel shall promptly notify the principal or
14 principal's designee of:

15 1. Any use of aversive procedures.

16 2. Any prohibited use of mechanical restraint.

17 3. Any use of physical restraint resulting in observable
18 physical injury to a student.

19 4. Any prohibited use of seclusion or seclusion that exceeds
20 10 minutes or the amount of time specified on a student's
21 behavior intervention plan.

22 b. When a principal or principal's designee has personal
23 knowledge or actual notice of any of the events described in this
24 subdivision, the principal or principal's designee shall promptly
25 notify the student's parent or guardian and will provide the
26 name of a school employee the parent or guardian can contact
27 regarding the incident.

28 (3) As used in subdivision (2) of this subsection, "promptly notify" means
29 by the end of the workday during which the incident occurred when
30 reasonably possible, but in no event later than the end of following
31 workday.

32 (4) The parent or guardian of the student shall be provided with a written
33 incident report for any incident reported under this section within a
34 reasonable period of time, but in no event later than 30 days after the
35 incident. The written incident report shall include:

36 a. The date, time of day, location, duration, and description of the
37 incident and interventions.

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41 contact regarding the incident.

42 (5) No local board of education or employee of a local board of education
43 shall discharge, threaten, or otherwise retaliate against another
44 employee of the board regarding that employee's compensation, terms,

1 conditions, location, or privileges of employment because the
2 employee makes a report alleging a prohibited use of physical
3 restraint, mechanical restraint, aversive procedure, or seclusion, unless
4 the employee knew or should have known that the report was false.

5 (j) Nothing in this section shall be construed to create a private cause of action
6 against any local board of education, its agents or employees, or any institutions of
7 teacher education or their agents or employees."

8 **SECTION 2. G.S. 115C-296 reads as rewritten:**

9 **"§ 115C-296. Board sets certification requirements.**

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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
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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
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24 years thereafter, until the retirement of the teacher. The last certificate renewal received
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In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...
(45) To Report Certain Incidents of Seclusion and Restraint. – Local boards of education shall maintain a record of incidents reported under G.S. 115C-391.1(i)(4) and shall provide this information annually to the State Board of Education."

SECTION 5. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to

1 preserve and protect public health and safety, subject to approval by the Council of
2 more stringent provisions proposed by a municipality or county as provided in
3 G.S. 143-138(e). These provisions may include regulations requiring the installation of
4 either battery-operated or electrical smoke detectors in every dwelling unit used as
5 rental property, regardless of the date of construction of the rental property. For
6 dwelling units used as rental property constructed prior to 1975, smoke detectors shall
7 have an Underwriters' Laboratories, Inc., listing or other equivalent national testing
8 laboratory approval, and shall be installed in accordance with either the standard of the
9 National Fire Protection Association or the minimum protection designated in the
10 manufacturer's instructions, which the property owner shall retain or provide as proof of
11 compliance.

12 The Code may contain provisions regulating every type of building or structure,
13 wherever it might be situated in the State.

14 Provided further, that nothing in this Article shall be construed to make any building
15 rules applicable to farm buildings located outside the building-rules jurisdiction of any
16 municipality.

17 Provided further, that no building permit shall be required under the Code or any
18 local variance thereof approved under subsection (e) for any construction, installation,
19 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any
20 single family residence or farm building unless the work involves: the addition, repair,
21 or replacement of load bearing structures; the addition (excluding replacement of same
22 size and capacity) or change in the design of plumbing; the addition, replacement or
23 change in the design of heating, air conditioning, or electrical wiring, devices,
24 appliances, or equipment, the use of materials not permitted by the North Carolina
25 Uniform Residential Building Code; or the addition (excluding replacement of like
26 grade of fire resistance) of roofing.

27 Provided further, that no building permit shall be required under such Code from any
28 State agency for the construction of any building or structure, the total cost of which is
29 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

30 For the information of users thereof, the Code shall include as appendices

- 31 (1) Any rules governing boilers adopted by the Board of Boiler and
32 Pressure Vessels Rules,
- 33 (2) Any rules relating to the safe operation of elevators adopted by the
34 Commissioner of Labor, and
- 35 (3) Any rules relating to sanitation adopted by the Commission for Health
36 Services which the Building Code Council believes pertinent.

37 In addition, the Code may include references to such other rules of special types,
38 such as those of the Medical Care Commission and the Department of Public Instruction
39 as may be useful to persons using the Code. No rule issued by any agency other than the
40 Building Code Council shall be construed as a part of the Code, nor supersede that
41 Code, it being intended that they be presented with the Code for information only.

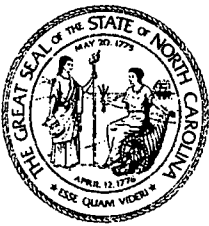
42 Nothing in this Article shall extend to or be construed as being applicable to the
43 regulation of the design, construction, location, installation, or operation of (1)
44 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases

1 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied
2 petroleum gas from the outlet of the first stage pressure regulator to and including each
3 liquefied petroleum gas utilization device within a building or structure covered by the
4 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined
5 in G.S. 62-3, or an electric or telephone membership corporation, including without
6 limitation poles, towers, and other structures supporting electric or communication
7 lines.

8 In addition, the Code may contain rules concerning minimum efficiency
9 requirements for replacement water heaters, which shall consider reasonable availability
10 from manufacturers to meet installation space requirements.

11 No State, county, or local building code or regulation shall prohibit the use of special
12 locking mechanisms for seclusion rooms in the public schools approved under
13 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be
14 constructed so that it will engage only when a key, knob, handle, button, or other similar
15 device is being held in position by a person, and provide further that, if the mechanism
16 is electrically or electronically controlled, it automatically disengages when the
17 building's fire alarm is activated. Upon release of the locking mechanism by a
18 supervising adult, the door must be able to be opened readily."

19 **SECTION 6.** Except as otherwise provided, this act becomes effective July
20 1, 2006.



HOUSE BILL 1032: Placing Students in Seclusion

BILL ANALYSIS

Committee: House Education K-12
Subcommittee
Date: April 14, 2005
Version: PCS to the First Edition
H1032-CSSF-10 [v.2]

Introduced by: Reps. Glazier, Preston, Farmer-
Butterfield, Barnhart
Summary by: Shirley Iorio, Ph.D.
Committee Analyst

SUMMARY: *House Bill 1032 would clarify when the use of seclusion and restraint in public schools would be reasonable and permissible. The bill would require that teacher education programs and lateral entry programs include in their training the identification and education of students with disabilities and strategies for the positive management of student behavior. Local boards of education would be required to include a behavior management component in the professional development section of their safe school plans.*

This bill would amend G.S. 143-138(b), the North Carolina State Building Code, by requiring that no State, county, or local building code or regulation prohibit the use of special locking mechanisms for approved seclusion rooms in the public schools, provided that the special locking mechanisms meet certain criteria.

Except as otherwise provided, the act would become effective July 1, 2006

The PCS makes technical changes.

CURRENT LAW: G.S. 115C-390 clearly provides that, except as may be restricted or prohibited by local board rules, principals, teachers, substitutes, voluntary teachers, teacher assistants, and student teachers "may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order." On the other hand, there is case law stating that students have a right to be free of excessive physical punishment or restraint.

G.S. 115C-45(c) authorizes an appeal to the local board of education "from any final administrative decision" concerning an alleged violation of a specified federal or State law. A final administrative decision is defined as a decision of a school employee from which no further appeal to a school administrator is available. The appeal to the board may be further appealed to superior court "on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious."

BILL ANALYSIS: Section 1 of the bill would add a new section to Chapter 115C of the General Statutes. G.S. 115C-391.1 would do the following:

- State that the policy of the State of North Carolina is to promote safety in the public schools, treat all students with dignity and respect, provide school staff with clear guidelines and training concerning appropriate discipline of students, and improve student achievement, attendance, promotion, and graduation rates.
- Define several terms, including "aversive procedure", "isolation", "mechanical restraint", "physical restraint", and "seclusion".
- Prohibit school personnel from physically restraining a student except as reasonably needed in specified circumstances such as obtaining possession of a weapon or other dangerous object, maintaining order, ensuring the safety of the student or another person, or preventing the destruction of property.
- Permit mechanical restraint of students when properly used as included in the student's IEP or other applicable plans, when using seat belts during transportation, or to ensure the safety of the student or

HOUSE BILL 1032

Page 2

another person. Except as indicated in this section, mechanical restraint, including tying, taping, or strapping down of a student is not considered a reasonable use of force and is prohibited.

- Permit law enforcement officers to use force, mechanical restraint, and seclusion in the lawful exercise of their law enforcement duties.
- Permit seclusion of students in certain circumstances such as when a student's behavior poses a threat to self or others, when properly used as included in the student's IEP or other applicable plans, or to maintain order. Except as indicated in this section, seclusion is not permitted.
- Permit isolation as a behavior management technique provided certain conditions are met.
- Permit time-out.
- Prohibit aversive procedures, as defined in this section, in public schools.
- Require local boards of education to provide copies of any policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.
- Require school personnel to notify the principal of any aversive procedures or prohibited use of restraints or seclusion. The principal must promptly notify the student's parent or guardian and provide the name of the school employee to contact regarding the incident. The parent must be provided with a written incident report no later than 30 days after the incident.
- Protect against retaliation toward an employee who makes a report alleging a prohibited use of physical or mechanical restraint, aversive procedure, or seclusion unless the employee knew or should have known that the report was false.

Section 2 would require that the approval standards for teacher education programs include demonstrated competencies in the identification and education of children with disabilities, positive management of student behavior, and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. Beginning with the 2006-2007 school year, the State Board of Education's criteria and procedures for employing lateral entry teachers would include requiring these same competencies as well as the safe and appropriate use of seclusion and restraint.

Section 3 would require local boards to include in their safe school plans a component to train appropriate school personnel in the management of disruptive or dangerous student behavior, and a procedure to evaluate the effectiveness of this training. Local boards must amend their safe school plans to include this training component by January 1, 2006.

Section 4 would require local boards to maintain a record of incidents reported under this section and provide this information annually to the State Board of Education.

Section 5 would amend G.S. 143-138(b), the North Carolina State Building Code, by requiring that no State, county, or local building code or regulation prohibit the use of special locking mechanisms for approved seclusion rooms in public schools, provided that the special locking mechanisms meet certain criteria.

Section 6 would make this act effective July 1, 2006, except as otherwise provided.

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 1032

A BILL TO BE ENTITLED AN ACT TO CLARIFY THE
PERMISSIBLE USE OF SECLUSION AND RESTRAINT IN PUBLIC SCHOOLS AND TO
PROVIDE FOR TRAINING IN MANAGEMENT OF STUDENT BEHAVIOR

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

Marion McLawhorn

- ☐ 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.

03/26/03

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

Thursday, April 21, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEM

**HB 1074 -- CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN
IN PUBLIC SCHOOLS, Rep. Daughtry**

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

April 21, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, April 21, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Vice Chair: Representative Blackwood, Members: Representatives Bernard Allen, Bell, Cleveland, Fisher, Hilton, Holloway, Jeffus, Johnson, Langdon, Nye, Pate, Preston, Womble, and Youngue. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.


The following bills were considered:

HB 1074, AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE PUBLIC SCHOOLS. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Langdon presented the bill. The chair recognized Committee Counsel Robin Johnson to further explain the bill. Representative Pate made a motion for an amendment to add health assessment and immunization reports as requirements for children to enroll in school for the first time. Chairman Glazier scheduled a post-committee discussion on Representative Pate's amendment and a vote for April 28, 2005.

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

Respectfully submitted,


Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1074

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors: Representatives Daughtry; and Holmes.

Referred to: Education.

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent, legal custodian, or custodial adult, as provided in subsection (a3) of this section, who is domiciled in the local school administrative unit, shall be the person to enroll the minor child or children in that school. This section shall not apply to preadoptive placement. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of:
 - a. The death, serious illness, or incarceration of a parent or legal guardian,
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
 - c. Abuse or neglect by the parent or legal guardian,

- 1 d. The physical or mental condition of the parent or legal guardian
2 is such that he or she cannot provide adequate care and
3 supervision of the student, or
4 e. The loss or uninhabitability of the student's home as the result
5 of a natural disaster;
6 (2) The student is not currently under a term of suspension or expulsion
7 from a school for conduct that could have led to a suspension or an
8 expulsion from the local school administrative unit; and
9 (3) The adult with whom the student resides and the student's parent,
10 guardian, or legal custodian have each completed and signed separate
11 affidavits that:
12 a. Confirm the qualifications set out in this subsection establishing
13 the student's residency,
14 b. Attest that the student's claim of residency in the unit is not
15 primarily related to attendance at a particular school within the
16 unit, and
17 c. Attest that the adult with whom the student is residing has been
18 given and accepts responsibility for educational decisions for
19 the child, including receiving notices of discipline under
20 G.S. 115C-391, attending conferences with school personnel,
21 granting permission for school-related activities, and taking
22 appropriate action in connection with student records. The adult
23 under this subsection shall have the same legal authority,
24 responsibility, and liability regarding the student as a parent or
25 legal custodian would have.

26 For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be
27 abused or neglected if there has been an adjudication of that issue. The State Board may
28 adopt an additional definition of abuse and neglect and that definition shall also apply to
29 this subsection.

30 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
31 unavailable to sign the affidavit, then the adult with whom the student is living shall
32 attest to that fact in the affidavit. The adult with whom the student is residing shall have
33 the same legal authority, responsibility, and liability as the parent or legal guardian,
34 even if the parent or legal custodian does not sign the above-mentioned affidavit.

35 Upon receipt of both affidavits or an affidavit from the adult with whom the student
36 is living that includes an attestation that the student's parent, guardian, or legal custodian
37 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
38 admit and assign as soon as practicable the student to an appropriate school, as
39 determined under the local board's school assignment policy, pending the results of any
40 further procedures for verifying eligibility for attendance and assignment within the
41 local school administrative unit.

42 If it is found that the information contained in either or both affidavits is false, then
43 the local board may, unless the student is otherwise eligible for school attendance under
44 other laws or local board policy, remove the student from school. If a student is

1 removed from school, the board shall provide an opportunity to appeal the removal
2 under the appropriate policy of the local board and shall notify any person who signed
3 the affidavit of this opportunity. If it is found that a person willfully and knowingly
4 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
5 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
6 educating the student during the period of enrollment. Repayment shall not include
7 State funds.

8 Affidavits shall include, in large print, the penalty, including repayment of the cost
9 of educating the student, for providing false information in an affidavit.

10"

11 **SECTION 2.** G.S. 115C-111 reads as rewritten:

12 **"§ 115C-111. Free appropriate education for all children with special needs.**

13 No child with special needs between the ages specified by G.S. 115C-109 shall be
14 denied a free appropriate public education or be prevented from attending the public
15 schools of the local educational agency in which he or his parents or legal guardian
16 ~~resides~~ is domiciled or from which he receives services or from attending any other
17 public program of free appropriate public education because he is a child with special
18 needs. If it appears that a child should receive a program of free appropriate public
19 education in a program operated by or under the supervision of the Department of
20 Health and Human Services or the Department of Juvenile Justice and Delinquency
21 Prevention, the local educational agency shall confer with the appropriate Department
22 of Health and Human Services or Department of Juvenile Justice and Delinquency
23 Prevention staff for their participation and determination of the appropriateness of
24 placement in said program and development of the child's individualized education
25 program. The individualized education program may then be challenged under the due
26 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
27 attend these nonresidential schools or programs and receive from them free appropriate
28 public education."

29 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
30 with the 2005-2006 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1074
PROPOSED COMMITTEE SUBSTITUTE H1074-CSRH-11 [v.2]

4/21/2005 10:52:53 AM

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent or legal custodian of a student eligible for assignment to a public school under this subsection or under G.S. 115C-366.2, except for a student who resides in a pre-adoptive home, is the person who must enroll the minor child or children in that school. The custodial adult of a student eligible for assignment to a public school under subsection (a3) of this section is the person to enroll the minor child or children in that school. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of:

a. The death, serious illness, or incarceration of a parent or legal guardian,

- 1 b. The abandonment by a parent or legal guardian of the complete
2 control of the student as evidenced by the failure to provide
3 substantial financial support and parental guidance,
4 c. Abuse or neglect by the parent or legal guardian,
5 d. The physical or mental condition of the parent or legal guardian
6 is such that he or she cannot provide adequate care and
7 supervision of the student, or
8 e. The loss or uninhabitability of the student's home as the result
9 of a natural disaster;
10 (2) The student is not currently under a term of suspension or expulsion
11 from a school for conduct that could have led to a suspension or an
12 expulsion from the local school administrative unit; and
13 (3) The adult with whom the student resides and the student's parent,
14 guardian, or legal custodian have each completed and signed separate
15 affidavits that:
16 a. Confirm the qualifications set out in this subsection establishing
17 the student's residency,
18 b. Attest that the student's claim of residency in the unit is not
19 primarily related to attendance at a particular school within the
20 unit, and
21 c. Attest that the adult with whom the student is residing has been
22 given and accepts responsibility for educational decisions for
23 the child, including receiving notices of discipline under
24 G.S. 115C-391, attending conferences with school personnel,
25 granting permission for school-related activities, and taking
26 appropriate action in connection with student records. The adult
27 under this subsection shall have the same legal authority,
28 responsibility, and liability regarding the student as a parent or
29 legal custodian would have.

30 For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be
31 abused or neglected if there has been an adjudication of that issue. The State Board may
32 adopt an additional definition of abuse and neglect and that definition shall also apply to
33 this subsection.

34 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
35 unavailable to sign the affidavit, then the adult with whom the student is living shall
36 attest to that fact in the affidavit. The adult with whom the student is residing shall have
37 the same legal authority, responsibility, and liability as the parent or legal guardian,
38 even if the parent or legal custodian does not sign the above-mentioned affidavit.

39 Upon receipt of both affidavits or an affidavit from the adult with whom the student
40 is living that includes an attestation that the student's parent, guardian, or legal custodian
41 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
42 admit and assign as soon as practicable the student to an appropriate school, as
43 determined under the local board's school assignment policy, pending the results of any

1 further procedures for verifying eligibility for attendance and assignment within the
2 local school administrative unit.

3 If it is found that the information contained in either or both affidavits is false, then
4 the local board may, unless the student is otherwise eligible for school attendance under
5 other laws or local board policy, remove the student from school. If a student is
6 removed from school, the board shall provide an opportunity to appeal the removal
7 under the appropriate policy of the local board and shall notify any person who signed
8 the affidavit of this opportunity. If it is found that a person willfully and knowingly
9 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
10 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
11 educating the student during the period of enrollment. Repayment shall not include
12 State funds.

13 Affidavits shall include, in large print, the penalty, including repayment of the cost
14 of educating the student, for providing false information in an affidavit.

15"

16 **SECTION 2.** G.S. 115C-111 reads as rewritten:

17 **"§ 115C-111. Free appropriate education for all children with special needs.**

18 (a) No child with special needs between the ages specified by G.S. 115C-109
19 shall be denied a free appropriate public education or be prevented from attending
20 from:

21 (1) Attending the public schools of the local educational agency school
22 administrative unit in which he or his parents or legal guardian resides the child is
23 eligible for assignment under G.S. 115C-366, 115C-366.1, or 115C-366.2; or

24 (2) From attending the public schools of the local educational agency from
25 which he the child receives services; or

26 (3) from attending Attending any other public program of free appropriate
27 public education because he the child is a child with special needs.

28 (b) If it appears that a child should receive a program of free appropriate public
29 education in a program operated by or under the supervision of the Department of
30 Health and Human Services or the Department of Juvenile Justice and Delinquency
31 Prevention, the local educational agency shall confer with the appropriate Department
32 of Health and Human Services or Department of Juvenile Justice and Delinquency
33 Prevention staff for their participation and determination of the appropriateness of
34 placement in said program and development of the child's individualized education
35 program. The individualized education program may then be challenged under the due
36 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
37 attend these nonresidential schools or programs and receive from them free appropriate
38 public education."

39 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
40 with the 2005-2006 school year.



HOUSE BILL 1074: Clarify School Admissions Procedures

BILL ANALYSIS

Committee:	House Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	April 20, 2005
Introduced by:	Rep. Daughtry	Summary by:	Robin Johnson
Version:	First Edition		Committee Counsel

SUMMARY: *House Bill 1074 would (i) require a student's parent or legal custodian or the custodial parent with whom the student lives to be responsible for enrolling children in school; (ii) provide that custodial adults with whom a student resides have the same legal authority, responsibility, and liability regarding the student as the student's parent or legal custodian would have; and (iii) require the local school administrative unit (LEA) where a student with disabilities is domiciled to be responsible for providing that child with special education and related services.*

CURRENT LAW:

1. The following students are entitled to attend, free of tuition, a public school in an LEA:
 - 1.1. Students under the age of 21 who have not been removed from school for cause, who have not received a high school diploma, and who are domiciled in the LEA.
 - 1.2. Students who do not live with their parents and are not domiciles of the LEA, but who live in and are cared for and supported by an institution located in the LEA. These institutions include foster homes and group homes.
 - 1.3. Homeless students if they meet the criteria in G.S. 115C-366(a2).
 - 1.4. A student whose parent or guardian serves in the General Assembly, and whose place of residence in the LEA is incident to the General Assembly service of the parent or guardian. This is subject to the payment of any applicable out-of-county fees that may be in effect.
 - 1.5. A person who is not a domicile of the LEA, but who is a resident of the LEA because of one of the following:
 - 1.5.1. The person resides with his or her parent, guardian, or legal custodian¹ who is a (i) student, employee, or faculty member of a college or university or (i) visiting scholar at the National Humanities Center.
 - 1.5.2. The child is placed in or assigned to a group home, foster home, or similar facility or institution.
 - 1.5.3. The child lives with a legal custodian who is not the child's parent or guardian.
 - 1.5.4. The child resides in a pre-adoptive home following placement by a county department of social services or licensed child-placing agency.
 - 1.5.5. The child resides with a custodial adult, who is a domicile of that LEA, as a result of one of the following:
 - 1.5.5.1. The death, serious illness, or incarceration of the child's parent or legal guardian.
 - 1.5.5.2. The abandonment of the parent or guardian.

¹ "Legal custodian" means the person or agency has been awarded legal custody of the child by a court.

House Bill 1074

Page 2

1.5.5.3. Abuse or neglect by the parent or guardian.

1.5.5.4. The parent's or guardian's physical or mental condition is such that he or she cannot provide adequate care and supervision of the child.

1.5.5.5. The loss of the child's home due to a natural disaster.

2. The following students who are not domiciled in the LEA may attend a school in that LEA with or without the payment of tuition:

2.1. Students who are not domiciles of the State.

2.2. Any student who is a domicile of the State and who does not reside in the LEA.

2.3. Students who reside on a military or naval reservation within the State. Tuition may be charged only if federal funds are provided for at least 50% of the total per capita education cost of that LEA.

2.4. A student assigned to that LEA upon the terms of an agreement between that LEA's board of education and the board of education of the LEA where the student is domiciled.

2.5. Persons who are at least 21 years old before the beginning of the school year in which they wish to enroll.

3. Federal law requires each state to provide a free, appropriate public education (FAPE) to all students with disabilities who need special education and related services and who reside in the state. G.S. 115C-111 provides that one of the following LEAs is responsible for providing FAPE:

3.1. Where the child, the child's parents, or the child's legal guardians resides.

3.2. From which the child receives services.

A domicile is the place the person intends to be his or her true, permanent, and established home. A residence is where the person lives. A person may have only one domicile, but may have multiple residences.

BILL ANALYSIS:

Section 1 would amend G.S. 115C-366(a) to require a parent, legal custodian, or custodial adult to enroll a minor child or children in a school. This appears to apply to all the children covered above in 1.1 and 1.5 (except for children who live in a pre-adoptive home). It is unclear whether it would apply to children covered above in 1.2, 1.3, 1.4, or 2.

Section 1 also would amend G.S. 115C-366(a3), which covers children in 1.5.5 above, to specify that the custodial adult would have the same legal authority, responsibility, and liability regarding the student as a parent or legal custodian would have. This would apply regardless of whether the child's parent, guardian, or legal custodian signs an affidavit. Some examples of what this would cover are: allowing the custodial adult to make emergency health care decisions for the student and allowing the school to enforce the compulsory attendance law.

Section 2 of the bill would amend G.S. 115C-111, which currently requires the LEA where a student resides to be responsible for providing FAPE. The change would require the student to be domiciled in that LEA. This change does not specify how FAPE (which is required) would be provided to students who are not domiciled in the LEA, but who are otherwise eligible to be enrolled in a school in that LEA.

EFFECTIVE DATE: The bill would take effect July 1, 2005, and would apply beginning with the 2005-2006 school year.

H1074e1-SMRH

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

Thursday, May 5, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEM

**HB 683 ADD INFO ON PROTECTING NEWBORN TO CURRICULUM, Reps.
Haire, Fisher and Justice**

HB 1074 CLARIFY SCHOOL ADMISSIONS PROCEDURES, Rep. Daughtry

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

May 5, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, May 5, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Vice Chairs: Representatives Blackwood and Goforth, Members: Representatives Bernard Allen, Carney, Cleveland, Fisher, Folwell, Harrison, Hilton, Holloway, Jeffus, Langdon, Nye, Preston, Wiley, Womble, and Yongue. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.


The following bills were considered:

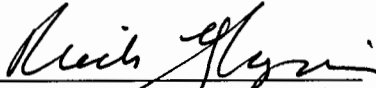
HB 683, AN ACT TO INCLUDE INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Fisher presented the bill. Upon motion made by Representative Womble, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.


HB 1074, AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE PUBLIC SCHOOLS. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Haire presented the bill. Upon motion made by Representative Cleveland, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

There being no further business, the Chair adjourned the meeting at 11:50 AM.

Respectfully submitted,




Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 683

Short Title:	Add Info on Protecting Newborn to Curriculum.	(Public)
Sponsors:	Representatives Haire, Fisher, Justice (Primary Sponsors); and Jones.	
Referred to:	Education Subcommittee on Pre-School, Elementary and Secondary Education.	

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO INCLUDE INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(e1) reads as rewritten:

- "(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem":
- a. Mental and emotional health;
 - b. Drug and alcohol abuse prevention;
 - c. Nutrition;
 - d. Dental health;
 - e. Environmental health;
 - f. Family living;
 - g. Consumer health;
 - h. Disease control;
 - i. Growth and development;
 - j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students become proficient in order to pass a test approved by the American Heart Association, or American Red Cross;

- k. Preventing sexually transmitted diseases, including Acquired Immune Deficiency Syndrome (AIDS) virus infection, and other communicable diseases;
- l. Abstinence until marriage education; ~~and~~
- m. Bicycle ~~safety-safety~~; and
- n. Information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 2. G.S. 115C-47 is amended by adding a new subdivision to read:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- (45) To Ensure That High School Students Receive Annual Instruction on Lawfully abandoning a Newborn Baby. – Local boards of education shall adopt policies to ensure that high school students receive instruction annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 683
PROPOSED COMMITTEE SUBSTITUTE H683-CSRH-6 [v.3]

4/18/2005 5:59:21 PM

Short Title: Instruction/Info. to Protect Newborn.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO ENSURE THAT STUDENTS IN GRADES EIGHT THROUGH TWELVE RECEIVE ANNUAL INSTRUCTION OR INFORMATION ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(45) To Ensure That Certain Students Receive Annual Instruction or Information on Lawfully Abandoning a Newborn Baby. – Local boards of education shall adopt policies to ensure that students in grades eight through 12 receive annual instruction or information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 1074

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors: Representatives Daughtry; and Holmes.

Referred to: Education.

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent, legal custodian, or custodial adult, as provided in subsection (a3) of this section, who is domiciled in the local school administrative unit, shall be the person to enroll the minor child or children in that school. This section shall not apply to preadoptive placement. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of:
 - a. The death, serious illness, or incarceration of a parent or legal guardian,
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
 - c. Abuse or neglect by the parent or legal guardian,

- 1 d. The physical or mental condition of the parent or legal guardian
2 is such that he or she cannot provide adequate care and
3 supervision of the student, or
4 e. The loss or uninhabitability of the student's home as the result
5 of a natural disaster;
6 (2) The student is not currently under a term of suspension or expulsion
7 from a school for conduct that could have led to a suspension or an
8 expulsion from the local school administrative unit; and
9 (3) The adult with whom the student resides and the student's parent,
10 guardian, or legal custodian have each completed and signed separate
11 affidavits that:
12 a. Confirm the qualifications set out in this subsection establishing
13 the student's residency,
14 b. Attest that the student's claim of residency in the unit is not
15 primarily related to attendance at a particular school within the
16 unit, and
17 c. Attest that the adult with whom the student is residing has been
18 given and accepts responsibility for educational decisions for
19 the child, including receiving notices of discipline under
20 G.S. 115C-391, attending conferences with school personnel,
21 granting permission for school-related activities, and taking
22 appropriate action in connection with student records. The adult
23 under this subsection shall have the same legal authority,
24 responsibility, and liability regarding the student as a parent or
25 legal custodian would have.

26 For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be
27 abused or neglected if there has been an adjudication of that issue. The State Board may
28 adopt an additional definition of abuse and neglect and that definition shall also apply to
29 this subsection.

30 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
31 unavailable to sign the affidavit, then the adult with whom the student is living shall
32 attest to that fact in the affidavit. The adult with whom the student is residing shall have
33 the same legal authority, responsibility, and liability as the parent or legal guardian,
34 even if the parent or legal custodian does not sign the above-mentioned affidavit.

35 Upon receipt of both affidavits or an affidavit from the adult with whom the student
36 is living that includes an attestation that the student's parent, guardian, or legal custodian
37 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
38 admit and assign as soon as practicable the student to an appropriate school, as
39 determined under the local board's school assignment policy, pending the results of any
40 further procedures for verifying eligibility for attendance and assignment within the
41 local school administrative unit.

42 If it is found that the information contained in either or both affidavits is false, then
43 the local board may, unless the student is otherwise eligible for school attendance under
44 other laws or local board policy, remove the student from school. If a student is

1 removed from school, the board shall provide an opportunity to appeal the removal
2 under the appropriate policy of the local board and shall notify any person who signed
3 the affidavit of this opportunity. If it is found that a person willfully and knowingly
4 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
5 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
6 educating the student during the period of enrollment. Repayment shall not include
7 State funds.

8 Affidavits shall include, in large print, the penalty, including repayment of the cost
9 of educating the student, for providing false information in an affidavit.

10"

11 **SECTION 2.** G.S. 115C-111 reads as rewritten:

12 **"§ 115C-111. Free appropriate education for all children with special needs.**

13 No child with special needs between the ages specified by G.S. 115C-109 shall be
14 denied a free appropriate public education or be prevented from attending the public
15 schools of the local educational agency in which he or his parents or legal guardian
16 ~~resides~~ is domiciled or from which he receives services or from attending any other
17 public program of free appropriate public education because he is a child with special
18 needs. If it appears that a child should receive a program of free appropriate public
19 education in a program operated by or under the supervision of the Department of
20 Health and Human Services or the Department of Juvenile Justice and Delinquency
21 Prevention, the local educational agency shall confer with the appropriate Department
22 of Health and Human Services or Department of Juvenile Justice and Delinquency
23 Prevention staff for their participation and determination of the appropriateness of
24 placement in said program and development of the child's individualized education
25 program. The individualized education program may then be challenged under the due
26 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
27 attend these nonresidential schools or programs and receive from them free appropriate
28 public education."

29 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
30 with the 2005-2006 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1074
PROPOSED COMMITTEE SUBSTITUTE H1074-CSRH-11 [v.4]

4/26/2005 9:24:22 PM

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent or legal custodian of a student who is eligible for assignment to a public school under this subsection or under G.S. 115C-366.2 is the person who must enroll the minor child or children in that school. The previous sentence shall not apply to an emancipated student or to a student who resides in a pre-adoptive home. The custodial adult of a student eligible for assignment to a public school under subsection (a3) of this section is the person to enroll the minor child or children in that school. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of:

a. The death, serious illness, or incarceration of a parent or legal guardian,

- b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
- c. Abuse or neglect by the parent or legal guardian,
- d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student, or
- e. The loss or uninhabitability of the student's home as the result of a natural disaster;
- (2) The student is not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit; and
- (3) The adult with whom the student resides and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that:
- a. Confirm the qualifications set out in this subsection establishing the student's residency,
- b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit, and
- c. Attest that the adult with whom the student is residing has been given and accepts responsibility for educational decisions for the child, including receiving notices of discipline under G.S. 115C-391, attending conferences with school personnel, granting permission for school-related activities, and taking appropriate action in connection with student records. The adult under this subsection shall have the same legal authority, responsibility, and liability regarding the student as a parent or legal custodian would have.

For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be abused or neglected if there has been an adjudication of that issue. The State Board may adopt an additional definition of abuse and neglect and that definition shall also apply to this subsection.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the adult with whom the student is living shall attest to that fact in the affidavit. The adult with whom the student is residing shall have the same legal authority, responsibility, and liability as the parent or legal guardian, even if the parent or legal custodian does not sign the above-mentioned affidavit.

Upon receipt of both affidavits or an affidavit from the adult with whom the student is living that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any

1 further procedures for verifying eligibility for attendance and assignment within the
2 local school administrative unit.

3 If it is found that the information contained in either or both affidavits is false, then
4 the local board may, unless the student is otherwise eligible for school attendance under
5 other laws or local board policy, remove the student from school. If a student is
6 removed from school, the board shall provide an opportunity to appeal the removal
7 under the appropriate policy of the local board and shall notify any person who signed
8 the affidavit of this opportunity. If it is found that a person willfully and knowingly
9 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
10 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
11 educating the student during the period of enrollment. Repayment shall not include
12 State funds.

13 Affidavits shall include, in large print, the penalty, including repayment of the cost
14 of educating the student, for providing false information in an affidavit.

15"

16 **SECTION 2.** G.S. 115C-111 reads as rewritten:

17 **"§ 115C-111. Free appropriate education for all children with special needs.**

18 (a) No child with special needs between the ages specified by G.S. 115C-109
19 shall be denied a free appropriate public education or be prevented from attending
20 from:

21 (1) Attending the public schools of the local educational agency school
22 administrative unit in which he or his parents or legal guardian resides the child is
23 eligible for assignment under G.S. 115C-366, 115C-366.1, or 115C-366.2; or

24 (2) Attending the public schools of the local educational agency from which
25 he the child receives services-services; or

26 (3) ~~from attending~~ Attending any other public program of free appropriate
27 public education because ~~he the child~~ is a child with special needs.

28 (b) If it appears that a child should receive a program of free appropriate public
29 education in a program operated by or under the supervision of the Department of
30 Health and Human Services or the Department of Juvenile Justice and Delinquency
31 Prevention, the local educational agency shall confer with the appropriate Department
32 of Health and Human Services or Department of Juvenile Justice and Delinquency
33 Prevention staff for their participation and determination of the appropriateness of
34 placement in said program and development of the child's individualized education
35 program. The individualized education program may then be challenged under the due
36 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
37 attend these nonresidential schools or programs and receive from them free appropriate
38 public education."

39 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
40 with the 2005-2006 school year.



HOUSE BILL 1074: Clarify School Admissions Procedures

BILL ANALYSIS

Committee:	House Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	April 27, 2005
Introduced by:	Rep. Daughtry	Summary by:	Robin Johnson <i>Robin</i>
Version:	First Edition H1074-CSRH-11[v.4]		Committee Counsel

SUMMARY: *The PCS for House Bill 1074 would (i) require a student's parent or legal custodian or the custodial parent with whom a student lives to be responsible for enrolling children in school; (ii) provide that the custodial adult with whom a student resides has the same legal authority, responsibility, and liability regarding the student as the student's parent or legal custodian would have; and (iii) clarify that a child with special needs cannot be denied a free appropriate public education (FAPE) or be prohibited from attending the public school to which the child is eligible to be assigned.*

The PCS makes clarifying changes.

CURRENT LAW:

1. The following students are entitled to attend, free of tuition, a public school in an LEA:
 - 1.1. Students under the age of 21 who have not been removed from school for cause, who have not received a high school diploma, and who are domiciled in the LEA.
 - 1.2. Students who do not live with their parents and are not domiciles of the LEA, but who live in and are cared for and supported by an institution located in the LEA. These institutions include foster homes and group homes.
 - 1.3. Homeless students if they meet the criteria in G.S. 115C-366(a2).
 - 1.4. A student whose parent or guardian serves in the General Assembly, and whose place of residence in the LEA is incident to the General Assembly service of the parent or guardian. This is subject to the payment of any applicable out-of-county fees that may be in effect.
 - 1.5. A person who is not a domicile of the LEA, but who is a resident of the LEA because of one of the following:
 - 1.5.1. The person resides with his or her parent, guardian, or legal custodian¹ who is a (i) student, employee, or faculty member of a college or university or (i) visiting scholar at the National Humanities Center.
 - 1.5.2. The child is placed in or assigned to a group home, foster home, or similar facility or institution.
 - 1.5.3. The child lives with a legal custodian who is not the child's parent or guardian.
 - 1.5.4. The child resides in a pre-adoptive home following placement by a county department of social services or licensed child-placing agency.

¹ "Legal custodian" means the person or agency has been awarded legal custody of the child by a court.

House Bill 1074

Page 2

- 1.5.5. The child resides with a custodial adult, who is a domicile of that LEA, as a result of one of the following:
 - 1.5.5.1. The death, serious illness, or incarceration of the child's parent or legal guardian.
 - 1.5.5.2. The abandonment of the parent or guardian.
 - 1.5.5.3. Abuse or neglect by the parent or guardian.
 - 1.5.5.4. The parent's or guardian's physical or mental condition is such that he or she cannot provide adequate care and supervision of the child.
 - 1.5.5.5. The loss of the child's home due to a natural disaster.
2. The following students who are not domiciled in the LEA may attend a school in that LEA with or without the payment of tuition:
 - 2.1. Students who are not domiciles of the State.
 - 2.2. Any student who is a domicile of the State and who does not reside in the LEA.
 - 2.3. Students who reside on a military or naval reservation within the State. Tuition may be charged only if federal funds are provided for at least 50% of the total per capita education cost of that LEA.
 - 2.4. A student assigned to that LEA upon the terms of an agreement between that LEA's board of education and the board of education of the LEA where the student is domiciled.
 - 2.5. Persons who are at least 21 years old before the beginning of the school year in which they wish to enroll.
3. Federal law requires each state to provide a free, appropriate public education (FAPE) to all students with disabilities who need special education and related services and who reside in the state. G.S. 115C-111 provides that one of the following LEAs is responsible for providing FAPE:
 - 3.1. Where the child, the child's parents, or the child's legal guardians resides.
 - 3.2. From which the child receives services.

A domicile is the place the person intends to be his or her true, permanent, and established home. A residence is where the person lives. A person may have only one domicile, but may have multiple residences.

BILL ANALYSIS:

Section 1 would amend G.S. 115C-366(a) to require a parent or legal custodian, or the custodial adult with whom a student resides, to enroll a minor child or children in school. This would apply to all the students (except emancipated students) covered above in 1.1 and 1.5 (except for children who live in a pre-adoptive home).

Section 1 also would amend G.S. 115C-366(a3), which covers children in 1.5.5 above, to specify that the custodial adult would have the same legal authority, responsibility, and liability regarding the student as a parent or legal custodian would have. This would apply regardless of whether the child's parent, guardian, or legal custodian signs an affidavit. Some examples of what this would cover are: allowing the custodial adult to make emergency health care decisions for the student and allowing the school to enforce the compulsory attendance law.

House Bill 1074

Page 3

Section 2 of the bill would amend G.S. 115C-111, which currently requires the LEA where a student resides to be responsible for providing FAPE. The PCS would amend this statute to clarify that, if a child with special needs is eligible to be assigned to a public school, then the local school administrative unit cannot be denied a free appropriate public education (i.e., special education and related services) or be prohibited from attending that school. This change does not specify how FAPE (which is required) would be provided to students who may reside in the LEA, but who may not be eligible to be enrolled there.

EFFECTIVE DATE: The bill would take effect July 1, 2005, and would apply beginning with the 2005-2006 school year.

H1074e1-SMRH-CSRH-11v4

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education .

☐ Committee Substitute for

H.B. 683

A BILL TO BE ENTITLED AN ACT TO INCLUDE
INFORMATION IN THE SCHOOL HEALTH EDUCATION PROGRAM ABOUT THE MANNER
IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A
RESPONSIBLE PERSON AND TO DIRECT LOCAL BOARDS OF EDUCATION TO ENSURE
THAT HIGH SCHOOL STUDENTS RECEIVE THAT INFORMATION.

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

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.

03/26/03

MINUTES

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

Thursday, May 19, 2005

11:00 a.m.

Room 421, Legislative Office Building

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, May 19, 2005, at 11:00 a.m. in Room 421 of the Legislative Office Building. Representative Earline W. Parmon, presiding Chair, called the meeting to order and introduced the Pages and Sergeant-At-Arms.

The following Committee members were present: Vice Chairs: Representatives Blackwood and Goforth, Members: Representatives Bernard Allen, Carney, Cleveland, Fisher, Folwell, Harrison, Hilton, Holloway, Jeffus, Langdon, Luebke, Pate, Preston, Walker, Warren, Wiley and Womble.

Representative Parmon announced that **HB 1151 PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS** would be rescheduled and considered at the next meeting. The Agenda is attached (*Attachment 1*) hereto and incorporated into the minutes. The following bills were considered:

HB 1502, A BILL TO BE ENTITLED AN ACT TO ENACT THE SCHOOL CHILDREN'S HEALTH ACT OF 2005. With a proposed committee substitute for the bill, Representative Martin moved for adoption. The motion was unanimously passed. Representative Martin was recognized and explained the purpose of the bill that addressed several health and environmental hazards in the schools. The explanation was followed by a question and answer discussion as well as comments from the committee members in support of the bill. In response to many questions, Representative Martin pointed out that broad language is used in the bill in an effort to give school systems the flexibility to tailor their approach to their particular needs in addressing the health issues. After additional discussion, Representative Fisher moved for a favorable report as to the committee substitute bill and unfavorable to the original bill with the report made directly to the floor of the House. The motion was unanimously passed.

HB 1491, A BILL TO BE ENTITLED AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO PROVIDE LIABILITY INSURANCE FOR SCHOOL SOCIAL WORKERS WHO TRANSPORT STUDENTS. With a proposed committee substitute for the bill, Representative Glazier moved for the adoption. The motion was unanimously passed. Representative Glazier was recognized to explain the bill and stated that it provided fairness and equity for school social workers that transport students. He further stated that the bill would correct current problems and provide flexibility for school districts. Discussion and comments in support of the bill followed the

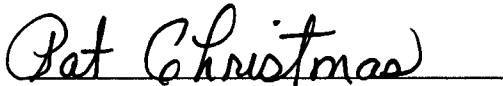
explanation. Representative Womble was recognized and moved for a favorable report as to the committee substitute bill and unfavorable to the original bill with the report made directly to the floor of the House. The motion was unanimously passed.

Representative Parmon announced that the Subcommittee Chairs had appointed the following Subcommittee for **HB1317 AN ACT TO ESTABLISH THE STUDY COMMISSION ON THE EDUCATION OF STUDENTS WITH DISABILITIES:**

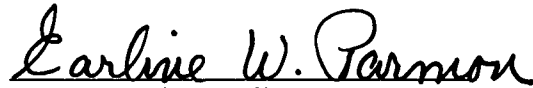
Chairs: Representative Parmon and Glazier, Members: Representatives Carney, Allen, Wiley, Preston, Warren, Holloway, Folwell, Goforth and Johnson.

There being no further business, the chair adjourned the meeting at 11:35 a.m.

Respectfully submitted,



Pat Christmas
Committee Assistant



Representative Earline W. Parmon
Chair

ATTACHMENTS:

- Attachment 1* Agenda
- Attachment 2* HB 1151
- Attachment 3* HB 1502
- Attachment 4* HB 1502 Proposed Committee Substitute
- Attachment 5* HB 1502 Bill Analysis
- Attachment 6* HB1502 Subcommittee Report
- Attachment 7* HB 1491
- Attachment 8* HB 1491 Proposed Committee Substitute
- Attachment 9* HB 1491 Bill Analysis
- Attachment 10* HB1491 Subcommittee Report
- Attachment 11* Meeting Notice

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

Thursday, May 19, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Earline W. Parmon, Presiding Chair

II. AGENDA ITEMS

HB 1151 PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS

Representative Jeffus

HB 1491 INSURANCE FOR SCHOOL SOCIAL WORKERS

Representative Glazier

HB 1502 SCHOOLCHILDREN'S HEALTH ACT

Representatives Martin, McLawhorn, and Lucas

III. ADJOURN

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1151*

Short Title: Planning Time & Duty-Free Lunch for Teachers.

(Public)

Sponsors: Representatives Jeffus; Faison, Fisher, Harrison, Insko, Luebke, Parmon,
Pierce, Wainwright, and Womble.

Referred to: Education.

April 7, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A DUTY-FREE LUNCH PERIOD FOR TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-301.1 reads as rewritten:

"§ 115C-301.1. ~~Duty-free period.~~ Instructional planning period and duty-free lunch period.

All full-time assigned classroom teachers shall be provided a daily ~~duty-free period~~ duty-free instructional planning period and a daily duty-free lunch period during regular student contact hours. The ~~duty-free period~~ duty-free instructional planning period shall be provided except in emergency situations where the immediate and temporary suspension of the planning period is the only reasonable means of protecting the safety of children. The duty-free lunch period shall be provided to the maximum extent that (i) the safety and proper supervision of children may allow during regular student contact ~~hours.~~ hours and (ii) ~~insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty-free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty-free period for that teacher shall revert to the general fund.~~ Principals shall not unfairly burden a given teacher by making that teacher give up his or her ~~duty-free period~~ duty-free instructional planning period or duty-free lunch period on an ongoing, regular basis without the consent of the teacher."

SECTION 2. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1502

Short Title: Schoolchildren's Health Act.

(Public)

Sponsors: Representatives Martin, McLawhorn, Lucas (Primary Sponsors); Alexander, B. Allen, Bordsen, Carney, Coleman, Faison, Fisher, Glazier, Goodwin, Hackney, Harrell, Harrison, Justice, Parmon, Ross, Sherrill, Vinson, Wainwright, Weiss, Wiley, Womble, Wray, Wright, and Yongue.

Referred to: Education.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SCHOOLCHILDREN'S HEALTH ACT OF 2005.

Whereas, when school is in session, children spend 30% to 50% of their time at school; and

Whereas, it is incumbent upon State government to address public health and environmental issues in the classroom and on school grounds in order to protect the health of school-age children; and

Whereas, inexpensive and easy measures can be taken to provide a healthier learning environment for our children, and, in some instances, these measures actually offer a school district cost savings; and

Whereas, on March 4, 2004, a stakeholders group consisting of the Department of Public Instruction, the Department of Agriculture and Consumer Services, the North Carolina Cooperative Extension Service, the Agricultural Resources Center, the North Carolina Parent Teacher's Association, the N.C. Pest Control Association, The North Carolina State School Boards Association, Inc., and other entities signed a memorandum of understanding establishing their support for Integrated Pest Management (IPM) and creating a model school IPM policy; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. This act may be cited as the Schoolchildren's Health Act of 2005.

SECTION 2. The General Assembly makes the following findings:

(a) Arsenic-Treated Wood. –

(1) Effective 2004, arsenic-treated wood for residential uses has been removed from the marketplace under a voluntary agreement between the United States Environmental Protection Agency and the industry.

- 1 Since this is a voluntary agreement, only a State ban will ensure that
2 arsenic treated wood is not used on school grounds in the future.
- 3 (2) Additionally, back stock arsenic-treated wood is still on the market in
4 some places.
- 5 (3) A ban of CCA (copper chromated arsenate) treated wood for use in
6 public schools is a reasonable safeguard measure.
- 7 (b) Mercury. –
- 8 (1) Mercury is a potent brain toxin, and children, whose brains are still
9 developing, are most vulnerable to its effects.
- 10 (2) Once introduced into the human body, mercury interferes with brain
11 development and can lead to a number of developmental problems,
12 including delayed language acquisition, impaired memory, learning
13 disabilities, and attention deficient disorder.
- 14 (c) Diesel Exhaust Fumes. –
- 15 (1) Because children's respiratory systems are still developing and they
16 breathe more rapidly, children are more susceptible to air pollution
17 than the average adult.
- 18 (2) Diesel exhaust poses a particular risk to children, because it contains
19 significant levels of small particles, known as fine particulate matter.
20 This particulate matter is so fine that it can pass through the nose and
21 throat and lodge in the lungs, possibly causing long-term adverse
22 health effects.
- 23 (3) Particulate matter from diesel exhaust is associated with asthma and
24 has been found to increase the risk of lung disease and heart disease.
25 Additionally, it can bind to pollen in the air, further exacerbating
26 allergies and asthma.
- 27 (4) School bus idling and queuing (nose-to-tail lineup of buses)
28 dramatically increase the concentrations of detrimental particulate
29 pollution inside school buses.
- 30 (d) Pesticides. –
- 31 (1) Because children's bodies are still developing, exposure to pesticides
32 can have serious impacts on their long-term health.
- 33 (2) Schools may subject themselves to liability for immediate injuries to
34 students, faculty, or other staff resulting from improper management of
35 toxic chemicals, such as pesticides.
- 36 (3) Schools can reduce or even eliminate the risks of pesticides by using
37 simple, low-cost methods, such as Integrated Pest Management (IPM).
- 38 (4) With proper training, planning, and effective communication among
39 affected parties, IPM can prevent pest problems, reduce the need for
40 pesticide applications, and greatly improve the quality of the school
41 environment.
- 42 (e) Mold and Mildew. –

- 1 (1) Mold and mildew problems occur in schools when moisture gets into
2 the structure, thereby creating a friendly environment for excessive
3 mold and mildew growth.
- 4 (2) Parents and school officials have become more aware of the health
5 risks of mold, such as allergic reactions in children and adults, as the
6 public has become more aware of the problems associated with certain
7 molds.

8 **SECTION 3.** G.S. 115C-12 is amended by adding a new subdivision to read:

9 "(33) Duty to Protect the Health of School-Age Children from Toxins at
10 School. – The State Board shall address public health and
11 environmental issues in the classroom and on school grounds by doing
12 all of the following:

- 13 a. Develop recommended procedures for sealing existing arsenic-
14 treated wood in playground equipment, or establish a time line
15 for removing existing arsenic-treated wood on school grounds.
- 16 b. Ban bulk elemental mercury or chemical mercury compounds
17 for use in a primary or secondary classroom and require local
18 boards, by January 1, 2006, to remove from all primary and
19 secondary schools and properly dispose of all bulk elemental
20 mercury, chemical mercury, and bulk mercury compounds used
21 as teaching aids in science classrooms, not including
22 barometers.
- 23 c. Establish a model policy for adoption by local school boards
24 that reduces school bus exhaust and prohibits unnecessary bus
25 engine idling in order to lower the chance that diesel exhaust
26 fumes will reach children and school personnel.
- 27 d. Develop guidelines for schools to notify parents and school
28 staff, at least 72 hours in advance of pesticide application,
29 regarding pesticide use on school property.
- 30 1. Provide blanket notification to all parents though written
31 notification, automated phone messages, or any other
32 mechanism a school district has in place to notify all
33 parents.
- 34 2. Establish a notification registry through which interested
35 parents would sign up to be notified any time pesticides
36 are to be used on school grounds.
- 37 3. Exempt from the notification requirements under this
38 sub-subdivision the application of the following types of
39 pesticide products: antimicrobial cleansers, disinfectants,
40 self-contained baits, and crack-and-crevice gel
41 treatments, and any pesticide products classified by the
42 United States Environmental Protection Agency as
43 belonging to the U.S. E.P.A. Toxicity Class IV,

1 "relatively nontoxic" (bearing no required signal word on
2 the product's label).

3 e. Adopt the model Integrated Pest Management (IPM) policy for
4 school districts that was developed in 2004 by a stakeholders
5 group and led by the School Integrated Pest Management
6 Program at North Carolina State University. As used in this
7 sub-subdivision, 'Integrated Pest Management' or 'IPM' means
8 the comprehensive approach to pest management that combines
9 biological, physical, chemical, and cultural tactics as well as
10 effective, economic, environmentally sound, and socially
11 acceptable methods to prevent and solve pest problems and that
12 emphasizes pest prevention and provides a decision-making
13 process for determining if, when, and where pest suppression is
14 needed and what control tactics and methods are appropriate.

15 f. Study methods for mold and mildew prevention and mitigation
16 and direct that these findings be incorporated into the public
17 school facilities guidelines."

18 **SECTION 4.** G.S. 115C-47 is amended by adding a new subdivision to read:

19 "(45) To Address Public Health and Environmental Issues in the Classroom
20 and on School Grounds. – Local boards shall prohibit the use of copper
21 chromated arsenate treated wood on school grounds and shall not
22 purchase for use in a primary or secondary classroom bulk elemental
23 mercury or chemical mercury compounds. By January 1, 2006, local
24 boards shall remove from all primary and secondary schools and
25 properly dispose of all bulk elemental mercury, chemical mercury, and
26 bulk mercury compounds used as teaching aids in science classrooms,
27 not including barometers. Local boards shall implement the policies,
28 guidelines, and procedures developed by the State Board to protect the
29 health of school-age children from toxins at school under
30 G.S. 115C-12(33)."

31 **SECTION 5.** This act becomes effective October 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1502
PROPOSED COMMITTEE SUBSTITUTE H1502-PCS30329-RJ-17

Short Title: Schoolchildren's Health Act.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SCHOOLCHILDREN'S HEALTH ACT OF 2005.

Whereas, when school is in session, children spend 30% to 50% of their time at school; and

Whereas, it is incumbent upon State government to address public health and environmental issues in the classroom and on school grounds in order to protect the health of school-age children; and

Whereas, inexpensive and easy measures can be taken to provide a healthier learning environment for our children, and, in some instances, these measures actually offer a school district cost savings; and

Whereas, on March 4, 2004, a stakeholders group consisting of the Department of Public Instruction, the Department of Agriculture and Consumer Services, the North Carolina Cooperative Extension Service, the Agricultural Resources Center, the North Carolina Parent Teacher's Association, the N.C. Pest Control Association, The North Carolina State School Boards Association, Inc., and other entities signed a memorandum of understanding establishing their support for Integrated Pest Management (IPM) and creating a model school IPM policy; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. This act may be cited as the Schoolchildren's Health Act of 2005.

SECTION 2. The General Assembly makes the following findings:

(a) Arsenic-Treated Wood. –

(1) Effective 2004, arsenic-treated wood for residential uses has been removed from the marketplace under a voluntary agreement between the United States Environmental Protection Agency and the industry. Since this is a voluntary agreement, only a State ban will ensure that arsenic-treated wood is not used on school grounds in the future.

- 1 (2) Additionally, backstock arsenic-treated wood is still on the market in
2 some places.
- 3 (3) A ban of CCA (chromated copper arsenate) treated wood for use in
4 public schools is a reasonable safeguard measure.
- 5 (b) Mercury. –
- 6 (1) Mercury is a potent brain toxicant, and children, whose brains are still
7 developing, are most vulnerable to its effects.
- 8 (2) Once introduced into the human body, mercury interferes with brain
9 development and can lead to a number of developmental problems,
10 including delayed language acquisition, impaired memory, and
11 learning disabilities.
- 12 (c) Diesel Exhaust Fumes. –
- 13 (1) Because children's respiratory systems are still developing and they
14 breathe more rapidly, children are more susceptible to air pollution
15 than the average adult is.
- 16 (2) Diesel exhaust poses a particular risk to children, because it contains
17 significant levels of small particles, known as fine particulate matter.
18 This particulate matter is so fine that it can pass through the nose and
19 throat and lodge in the lungs, possibly causing long-term adverse
20 health effects.
- 21 (3) Particulate matter from diesel exhaust is associated with asthma and
22 has been found to increase the risk of lung disease and heart disease.
23 Additionally, it can bind to pollen in the air, further exacerbating
24 allergies and asthma. Diesel exhaust is also known to contain several
25 human carcinogens.
- 26 (4) School bus idling and bus queuing (nose-to-tail lineup of buses)
27 dramatically increase the concentrations of detrimental particulate
28 pollution inside school buses.
- 29 (d) Pesticides. –
- 30 (1) Because children's bodies are still developing, exposure to pesticides
31 can have serious impacts on their long-term health.
- 32 (2) Schools may subject themselves to liability for immediate injuries to
33 students, faculty, or other staff resulting from improper management of
34 toxic chemicals such as pesticides.
- 35 (3) Schools can reduce or even eliminate the risks of pesticides by using
36 simple, low-cost methods, such as Integrated Pest Management (IPM).
- 37 (4) With proper training, planning, and effective communication among
38 affected parties, IPM can prevent pest problems, reduce the need for
39 pesticide applications, and greatly improve the quality of the school
40 environment.
- 41 (e) Mold and Mildew. –
- 42 (1) Mold and mildew problems occur in schools when moisture gets into
43 the structure, thereby creating a friendly environment for excessive
44 mold and mildew growth.

- (2) Parents and school officials have become more aware of the health risks of mold, such as allergic reactions in children and adults, as the public has become more aware of the problems associated with certain molds.

SECTION 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(33) Duty to Protect the Health of School-Age Children From Toxicants at School. – The State Board shall address public health and environmental issues in the classroom and on school grounds by doing all of the following:

- a. Develop guidelines for sealing existing arsenic-treated wood in playground equipment or establish a time line for removing existing arsenic-treated wood on playgrounds and testing the soil on school grounds for contamination caused by the leaching of arsenic-treated wood in other areas where children may be at particularly high risk of exposure.
- b. Establish guidelines to reduce students' exposure to diesel emissions that can occur as a result of unnecessary school bus idling, nose-to-tail parking, and inefficient route assignments.
- c. Study methods for mold and mildew prevention and mitigation and incorporate recommendations into the public school facilities guidelines as needed.
- d. Establish guidelines for Integrated Pest Management consistent with the policy of The North Carolina School Boards Association, Inc., as published in 2004. These guidelines may be updated as needed to reflect changes in technology.
- e. Establish guidelines for notification of students' parents, guardians, or custodians as well as school staff of pesticide use on school grounds."

SECTION 4. G.S. 115C-47 is amended by adding four new subdivisions to

read:

"(45) To Address the Use of Pesticides in Schools. – Local boards of education shall adopt policies that address the use of pesticides in schools. These policies shall:

- a. Require the principal or the principal's designee to annually notify the students' parents, guardians, or custodians as well as school staff of the schedule of pesticide use on school property and their right to request notification. Such notification shall be made, to the extent possible, at least 72 hours in advance of nonscheduled pesticide use on school property. The notification requirements under this subdivision do not apply to the application of the following types of pesticide products: antimicrobial cleansers, disinfectants, self-contained baits and crack-and-crevice treatments, and any pesticide products classified by the United States Environmental Protection

Agency as belonging to the U.S.E.P.A. Toxicity Class IV, "relatively nontoxic" (no signal word required on the product's label). Nothing in this sub-subdivision shall be construed to create a private cause of action against any local board of education, its agents, or its employees.

b. Require the use of Integrated Pest Management. As used in this sub-subdivision, "Integrated Pest Management" or "IPM" means the comprehensive approach to pest management that combines biological, physical, chemical, and cultural tactics as well as effective, economic, environmentally sound, and socially acceptable methods to prevent and solve pest problems that emphasizes pest prevention and provides a decision-making process for determining if, when, and where pest suppression is needed and what control tactics and methods are appropriate.

(46) To Address Arsenic-Treated Wood in the Classroom and on School Grounds. – Local boards of education shall prohibit the purchase or acceptance of chromated copper arsenate-treated wood for future use on school grounds. Local boards of education shall seal existing arsenic-treated wood in playground equipment or establish a time line for removing existing arsenic-treated wood on playgrounds, according to the guidelines established under G.S. 115C-12(33). Local boards of education are encouraged to test the soil on school grounds for contamination caused by the leaching of arsenic-treated wood.

(47) To Address Mercury in the Classroom and on School Grounds. – Local boards of education are encouraged to remove and properly dispose of all bulk elemental mercury, chemical mercury, and bulk mercury compounds used as teaching aids in science classrooms, not including barometers. Local boards of education shall prohibit the future use of bulk elemental mercury, chemical mercury compounds, and bulk mercury compounds used as teaching aids in science classrooms, not including barometers.

(48) To Address Exposure to Diesel Exhaust Fumes. – Local boards of education shall adopt policies and procedures to reduce students' exposure to diesel emissions."

SECTION 5. G.S. 115C-47(45)b., as enacted by Section 4 of this act, becomes effective October 1, 2010. The remainder of this act becomes effective October 1, 2005.



HOUSE BILL 1502: Schoolchildren's Health Act

BILL ANALYSIS

Committee:	House Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	May 18, 2005
Introduced by:	Reps. Martin, McLawhorn, Lucas	Summary by:	Sara Kamprath
Version:	PCS to First Edition H1502-CSRJ-17 [v.1]		Committee Analyst

SUMMARY: *The Proposed Committee Substitute for House Bill 1502 directs the State Board of Education to protect school-age children from toxicants by addressing certain public health and environmental issues in classrooms and on school grounds. The PCS also directs local boards of education to adopt policies and take steps to carry out the guidelines developed by the State Board of Education.*

BILL ANALYSIS: Section 1 of the PCS provides that the bill may be cited as the Schoolchildren's Health Act of 2005.

Section 2 of the PCS provides the findings of the General Assembly on the serious health impacts of arsenic-treated wood, mercury, diesel exhaust fumes, pesticides and mold and mildew on young children.

Section 3 of the PCS directs the State Board of Education to establish guidelines to address health and environmental issues related to:

- Removing arsenic-treated wood on playground equipment
- Reducing student exposure to diesel emissions
- Implementing Integrated Pest Management and procedures to notify parents, guardians and staff of pesticide use on school grounds

The State Board shall also study methods to prevent and mitigate mold and mild and incorporate the recommendations into the public school facilities guidelines.

The PCS adds language directing the State Board to develop guidelines for testing the soil on school grounds for contamination from leaching of arsenic-treated wood in other areas where children may be at high risk for exposure.

The PCS also moves language about banning elemental mercury or chemical mercury compounds to the duties of local boards in Section 4 of the bill.

The PCS also moves language for developing the guidelines on schools giving parents and staff advance notification of pesticide application and the use of Integrated Pest Management to Section 4.

Section 4 of the PCS adds four new subdivisions to the duties of local school boards. The PCS amended the original new subdivision in Section 4 into 4 new subdivisions to individually address (i) pesticide use in schools, (ii) arsenic-treated wood in the classroom and school grounds, (iii) mercury in the classroom and on school grounds, and (iv) exposure to exhaust fumes.

The PCS also adds language that nothing in G.S. 115C-47 (45)a. shall create a private cause of action against any local board of education, its agents, or employees.

House Bill 1502

Page 2

EFFECTIVE DATE: G.S. 115C-47(45)b. in Section 4 of the bill becomes effective October 1, 2010. The remainder of the bill becomes effective October 1, 2005.

CURRENT LAW:

§ 115C-524. Repair of school property; use of buildings for other than school purposes.

.....

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

.....

H1502e1-SMRJ-CSRJ

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

- ☐ Committee Substitute for
H.B. 1502 A BILL TO BE ENTITLED AN ACT TO ENACT THE SCHOOL
CHILDREN'S HEALTH ACT OF 2005.

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 Bell, Lucas and McLawhorn for the Standing Committee on EDUCATION.

s/ Marion H. McLawhorn

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

03/26/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1491

Short Title: Insurance for School Social Workers.

(Public)

Sponsors: Representatives Glazier; Alexander, Wainwright, and Womble.

Referred to: Education.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO PROVIDE
3 LIABILITY INSURANCE FOR SCHOOL SOCIAL WORKERS WHO
4 TRANSPORT STUDENTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-47 is amended by adding a new subdivision to read:

7 "(25a) To Provide Liability Insurance for School Social Workers Who
8 Transport Students. – Local boards of education shall provide liability
9 insurance coverage for school social workers who are required by
10 formal local board policy or by de facto job requirements as mandated
11 by the local board, superintendent, or school administration to
12 transport students. Local boards shall either:

13 a. Secure liability insurance for this purpose, as provided in
14 G.S. 115C-42; or

15 b. Reimburse the employees for the increased premium amount
16 the employees must assume for additional personal coverage."

17 SECTION 2. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1491
PROPOSED COMMITTEE SUBSTITUTE H1491-PCS80408-RH-26

Short Title: Insurance for School Social Workers.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED
AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO PROVIDE
LIABILITY INSURANCE FOR SCHOOL SOCIAL WORKERS WHO
TRANSPORT STUDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 21 of Chapter 115C of the General Statutes is amended
by adding the following new section to read:

"§ 115C-317.1. School social workers and transporting students.

**A school social worker shall not be required to transport students without the
existence of a written job description or local board policy that imposes this
requirement."**

SECTION 2. G.S. 115C-47 is amended by adding a new subdivision to read:

**"(25a) To Reimburse the Additional Cost of Automobile Liability Coverage
for School Social Workers Required to Transport Students. – A local
board of education may require a school social worker who is required
to transport students as provided under G.S. 115C-317.1 to increase
the liability limits or add a business-use rider, or both, on that
employee's personal automobile liability insurance policy for the
purpose of transporting students within the course of that employee's
work duties. If the board imposes this requirement on a school social
worker, the board shall reimburse the employee for the additional
premium charged for the increased liability limits or the added rider, or
both."**

SECTION 3. This act becomes effective July 1, 2005.



HOUSE BILL 1491: Insurance for School Social Workers

BILL ANALYSIS

Committee:	House Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	May 18, 2005
Introduced by:	Rep. Glazier	Summary by:	Robin Johnson
Version:	PCS to First Edition H1491-CSRH-26[v.3]		Committee Counsel

Robin

SUMMARY: *House Bill 1491 would allow local boards to require a school social worker to transport students so long as this requirement is part of a written job description or local board policy. The bill also would allow a local board to require this social worker to increase the liability limits or add a business use rider, or both, on the employee's personal automobile liability insurance policy. If the board imposes this requirement, the board must reimburse the employee for any additional premium charged as a result.*

CURRENT LAW/BACKGROUND: There is no law that prohibits a local board from requiring an employee, such as a school social worker, from transporting students as part of that employee's work responsibilities. School social workers, in particular, often are required to use their personal automobiles to transport students between the school and various appointments, such as doctor's visits.

The general law in North Carolina is that a school employee is liable and the school board is vicariously liable only if the school system has purchased insurance and waived its immunity. Currently, 52 LEAs participate in the North Carolina School Boards Trust risk management program for their automobile coverage, instead of purchasing commercial automobile insurance. The Trust program provides excess automobile liability coverage to employees operating their personal automobiles for school business purposes. This means the employee's insurance provides primary coverage, unless the policy excludes driving in the course of employment.

Some LEAs require their employees to have certain amounts of coverage, but this is not uniform. Some LEAs agree to pay the extra insurance costs if they require the employee to purchase higher limits of personal insurance or a business use rider on the employee's personal insurance policy.

BILL ANALYSIS: Section 1 of the bill would provide that a school social worker cannot be required to transport students absent the existence of a written job description or local board policy that imposes this requirement.

Section 2 of the bill would authorize a local board of education to require this social worker to increase the liability limits or add a business use rider, or both, on that employee's personal automobile liability insurance policy for the purpose of transporting students within the course of that employee's employment. If this requirement is imposed, then the board would be required to reimburse the school social worker for the extra premium that results.

EFFECTIVE DATE: This bill would be effective July 1, 2005.

Drupati Chauhan, Staff Attorney, contributed to this summary.

H1491e1-SMRH-CSRH

2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 1491

A BILL TO BE ENTITLED AN ACT TO REQUIRE LOCAL
BOARDS OF EDUCATION TO PROVIDE LIABILITY INSURANCE FOR SCHOOL SOCIAL
WORKERS WHO TRANSPORT STUDENTS.

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 Lucas and McLawhorn for the Standing Committee on EDUCATION.

Bill,

s/ Martin W. Lucas

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

03/26/03

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

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

DAY & DATE: Thursday, May 19, 2005

TIME: 11:00 AM

LOCATION: 421 LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
HB 1151 – PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS
HB 1491 - INSURANCE FOR SCHOOL SOCIAL WORKERS
HB 1502 – SCHOOLCHILDREN'S HEALTH ACT

Respectfully,
Representatives Glazier and Parmon
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at
3:00 on May17, 2005.

____ Principal Clerk
____ Reading Clerk - House Chamber

Pat Christmas (Committee Assistant)

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

Thursday, May 26, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEM

HB 1059 PUBLIC SCHOOL HEALTH CURRICULUM, Reps. Wright & B. Allen

**HB 1151 PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS, Rep.
Jeffus**

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

May 26, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, May 26, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chairs: Representatives Blackwood and Goforth, Members: Representatives Bernard Allen, Carney, Cleveland, Folwell, Harrison, Hilton, Holloway, Jeffus, Johnson, Langdon, Luebke, Pate, Preston, Walker, Warren, Wiley and Womble. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.

The following bills were considered:

HB 1059, AN ACT TO CORRECT INACCURACIES IN THE USE OF CERTAIN TERMS IN THE GENERAL STATUTES PERTAINING TO THE ADMINISTRATION OF A SCHOOL HEALTH EDUCATION PROGRAM. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Glazier adopted the PCS for discussion. Representative Wright presented the bill. Representative Luebke made a motion for an amendment to add the phrase, "in the scientific literature" after the word available on page 3, line 28. The amendment carried. Representative Holloway made a motion for an amendment. The amendment was defeated. Representative Hilton made a motion for an amendment to refer to the previous statute and include the legal status of the issue. The amendment was defeated. Representative Wiley made a motion for an amendment to add "the most current health information should be made available at the beginning of each school year" to page 4, line 15. The amendment carried. Upon motion made by Representative Bernard Allen, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

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

Respectfully submitted,

VISITOR REGISTRATION SHEET

Education Sub-committee K-12

Name of Committee

5/26/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Katherine Gayce

NCA SA

Jae Johnson

Planned Parenthood

Angela Hunt

HLGDC

Chris Hobbs

Planned Parenthood

Michelle Wallen

NC DPI

Jack Simmons

HL Council

PSLISOL

LSSP

Tim Sanders

Castell G. Commission Chairman

Leanne Wimmer

NCSEA

Jessica Argy

NCPE

VISITOR REGISTRATION SHEET

✓ 11 Education sub-committee K-12
5/26/05

Name of Committee
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
EDDIE DAVIS	NCAE
MARGARET BROOKS	NCFPC
Ann McArthur	Governor's Office
Phyl Thum	NCPAPA
Emily MacNaughton	NCPAPA
Jeffrey Walden	GAIO
Lance Lavan	Student - UNC
Kimberly Raper	VIF Program
Paul LeSueur	NCDPI
Larry Simmons	NCDPI
Stephanie Erbe	SBE
Linda Suggs	SBE
Glen Harris	PSF

VISITOR REGISTRATION SHEET

J11 Education Sub-committee K-12

5/26/05

Name of Committee

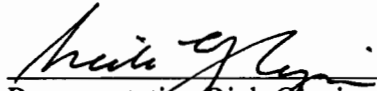
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

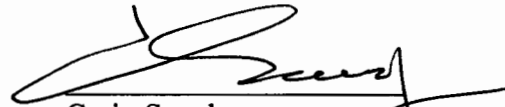
NAME

FIRM OR AGENCY AND ADDRESS

Lance Armstrong	Tun De France
Andrea Schrag	Rural Education
Melissa Reed	NARAL
Ian Palquist	ENC
Natalie Fixmer	Planned Parenthood
George Millsaps	DOA
Michael House	NCAE
Marius Gvas	NCAE
CECIL BANKS	NCAE
Michael Hickey	DJDP
Paula A. Hef	PPHS



Representative Rick Glazier
Chair



Carin Savel
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 1059

Short Title: Public School Health Curriculum.

(Public)

Sponsors: Representatives Wright, B. Allen (Primary Sponsors); Alexander, Coleman, Faison, Farmer-Butterfield, Fisher, Glazier, Goodwin, Harrison, Insko, Luebke, McAllister, Pierce, Ross, Wainwright, Weiss, and Wray.

Referred to: Education.

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CORRECT INACCURACIES IN THE USE OF CERTAIN TERMS IN
THE GENERAL STATUTES PERTAINING TO THE ADMINISTRATION OF A
SCHOOL HEALTH EDUCATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-81(e1)(1) reads as rewritten:
"§ 115C-81. Basic Education Program.

...

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

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

- a. Mental and emotional health;
- b. Drug and alcohol abuse prevention;
- c. Nutrition;
- d. Dental health;
- e. Environmental health;
- f. Family living;
- g. Consumer health;
- h. Disease control;
- i. Growth and development;

- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students become proficient in order to pass a test approved by the American Heart Association, or American Red Cross;
- k. Preventing sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, and other communicable diseases;
- l. Abstinence until marriage education; and
- m. Bicycle safety.

As used in this subsection, "HIV/AIDS" means Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome."

SECTION 1.(b) G.S. 115C-81(e1)(3), (4), and (5) read as rewritten:

"(3) The State Board of Education shall develop objectives for instruction in the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, that includes emphasis on the importance of parental involvement, abstinence from sex until marriage, and avoiding intravenous drug use. Any program developed under this subdivision shall present techniques and strategies to deal with peer pressure and to offer positive reinforcement and shall teach reasons, skills, and strategies for remaining or becoming abstinent from sexual activity; for appropriate grade levels and classes, shall teach that abstinence from sexual activity until marriage is the only certain means of avoiding out-of-wedlock pregnancy, most sexually transmitted diseases, and other associated health and emotional problems, and that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding diseases transmitted by sexual contact, including ~~Acquired Immune Deficiency Syndrome (AIDS);~~ HIV/AIDS, and shall teach the positive benefits of abstinence until marriage and the risks of premarital sexual activity. Any instruction concerning the causes of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS),~~ HIV/AIDS, in cases where ~~homosexual acts~~ sexual acts prohibited under G.S. 14-177 are a significant means of transmission, shall include the current legal status of those acts.

(4) The State Board of Education shall evaluate abstinence until marriage curricula and their learning materials and shall develop and maintain a recommended list of one or more approved abstinence until marriage curricula. The State Board may develop an abstinence until marriage program to include on the recommended list. The State Board of Education shall not select or develop a program for inclusion on the recommended list that does not include the positive benefits of abstinence until marriage and the risks of premarital sexual activity as

the primary focus. The State Board shall include on the recommended list only programs that include, in appropriate grades and classes, instruction that:

- a. Teaches that abstinence from sexual activity outside of marriage is the expected standard for all school-age children;
- b. Presents techniques and strategies to deal with peer pressure and offering positive reinforcement;
- c. Presents reasons, skills, and strategies for remaining or becoming abstinent from sexual activity;
- d. Teaches that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, most sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, and other associated health and emotional problems;
- e. Teaches that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS;
- f. Teaches the positive benefits of abstinence until marriage and the risks of premarital sexual activity;
- g. Provides opportunities that allow for interaction between the parent or legal guardian and the student; ~~and~~
- h. Provides factually accurate biological or pathological information that is related to the human reproductive ~~system-system; and~~
- i. Teaches how alcohol and drug use lower inhibitions, which may lead to risky sexual behavior.

- (5) The State Board of Education shall make available to all local school administrative units for review by the parents and legal guardians of students enrolled at that unit any State-developed objectives for instruction, any approved textbooks, the list of reviewed materials, and any other State-developed or approved materials that pertain to or are intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, to the avoidance of out-of-wedlock pregnancy, or to the abstinence until marriage curriculum. The review period shall extend for at least 60 days before use."

SECTION 1.(c) G.S. 115C-81(e1)(7) and (8) read as rewritten:

- "(7) Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, or to the avoidance of out-of-wedlock

pregnancy, (ii) an abstinence until marriage program, or (iii) a comprehensive sex education program, whether developed by the State or by the local board of education, the parents and legal guardians of those students shall be given an opportunity to review the objectives and materials. Local boards of education shall adopt policies to provide opportunities either for parents and legal guardians to consent or for parents and legal guardians to withhold their consent to the students' participation in any or all of these programs.

- (8) Students may receive information about where to obtain contraceptives and abortion referral services only in accordance with a local board's policy regarding parental consent. Any instruction concerning the use of contraceptives or prophylactics shall provide accurate statistical information on their effectiveness and failure rates for preventing pregnancy and sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, in actual use among adolescent populations if information on actual use is available, and shall explain clearly the difference between risk reduction and risk elimination through abstinence."

SECTION 2. This act is effective when it becomes law and applies to the 2006-2007 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1059
PROPOSED COMMITTEE SUBSTITUTE H1059-CSRJ-22 [v.1]

5/26/2005 10:30:58 AM

Short Title: Public School Health Curriculum.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CORRECT INACCURACIES IN THE USE OF CERTAIN TERMS IN
THE GENERAL STATUTES PERTAINING TO THE ADMINISTRATION OF A
SCHOOL HEALTH EDUCATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-81(e1)(1) reads as rewritten:
"§ 115C-81. Basic Education Program.

...

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

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

- a. Mental and emotional health;
- b. Drug and alcohol abuse prevention;
- c. Nutrition;
- d. Dental health;
- e. Environmental health;
- f. Family living;
- g. Consumer health;
- h. Disease control;
- i. Growth and development;
- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich

1 maneuver by using hands-on training with mannequins so that
2 students become proficient in order to pass a test approved by
3 the American Heart Association, or American Red Cross;

4 k. Preventing sexually transmitted diseases, including ~~Acquired~~
5 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~
6 HIV/AIDS, and other communicable diseases;

7 l. Abstinence until marriage education; and

8 m. Bicycle safety.

9 As used in this subsection, "HIV/AIDS" means Human Immunodeficiency
10 Virus/Acquired Immune Deficiency Syndrome."

11 **SECTION 1.(b)** G.S. 115C-81(e1)(3), (4), and (5) read as rewritten:

12 "(3) The State Board of Education shall develop objectives for instruction
13 in the prevention of sexually transmitted diseases, including ~~Acquired~~
14 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, that
15 ~~includes~~include emphasis on the importance of parental involvement,
16 abstinence from sex until marriage, and avoiding intravenous drug use.
17 Any program developed under this subdivision shall present
18 techniques and strategies to deal with peer pressure and to offer
19 positive reinforcement and shall teach reasons, skills, and strategies for
20 remaining or becoming abstinent from sexual activity; for appropriate
21 grade levels and classes, shall teach that abstinence from sexual
22 activity until marriage is the only certain means of avoiding
23 out-of-wedlock pregnancy, most sexually transmitted diseases, and
24 other associated health and emotional problems, and that a mutually
25 faithful monogamous heterosexual relationship in the context of
26 marriage is the best lifelong means of avoiding diseases transmitted by
27 sexual contact, including ~~Acquired Immune Deficiency Syndrome~~
28 ~~(AIDS);~~ HIV/AIDS, and shall teach the positive benefits of abstinence
29 until marriage and the risks of premarital sexual activity. ~~Any~~
30 ~~instruction concerning the causes of sexually transmitted diseases,~~
31 ~~including Acquired Immune Deficiency Syndrome (AIDS), in cases~~
32 ~~where homosexual acts are a significant means of transmission, shall~~
33 ~~include the current legal status of those acts.~~

34 (4) The State Board of Education shall evaluate abstinence until marriage
35 curricula and their learning materials and shall develop and maintain a
36 recommended list of one or more approved abstinence until marriage
37 curricula. The State Board may develop an abstinence until marriage
38 program to include on the recommended list. The State Board of
39 Education shall not select or develop a program for inclusion on the
40 recommended list that does not include the positive benefits of
41 abstinence until marriage and the risks of premarital sexual activity as
42 the primary focus. The State Board shall include on the recommended
43 list only programs that include, in appropriate grades and classes,
44 instruction that:

- a. Teaches that abstinence from sexual activity outside of marriage is the expected standard for all school-age children;
 - b. Presents techniques and strategies to deal with peer pressure and offering positive reinforcement;
 - c. Presents reasons, skills, and strategies for remaining or becoming abstinent from sexual activity;
 - d. Teaches that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, most sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, and other associated health and emotional problems;
 - e. Teaches that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~; HIV/AIDS;
 - f. Teaches the positive benefits of abstinence until marriage and the risks of premarital sexual activity;
 - g. Provides opportunities that allow for interaction between the parent or legal guardian and the student; ~~and~~
 - h. Provides factually accurate biological or pathological information that is related to the human reproductive ~~system-system~~; and
 - i. Teaches how alcohol and drug use lower inhibitions, which may lead to risky sexual behavior.
- (5) The State Board of Education shall make available to all local school administrative units for review by the parents and legal guardians of students enrolled at that unit any State-developed objectives for instruction, any approved textbooks, the list of reviewed materials, and any other State-developed or approved materials that pertain to or are intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, to the avoidance of out-of-wedlock pregnancy, or to the abstinence until marriage curriculum. The review period shall extend for at least 60 days before use."
- SECTION 1.(c)** G.S. 115C-81(e1)(7) and (8) read as rewritten:
- "(7) Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy, (ii) an abstinence until marriage program, or (iii) a comprehensive sex education program, whether developed by the State or by the local board of education, the parents and legal guardians of

1 those students shall be given an opportunity to review the objectives
2 and materials. Local boards of education shall adopt policies to
3 provide opportunities either for parents and legal guardians to consent
4 or for parents and legal guardians to withhold their consent to the
5 students' participation in any or all of these programs.

- 6 (8) Students may receive information about where to obtain contraceptives
7 and abortion referral services only in accordance with a local board's
8 policy regarding parental consent. Any instruction concerning the use
9 of contraceptives or prophylactics shall provide accurate statistical
10 information on their effectiveness and failure rates for preventing
11 pregnancy and sexually transmitted diseases, including ~~Acquired~~
12 ~~Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, in actual use
13 among adolescent populations if information on actual use is available,
14 and shall explain clearly the difference between risk reduction and risk
15 elimination through abstinence."

16 **SECTION 2.** This act is effective when it becomes law and applies
17 beginning with the 2006-2007 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1059
PROPOSED COMMITTEE SUBSTITUTE H1059-PCS70492-RH-35

Short Title: Public School Health Curriculum.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CORRECT INACCURACIES IN THE USE OF CERTAIN TERMS IN
THE GENERAL STATUTES PERTAINING TO THE ADMINISTRATION OF A
SCHOOL HEALTH EDUCATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-81(e1)(1) reads as rewritten:

"§ 115C-81. Basic Education Program.

...

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

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

- a. Mental and emotional health;
- b. Drug and alcohol abuse prevention;
- c. Nutrition;
- d. Dental health;
- e. Environmental health;
- f. Family living;
- g. Consumer health;
- h. Disease control;
- i. Growth and development;
- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich

1 maneuver by using hands-on training with mannequins so that
2 students become proficient in order to pass a test approved by
3 the American Heart Association, or American Red Cross;

4 k. Preventing sexually transmitted diseases, including ~~Acquired~~
5 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~
6 HIV/AIDS, and other communicable diseases;

7 l. Abstinence until marriage education; and

8 m. Bicycle safety.

9 As used in this subsection, "HIV/AIDS" means Human Immunodeficiency
10 Virus/Acquired Immune Deficiency Syndrome."

11 **SECTION 1.(b)** G.S. 115C-81(e1)(3), (4), and (5) read as rewritten:

12 "(3) The State Board of Education shall develop objectives for instruction
13 in the prevention of sexually transmitted diseases, including ~~Acquired~~
14 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, that
15 ~~includes~~include emphasis on the importance of parental involvement,
16 abstinence from sex until marriage, and avoiding intravenous drug use.
17 Any program developed under this subdivision shall present
18 techniques and strategies to deal with peer pressure and to offer
19 positive reinforcement and shall teach reasons, skills, and strategies for
20 remaining or becoming abstinent from sexual activity; for appropriate
21 grade levels and classes, shall teach that abstinence from sexual
22 activity until marriage is the only certain means of avoiding
23 out-of-wedlock pregnancy, most sexually transmitted diseases, and
24 other associated health and emotional problems, and that a mutually
25 faithful monogamous heterosexual relationship in the context of
26 marriage is the best lifelong means of avoiding diseases transmitted by
27 sexual contact, including ~~Acquired Immune Deficiency Syndrome~~
28 ~~(AIDS);~~ HIV/AIDS, and shall teach the positive benefits of abstinence
29 until marriage and the risks of premarital sexual activity. ~~Any~~
30 ~~instruction concerning the causes of sexually transmitted diseases,~~
31 ~~including Acquired Immune Deficiency Syndrome (AIDS), in cases~~
32 ~~where homosexual acts are a significant means of transmission, shall~~
33 ~~include the current legal status of those acts.~~

34 (4) The State Board of Education shall evaluate abstinence until marriage
35 curricula and their learning materials and shall develop and maintain a
36 recommended list of one or more approved abstinence until marriage
37 curricula. The State Board may develop an abstinence until marriage
38 program to include on the recommended list. The State Board of
39 Education shall not select or develop a program for inclusion on the
40 recommended list that does not include the positive benefits of
41 abstinence until marriage and the risks of premarital sexual activity as
42 the primary focus. The State Board shall include on the recommended
43 list only programs that include, in appropriate grades and classes,
44 instruction that:

- a. Teaches that abstinence from sexual activity outside of marriage is the expected standard for all school-age children;
 - b. Presents techniques and strategies to deal with peer pressure and offering positive reinforcement;
 - c. Presents reasons, skills, and strategies for remaining or becoming abstinent from sexual activity;
 - d. Teaches that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, most sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, and other associated health and emotional problems;
 - e. Teaches that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~; HIV/AIDS;
 - f. Teaches the positive benefits of abstinence until marriage and the risks of premarital sexual activity;
 - g. Provides opportunities that allow for interaction between the parent or legal guardian and the student; ~~and~~
 - h. Provides factually accurate biological or pathological information that is related to the human reproductive ~~system-system~~; and
 - i. Teaches how alcohol and drug use lower inhibitions, which may lead to risky sexual behavior.
- (5) The State Board of Education shall make available to all local school administrative units for review by the parents and legal guardians of students enrolled at that unit any State-developed objectives for instruction, any approved textbooks, the list of reviewed materials, and any other State-developed or approved materials that pertain to or are intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, to the avoidance of out-of-wedlock pregnancy, or to the abstinence until marriage curriculum. The review period shall extend for at least 60 days before use."

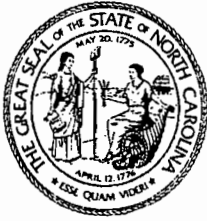
SECTION 1.(c) G.S. 115C-81(e1)(7) and (8) read as rewritten:

- "(7) Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy, (ii) an abstinence until marriage program, or (iii) a comprehensive sex education program, whether developed by the State or by the local board of education, the parents and legal guardians of

1 those students shall be given an opportunity to review the objectives
2 and materials. Local boards of education shall adopt policies to
3 provide opportunities either for parents and legal guardians to consent
4 or for parents and legal guardians to withhold their consent to the
5 students' participation in any or all of these programs.

- 6 (8) Students may receive information about where to obtain contraceptives
7 and abortion referral services only in accordance with a local board's
8 policy regarding parental consent. Any instruction concerning the use
9 of contraceptives or prophylactics shall provide accurate statistical
10 information on their effectiveness and failure rates for preventing
11 pregnancy and sexually transmitted diseases, including ~~Acquired~~
12 ~~Immune Deficiency Syndrome (AIDS), HIV/AIDS~~, in actual use
13 among adolescent populations and shall explain clearly the difference
14 between risk reduction and risk elimination through abstinence. The
15 Department of Health and Human Resources shall provide the most
16 current available information at the beginning of each school year."

17 **SECTION 2.** This act is effective when it becomes law and applies
18 beginning with the 2006-2007 school year.



HOUSE BILL 1059: Public School Health Curriculum

BILL ANALYSIS

Committee:	House Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	May 25, 2005
Introduced by:	Reps. Wright, B. Allen	Summary by:	Sara Kamprath
Version:	PCS to First Edition H1059-CSRJ-22 [v.1]		Committee Staff

SUMMARY: *The Proposed Committee Substitute for House Bill 1059 makes various changes in the school health education program. The bill becomes effective when it becomes law and applies beginning with the 2006-2007 school year.*

BILL ANALYSIS: Section 1 of the Proposed Committee Substitute (PCS) replaces all of the references to "Acquired Immune Deficiency Syndrome (AIDS) virus infection" with "HIV/AIDS" throughout the subsection governing the school health education program. The PCS also provides that the recommended list of programs for the abstinence until marriage curricula shall teach how alcohol and drug use can lower a person's inhibitions and that may lead to risky sexual behavior. The PCS also clarifies that if information on actual use among adolescent populations is available, then any instruction on contraceptives or prophylactics shall provide accurate statistical information on their effectiveness and failure rates. The PCS also deletes language that provides when instruction on the causes of sexually transmitted diseases, where homosexual acts are a significant means of transmission, that the legal status of the acts must be included.

BACKGROUND: In 1995, the General Assembly enacted legislation that required public schools to offer an abstinence until marriage program and placed certain restrictions on any instruction about sexually transmitted diseases and abstinence until marriage.

H1059e1-SMRJ-CSRJ

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

- ☐ Committee Substitute for
H.B. 1059 A BILL TO BE ENTITLED AN ACT AN ACT TO CORRECT INACCURACIES IN
THE USE OF CERTAIN TERMS IN THE GENERAL STATUTES PERTAINING TO THE
ADMINISTRATION OF A SCHOOL HEALTH EDUCATION PROGRAM.

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

s/ Marian McLawhorn

- ☐ 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.

03/26/03

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

Tuesday, May 31, 2005

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Earline Parmon, Presiding Chair

II. AGENDA ITEM

HB 1074 CLARIFY SCHOOL ADMISSIONS PROCEDURES, Rep. Daughtry

**HB 1151 PLANNING TIME & DUTY-FREE LUNCH FOR TEACHERS, Rep.
Jeffus**

III. ADJOURN

VISITOR REGISTRATION SHEET

Education Sub-committee

5/31/05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Harry Wilson	SBE
John Agn	SBE/DPI
Ann Lewis	PSF
Marv Haves	PEAC
Leil Bark	NCAE
FODIE DAVIS	NCAE
Katherine Joyce	NCA SA
Leanne Wimmer	NCSBA
Molly Ryff	NCSBA
Quon Harmon	WCBS
Chris Siaka	NCA G/DSS

VISITOR REGISTRATION SHEET

Education Sub-committee

Name of Committee

5/31/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JoAnn Lamm

DNHS/OSS

Stella McKenney

NCDNHS

Karen George

NCACDSS

Catherine Anderson

NC DJJDP

~~John Bone~~

~~Bone & Assoc.~~

Michael Houser

NCAE

Rob Humber

HHS

Clud Hinton

Caritas Institute

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

May 31, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Tuesday, May 31, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chair: Representative Blackwood, Members: Bernard Allen, Carney, Cleveland, Fisher, Folwell, Harrison, Holloway, Johnson, Langdon, Pate, Warren, and Wiley. Committee Counsels, Shirley Iorio, Sara Kamprath and Robin Johnson, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Parmon called the meeting to order and introduced the Pages and Sergeant-At-Arms.

The following bills were considered:

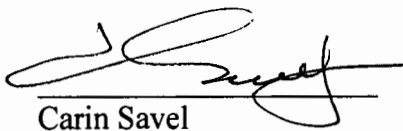
HB 1151, AN ACT TO ALLOW A LOCAL SCHOOL ADMINISTRATIVE UNIT THAT OPERATES A CENTRAL KITCHEN TO ACQUIRE BY LEASE PURCHASE OR INSTALLMENT PURCHASE A WAREHOUSE FOR THE CENTRAL KITCHEN. A copy of the bill, proposed committee substitute, and bill summary are attached and made part of these minutes. Chairman Parmon adopted the PCS for discussion. Representative Jeffus presented the bill. Upon motion made by Representative Allen, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

HB 1074, AN ACT TO CLARIFY THE PROCEDURE FOR admitting CHILDREN to THE PUBLIC SCHOOLS. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. Chairman Parmon adopted the PCS for discussion. Representative Daughtry is recognized by the chair to explain the bill. The chair recognized Committee Counsel Robin Johnson to further explain the bill. Upon motion made by Representative Cleveland, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported directly to the floor of the house.

There being no further business, the Chair adjourned the meeting at 11:47 AM.

Respectfully submitted,


Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

2

**HOUSE BILL 1074
Committee Substitute Favorable 5/10/05**

Short Title: Clarify School Admissions Procedures. (Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent or legal custodian of a student who is eligible for assignment to a public school under this subsection or under G.S. 115C-366.2 is the person who must enroll the minor child or children in that school. The previous sentence shall not apply to an emancipated student or to a student who resides in a preadoptive home. The custodial adult of a student eligible for assignment to a public school under subsection (a3) of this section is the person to enroll the minor child or children in that school. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of:
 - a. The death, serious illness, or incarceration of a parent or legal guardian,
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
 - c. Abuse or neglect by the parent or legal guardian,
 - d. The physical or mental condition of the parent or legal guardian is such

- that he or she cannot provide adequate care and supervision of the student, or
- e. The loss or uninhabitability of the student's home as the result of a natural disaster;
 - (2) The student is not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit; and
 - (3) The adult with whom the student resides and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that:
 - a. Confirm the qualifications set out in this subsection establishing the student's residency,
 - b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit, and
 - c. Attest that the adult with whom the student is residing has been given and accepts responsibility for educational decisions for the child, including receiving notices of discipline under G.S. 115C-391, attending conferences with school personnel, granting permission for school-related activities, and taking appropriate action in connection with student records. The adult under this subsection shall have the same legal authority, responsibility, and liability regarding the student as a parent or legal custodian would have.

For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be abused or neglected if there has been an adjudication of that issue. The State Board may adopt an additional definition of abuse and neglect and that definition shall also apply to this subsection.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the adult with whom the student is living shall attest to that fact in the affidavit. The adult with whom the student is residing shall have the same legal authority, responsibility, and liability as the parent or legal guardian, even if the parent or legal custodian does not sign the above-mentioned affidavit.

Upon receipt of both affidavits or an affidavit from the adult with whom the student is living that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit.

If it is found that the information contained in either or both affidavits is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit shall be guilty of a Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

Affidavits shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information in an affidavit.

...."

SECTION 2. G.S. 115C-111 reads as rewritten:

"§ 115C-111. Free appropriate education for all children with special needs.

(a) No child with special needs between the ages specified by G.S. 115C-109 shall be denied a free appropriate public education or be prevented ~~from attending~~ from:

- (1) Attending the public schools of the local educational agency school administrative unit in which he or his parents or legal guardian resides the child is eligible for assignment under G.S. 115C-366, 115C-366.1, or 115C-366.2; or
- (2) Attending the public schools of the local educational agency from which he the child receives services-services; or
- (3) ~~from attending~~ Attending any other public program of free appropriate public education because he the child is a child with special needs.

(b) If it appears that a child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Health and Human Services or the Department of Juvenile Justice and Delinquency Prevention, the local educational agency shall confer with the appropriate Department of Health and Human Services or Department of Juvenile Justice and Delinquency Prevention staff for their participation and determination of the appropriateness of placement in said program and development of the child's individualized education program. The individualized education program may then be challenged under the due process provisions of G.S. 115C-116. Every child with special needs shall be entitled to attend these nonresidential schools or programs and receive from them free appropriate public education."

SECTION 3. This act becomes effective July 1, 2005, and applies beginning with the 2005-2006 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1074

Committee Substitute Favorable 5/10/05

PROPOSED COMMITTEE SUBSTITUTE H1074-CSRH-37 [v.7]

5/31/2005 6:31:03 PM

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PROCEDURE FOR ADMITTING CHILDREN TO THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

(a1) Children living in and cared for and supported by an institution established, operated, or incorporated for the purpose of rearing and caring for children who do not live with their parents ~~shall be~~ are considered legal residents of the local school administrative unit in which the institution is located. These children ~~shall be deemed to qualify~~ are eligible for admission to the public schools of the local school administrative unit as provided in this section. ~~This subsection shall apply to foster homes and group homes.~~

(a2) It is the policy of the State that every child of a homeless individual and every homeless child have access to a free, appropriate public education on the same basis as all children who are domiciled in this State. The local board of education having jurisdiction where the child is actually living shall enroll the child in the school administrative unit where the child is actually living. In no event shall the child be

denied enrollment because of uncertainty regarding ~~his~~ the child's domiciliary status, regardless of whether the child is living with the homeless parents or has been temporarily placed elsewhere by the parents. The local board shall not charge the homeless child, ~~as defined in this subsection,~~ child tuition for enrollment. The child's parent, guardian, or person standing in loco parentis to the child, may apply to the State Board of Education for a determination of whether a particular local board of education shall enroll the child, and this determination shall be binding on the local board of education, subject to judicial review. ~~As used in this subsection, the term "homeless" refers to an individual who (i) lacks a fixed, regular, and adequate nighttime residence or (ii) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations, lives in an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include persons who are imprisoned or otherwise detained pursuant to federal or State law.~~

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit ~~if~~ if all of the following apply:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of:

- a. The death, serious illness, or incarceration of a parent or legal guardian,
- b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
- c. Abuse or neglect by the parent or legal guardian,
- d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student, ~~or~~
- e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health, or
- f. The loss or uninhabitability of the student's home as the result of a natural disaster; disaster.

(2) The student is not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit; ~~and unit.~~

(3) The custodial adult with whom the student resides and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that:

- a. Confirm the qualifications set out in this subsection establishing the student's residency,

- 1 b. Attest that the student's claim of residency in the unit is not
2 primarily related to attendance at a particular school within the
3 unit, and
4 c. Attest that the custodial adult with whom the student is residing
5 has been given and accepts responsibility for educational
6 decisions for the child, ~~including receiving notices of discipline~~
7 ~~under G.S. 115C-391, attending conferences with school~~
8 ~~personnel, granting permission for school-related activities, and~~
9 ~~taking appropriate action in connection with student~~
10 ~~records.~~ student.

- 11 (4) If the student is a minor, the custodial adult must make educational
12 decisions concerning the student and has the same legal authority and
13 responsibility regarding the student as a parent or legal custodian
14 would have even if the parent, guardian, or legal custodian does not
15 sign the affidavit under subdivision (3) of this subsection. The minor
16 student's parent, legal guardian, or legal custodian retains liability for
17 the student's acts.

18 For purposes of ~~subdivision (1)c. of this subsection, a student shall be deemed to be~~
19 ~~abused or neglected if there has been an adjudication of that issue. The State Board may~~
20 ~~adopt an additional definition of abuse and neglect and that definition shall also apply to~~
21 ~~this subsection.~~

22 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
23 unavailable to sign the affidavit, then the custodial adult with whom the student is living
24 shall attest to that fact in the affidavit.

25 Upon receipt of both affidavits or an affidavit from the custodial adult with whom
26 ~~the student is living~~ that includes an attestation that the student's parent, guardian, or
27 legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the
28 local board shall admit and assign as soon as practicable the student to an appropriate
29 school, as determined under the local board's school assignment policy, pending the
30 results of any further procedures for verifying eligibility for attendance and assignment
31 within the local school administrative unit.

32 If it is found that the information contained in either or both affidavits is false, then
33 the local board may, unless the student is otherwise eligible for school attendance under
34 other laws or local board policy, remove the student from school. If a student is
35 removed from school, the board shall provide an opportunity to appeal the removal
36 under the appropriate policy of the local board and shall notify any person who signed
37 the affidavit of this opportunity. If it is found that a person willfully and knowingly
38 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
39 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
40 educating the student during the period of enrollment. Repayment shall not include
41 State funds.

42 Affidavits shall include, in large print, the penalty, including repayment of the cost
43 of educating the student, for providing false information in an affidavit.

(a4) When a student transfers into the public schools of a local school administrative unit, that local board shall require the student's parent, guardian, or custodian to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a felony in this or any other state. This subsection does not apply to the enrollment of a student who has never been enrolled in or attended a private or public school in this or any other state.

(a5) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-391 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-391 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or employees or who has been convicted of a felony in this or any other state. If the local board denies admission to a student who has been expelled or convicted of a felony, the student may request the local board to reconsider that decision in accordance with G.S. 115C-391(d).

(a6) A child who is placed in or assigned to a licensed facility is eligible for admission, without the payment of tuition, to the public schools of the local school administrative unit in which the licensed facility is located. If an agency or person, other than the student's parent or guardian, is the student's legal custodian and if that person or agency placed or assigned the student to a licensed facility under this subsection, then that agency or person must provide in writing to the school, the name, address, and phone number of the individual who has authority and the responsibility to make educational decisions for the student. This individual shall reside or be employed within the local school administrative unit and shall provide in writing to the school a signed statement that the individual understands and accepts this authority and responsibility to make educational decisions for the student. If the student's parent or legal guardian retains legal custody of a child who is placed in or assigned to a licensed facility under this subsection, then the requirements of subsection (a3) of this section must be met.

(a7) A student who is a resident of a local school administrative unit because the student resides with a parent, guardian, or legal custodian who is a (i) student, employee or faculty member of a college or university or (ii) visiting scholar at the National Humanities Center, is considered domiciled in that unit for purposes of this section.

(a8) A student is considered domiciled in a local school administrative unit for purposes of this section if the student resides (i) with a legal custodian who is not the student's parent or guardian and the legal custodian is domiciled in the local school administrative unit, or (ii) in a pre-adoptive home following placement by a county department of social services or a licensed child-placing agency.

(b) Each local board of education shall assign to a public school each student qualified for assignment under this section. Except as otherwise provided by law, the

1 authority of each board of education in the matter of assignment of children to the
2 public schools shall be full and complete, and its decision as to the assignment of any
3 child to any school shall be final.

4 (c) Any child who is qualified under the laws of this State for admission to a
5 public school and who has a place of residence in a local school administrative unit
6 incident to ~~his~~the child's parent's or guardian's service in the General Assembly, other
7 than the local school administrative unit in which ~~he~~the child is domiciled, is entitled to
8 attend school in the local school administrative unit of that residence as if ~~he~~the child
9 were domiciled there, subject to the payment of applicable out-of-county fees in effect
10 at the time.

11 (d) A student domiciled in one local school administrative unit may be assigned
12 either with or without the payment of tuition to a public school in another local school
13 administrative unit upon the terms and conditions agreed to in writing between the local
14 boards of education involved and entered in the official records of the boards. The
15 assignment shall be effective only for the current school year, but may be renewed
16 annually in the discretion of the boards involved.

17 (e) The boards of education of adjacent local school administrative units may
18 operate schools in adjacent units upon written agreements between the respective boards
19 of education and approval by the county commissioners and the State Board of
20 Education.

21 (f) This section shall not be construed to allow students to transfer from one
22 local school administrative unit to another for athletic participation purposes in violation
23 of eligibility requirements established by the State Board of Education and the North
24 Carolina High School Athletic Association.

25 (g) Any local school administrative unit may use the actual address of a program
26 participant for any purpose related to admission or assignment ~~pursuant to~~under this
27 Article as long as the address is kept confidential from the public under ~~the provisions~~
28 ~~of~~ Chapter 15C of the General Statutes. The substitute address designated by the
29 Attorney General under the Address Confidentiality Program shall not be used as an
30 address for admission or assignment purposes.

31 (h) The following definitions apply in this section:

32 (1) Abused or neglected. – A student is considered abused or neglected if
33 there has been an adjudication of that issue. The State Board may
34 adopt an additional definition of abuse and neglect and that definition
35 also shall apply to this section.

36 (2) Custodial adult. – The adult with whom the child resides. For children
37 placed or assigned in a licensed facility, a custodial adult also may be
38 the child's caretaker, foster parent, or other clearly identifiable adult
39 who resides in the county where the licensed facility is located.

40 (3) Educational decisions. – Decisions or actions recommended or
41 required by the school concerning the student's academic course of
42 study, extracurricular activities, and conduct. These decisions or
43 actions include enrolling the student, receiving and responding to
44 notices of discipline under G.S. 115C-391, attending conferences with

1 school personnel, granting permission for school-related activities,
2 granting permission for emergency medical care, receiving and taking
3 appropriate action in connection with student records, and any other
4 decisions or actions recommended or required by the school in
5 connection to that student.

6 (4) Facility. –A group home, a family foster home as defined in
7 G.S. 131D-10.2(8), or a therapeutic foster home as defined in
8 G.S. 131D-10.2(14).

9 (5) Homeless. – An individual who (i) lacks a fixed, regular, and adequate
10 nighttime residence or (ii) has a primary nighttime residence in a
11 supervised publicly or privately operated shelter for temporary
12 accommodations, lives in an institution providing temporary residence
13 for individuals intended to be institutionalized, or a public or private
14 place not designated for, or ordinarily used as, a regular sleeping
15 accommodation for human beings. The term does not include persons
16 who are imprisoned or otherwise detained pursuant to federal or State
17 law.

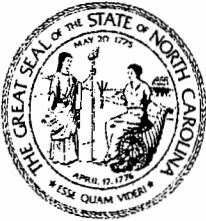
18 (6) Legal custodian. –The person or agency that has been awarded legal
19 custody of the student by a court.

20 (7) Licensed facility. A facility licensed under Article 2 of Chapter 122C
21 of the General Statutes or under Article 1A of Chapter 131D of the
22 General Statutes.

23 (8) Program participant. – An individual accepted into the Address
24 Confidentiality Program under Chapter 15C of the General Statutes."

25 **SECTION 2.** G.S. 115C-366.2 is repealed.

26 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
27 with the 2005-2006 school year.



HOUSE BILL 1074: Clarify School Admissions Procedures

BILL ANALYSIS

Committee:	House Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	May 31, 2005
Introduced by:	Rep. Daughtry	Summary by:	Robin Johnson <i>Robin</i>
Version:	PCS to Second Edition H1074-CSRH-37[v.7]		Committee Counsel

SUMMARY: *The PCS for House Bill 1074 would (i) clarify that a student placed in a licensed group home or foster home is entitled to attend school in the local school administrative unit where that home is located; (ii) require the person or agency with legal custody of this student to provide in writing to the school the name, address, and phone number of the individual who has authority and responsibility to make educational decisions for the child; (iii) require the parent or legal guardian who retains legal custody of a child, who is placed in a group or foster home or who lives with a custodial adult upon the recommendation of the department of social services or the Division of Mental Health, to provide at the time of enrollment an affidavit with specific information; (iv) specify that, for a student who is eligible for admission via an affidavit, the custodial adult must enroll the student, make other educational decisions concerning the student, and have the same legal authority, responsibility and liability as a parent or legal guardian would have; (v) expand the definition of "educational decisions"; (vi) repeal G.S. 115C-366.2 and move those provisions to G.S. 115C-366; and (vii) make technical changes.*

CURRENT LAW:

Generally, a student must be domiciled in a local school administrative unit (LEA) in order to attend its public schools, free of tuition. A domicile is the place the person intends to be his or her true, permanent, and established home. A child's domicile is the same as his or her parent's or legal guardian's domicile.

There are, however, a number of exceptions that allow certain children who are not domiciled in an LEA to be admitted, free of tuition, to a public school where they reside:

- 1.1. Students who do not live with their parents and are not domiciles of the LEA, but who live in and are cared for and supported by an institution located in the LEA. These institutions include foster homes and group homes. [G.S. 115C-366(a1)]
- 1.2. Homeless students if they meet the criteria in G.S. 115C-366(a2).
- 1.3. A student whose parent or guardian serves in the General Assembly, and whose place of residence in the LEA is incident to the General Assembly service of the parent or guardian. This is subject to the payment of any applicable out-of-county fees that may be in effect. [G.S. 115C-366(c)]
- 1.4. A student who resides with his or her parent, guardian, or legal custodian¹ who is a (i) student, employee, or faculty member of a college or university or (i) visiting scholar at the National Humanities Center. [G.S. 115C-366.2]

¹ "Legal custodian" means the person or agency has been awarded legal custody of the child by a court.

House Bill 1074

Page 2

- 1.5. The child who is placed in or assigned to a group home, foster home, or similar facility or institution. [G.S. 115C-366.2]
- 1.6. The child who lives with a legal custodian who is not the child's parent or guardian. [G.S. 115C-366.2]
- 1.7. The child who resides in a pre-adoptive home following placement by a county department of social services or licensed child-placing agency. [G.S. 115C-366.2]
- 1.8. The child who resides with a custodial adult, who is a domicile of that LEA, as a result of one of the following: [G.S. 115C-366(a3)]
 - 1.8.1.1. The death, serious illness, or incarceration of the child's parent or legal guardian.
 - 1.8.1.2. The abandonment of the parent or guardian.
 - 1.8.1.3. Abuse or neglect by the parent or guardian.
 - 1.8.1.4. The parent's or guardian's physical or mental condition is such that he or she cannot provide adequate care and supervision of the child.
 - 1.8.1.5. The loss of the child's home due to a natural disaster.

BILL ANALYSIS:

House Bill 1074 would make the following changes to the law governing the admission of children to the public schools when those children are residents of, but not domiciled in, an LEA:

- G.S. 115C-366.2 would be repealed and its provisions moved to new subsections (a7) and (a8) in G.S. 115C-366.
- The provisions referring to children in foster homes and group homes would be deleted from the provisions dealing with children who are placed in child caring institutions.
- G.S. 115C-366(a3) would be amended to include children whose parents or guardians relinquish physical custody and control of the child upon the recommendation of the department of social services or the Division of Mental Health. An affidavit would be required for these children that assigns the responsibility and authority to the person with whom the child resides to make educational decisions. The parent or guardian would retain legal liability for the child's acts.
- A new subsection would be added (G.S. 115C-366(a6)) to make it clear that a child who is placed in or assigned to a licensed group home, family foster home², or therapeutic foster home³, would be eligible for admission to the public schools where the facility is located subject to the following:

²(8) "Family Foster Home" means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

³ (14) "Therapeutic Foster Home" means a family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission.

House Bill 1074

Page 3

- If the child's parent or legal guardian retains legal custody of the child, then an affidavit that meets the requirements of G.S. 115C-366(a3) is required. In this case, the person with whom the child lives, the child's caretaker or foster parent, or other clearly identifiable adult who resides in the county where the licensed group home or foster home is located, would have the same legal authority and responsibility as the child's parent or guardian would have even if the parent or guardian does not sign this affidavit. The child's parent or legal guardian would retain legal liability for the child's acts.
- If the person or agency that placed the child has legal custody of the child, then that person or agency must provide in writing to the school the name, address and phone number of the individual who has authority to make educational decisions concerning the child.
- The Social Services Commission or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services must have licensed the group home or foster home.
- The term "educational decisions" would be expanded to mean decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. The decisions and actions would include enrolling the student and responding to disciplinary notices.

The bill also would make a number of technical and clarifying changes.

EFFECTIVE DATE: The bill would take effect July 1, 2005, and would apply beginning with the 2005-2006 school year.

H1074e2-SMRH-CSRH-37v7

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1151*

Short Title: Planning Time & Duty-Free Lunch for Teachers. (Public)

Sponsors: Representatives Jeffus; Faison, Fisher, Harrison, Insko, Luebke,
Parmon, Pierce, Wainwright, and Womble.

Referred to: Education.

April 7, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR A DUTY-FREE LUNCH PERIOD FOR TEACHERS.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-301.1 reads as rewritten:

"§ 115C-301.1. ~~Duty-free period.~~ Instructional planning period and duty-free lunch period.

All full-time assigned classroom teachers shall be provided a daily ~~duty-free period~~ duty-free instructional planning period and a daily duty-free lunch period during regular student contact hours. The ~~duty-free period~~ duty-free instructional planning period shall be provided except in emergency situations where the immediate and temporary suspension of the planning period is the only reasonable means of protecting the safety of children. The duty-free lunch period shall be provided to the maximum extent that ~~(i) the safety and proper supervision of children may allow during regular student contact hours. hours and (ii) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty-free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty-free period for that teacher shall revert to the general fund.~~ Principals shall not unfairly burden a given teacher by making that teacher give up his or her ~~duty-free period~~ duty-free instructional planning period or duty-free lunch period on an ongoing, regular basis without the consent of the teacher."

SECTION 2. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1151*
PROPOSED COMMITTEE SUBSTITUTE H1151-CSSF-20 [v.5]

5/31/2005 2:31:48 PM

Short Title: Planning Time & Duty-Free Lunch for Teachers.

(Public)

Sponsors:

Referred to:

April 7, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR INSTRUCTIONAL PLANNING TIME AND A
DUTY-FREE LUNCH PERIOD FOR TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-105.27 reads as rewritten:

"§ 115C-105.27. Development and approval of school improvement plans.

(a) In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

(b) The strategies for improving student performance:

- (1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to

1 implement the school improvement plan. The plan may provide that a
2 portion of these funds is used for mentor training and for release time
3 and substitute teachers while mentors and teachers mentored are
4 meeting;

5 (1a) Shall, if the school serves students in kindergarten or first grade,
6 include a plan for preparing students to read at grade level by the time
7 they enter second grade. The plan shall require kindergarten and first
8 grade teachers to notify parents or guardians when their child is not
9 reading at grade level and is at risk of not reading at grade level by the
10 time the child enters second grade. The plan may include the use of
11 assessments to monitor students' progress in learning to read, strategies
12 for teachers and parents to implement that will help students improve
13 and expand their reading, and provide for the recognition of teachers
14 and strategies that appear to be effective at preparing students to read
15 at grade level. level;

16 (2) Shall include a plan to address school safety and discipline concerns in
17 accordance with the safe school plan developed under Article 8C of
18 this Chapter;

19 (3) May include a decision to use State funds in accordance with G.S.
20 115C-105.25;

21 (4) Shall include a plan that specifies the effective instructional practices
22 and methods to be used to improve the academic performance of
23 students identified as at risk of academic failure or at risk of dropping
24 out of school;

25 (5) May include requests for waivers of State laws, rules, or policies for
26 that school. A request for a waiver shall meet the requirements of G.S.
27 ~~115C-105.26~~. 115C-105.26;

28 (6) Shall include a plan to provide a duty-free lunch period for every
29 teacher on a daily basis or as otherwise approved by the school
30 improvement team; and

31 (7) Shall include a plan to provide unencumbered instructional planning
32 time for every teacher, with the goal of providing an average of at least
33 five hours of planning time per week.

34 (c) Support among affected staff members is essential to successful implementation
35 of a school improvement plan to address improved student performance at that school.
36 The principal of the school shall present the proposed school improvement plan to all of
37 the principals, assistant principals, instructional personnel, instructional support
38 personnel, and teacher assistants assigned to the school building for their review and
39 vote. The vote shall be by secret ballot. The principal shall submit the school
40 improvement plan to the local board of education only if the proposed school
41 improvement plan has the approval of a majority of the staff who voted on the plan.

42 (d) The local board of education shall accept or reject the school improvement plan.
43 The local board shall not make any substantive changes in any school improvement plan
44 that it accepts. If the local board rejects a school improvement plan, the local board shall

1 state with specificity its reasons for rejecting the plan; the school improvement team
2 may then prepare another plan, present it to the principals, assistant principals,
3 instructional personnel, instructional support personnel, and teacher assistants assigned
4 to the school building for a vote, and submit it to the local board to accept or reject. If
5 no school improvement plan is accepted for a school within 60 days after its initial
6 submission to the local board, the school or the local board may ask to use the process
7 to resolve disagreements recommended in the guidelines developed by the State Board
8 under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board
9 shall participate in the process to resolve disagreements. If there is no request to use that
10 process, then the local board may develop a school improvement plan for the school.
11 The General Assembly urges the local board to utilize the school's proposed school
12 improvement plan to the maximum extent possible when developing such a plan.

13 (e) A school improvement plan shall remain in effect for no more than three years;
14 however, the school improvement team may amend the plan as often as is necessary or
15 appropriate. If, at any time, any part of a school improvement plan becomes unlawful or
16 the local board finds that a school improvement plan is impeding student performance at
17 a school, the local board may vacate the relevant portion of the plan and may direct the
18 school to revise that portion. The procedures set out in this subsection shall apply to
19 amendments and revisions to school improvement plans."

20 **SECTION 2.** G.S. 115C-105.26(b) reads as rewritten:

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

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

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

33 **SECTION 3.** This act becomes effective July 1, 2005, and applies to school
34 improvement plans beginning with the 2006-2007 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1151*
PROPOSED COMMITTEE SUBSTITUTE H1151-PCS80422-SF-20

Short Title: Planning Time & Duty-Free Lunch for Teachers.

(Public)

Sponsors:

Referred to:

April 7, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR INSTRUCTIONAL PLANNING TIME AND A
DUTY-FREE LUNCH PERIOD FOR TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-105.27 reads as rewritten:

"§ 115C-105.27. Development and approval of school improvement plans.

(a) In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

(b) The strategies for improving student performance:

- (1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to

1 implement the school improvement plan. The plan may provide that a
2 portion of these funds is used for mentor training and for release time
3 and substitute teachers while mentors and teachers mentored are
4 meeting;

- 5 (1a) Shall, if the school serves students in kindergarten or first grade,
6 include a plan for preparing students to read at grade level by the time
7 they enter second grade. The plan shall require kindergarten and first
8 grade teachers to notify parents or guardians when their child is not
9 reading at grade level and is at risk of not reading at grade level by the
10 time the child enters second grade. The plan may include the use of
11 assessments to monitor students' progress in learning to read, strategies
12 for teachers and parents to implement that will help students improve
13 and expand their reading, and provide for the recognition of teachers
14 and strategies that appear to be effective at preparing students to read
15 at grade level. level;
- 16 (2) Shall include a plan to address school safety and discipline concerns in
17 accordance with the safe school plan developed under Article 8C of
18 this Chapter;
- 19 (3) May include a decision to use State funds in accordance with
20 G.S. 115C-105.25;
- 21 (4) Shall include a plan that specifies the effective instructional practices
22 and methods to be used to improve the academic performance of
23 students identified as at risk of academic failure or at risk of dropping
24 out of school;
- 25 (5) May include requests for waivers of State laws, rules, or policies for
26 that school. A request for a waiver shall meet the requirements of
27 G.S. ~~115C-105.26~~. 115C-105.26;
- 28 (6) Shall include a plan to provide a duty-free lunch period for every
29 teacher on a daily basis or as otherwise approved by the school
30 improvement team; and
- 31 (7) Shall include a plan to provide unencumbered instructional planning
32 time for every teacher, with the goal of providing an average of at least
33 five hours of planning time per week.

34 (c) Support among affected staff members is essential to successful
35 implementation of a school improvement plan to address improved student performance
36 at that school. The principal of the school shall present the proposed school
37 improvement plan to all of the principals, assistant principals, instructional personnel,
38 instructional support personnel, and teacher assistants assigned to the school building
39 for their review and vote. The vote shall be by secret ballot. The principal shall submit
40 the school improvement plan to the local board of education only if the proposed school
41 improvement plan has the approval of a majority of the staff who voted on the plan.

42 (d) The local board of education shall accept or reject the school improvement
43 plan. The local board shall not make any substantive changes in any school
44 improvement plan that it accepts. If the local board rejects a school improvement plan,

1 the local board shall state with specificity its reasons for rejecting the plan; the school
2 improvement team may then prepare another plan, present it to the principals, assistant
3 principals, instructional personnel, instructional support personnel, and teacher
4 assistants assigned to the school building for a vote, and submit it to the local board to
5 accept or reject. If no school improvement plan is accepted for a school within 60 days
6 after its initial submission to the local board, the school or the local board may ask to
7 use the process to resolve disagreements recommended in the guidelines developed by
8 the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school
9 and local board shall participate in the process to resolve disagreements. If there is no
10 request to use that process, then the local board may develop a school improvement plan
11 for the school. The General Assembly urges the local board to utilize the school's
12 proposed school improvement plan to the maximum extent possible when developing
13 such a plan.

14 (e) A school improvement plan shall remain in effect for no more than three
15 years; however, the school improvement team may amend the plan as often as is
16 necessary or appropriate. If, at any time, any part of a school improvement plan
17 becomes unlawful or the local board finds that a school improvement plan is impeding
18 student performance at a school, the local board may vacate the relevant portion of the
19 plan and may direct the school to revise that portion. The procedures set out in this
20 subsection shall apply to amendments and revisions to school improvement plans."

21 **SECTION 2.** G.S. 115C-105.26(b) reads as rewritten:

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

- 24 (1) State laws pertaining to class size, teacher certification, and the
25 ~~duty-free period for classroom teachers under G.S. 115C-301.1; size~~
26 ~~and teacher certification; and~~
27 (2) State rules and policies, except those pertaining to public school State
28 salary schedules and employee benefits for school employees, the
29 instructional program that must be offered under the Basic Education
30 Program, the system of employment for public school teachers and
31 administrators set out in G.S. 115C-287.1 and G.S. 115C-325, health
32 and safety codes, compulsory attendance, the minimum lengths of the
33 school day and year, and the Uniform Education Reporting System."

34 **SECTION 3.** This act becomes effective July 1, 2005, and applies to school
35 improvement plans beginning with the 2006-2007 school year.



HOUSE BILL 1151: Planning Time & Duty-Free Lunch for Teachers

BILL ANALYSIS

Committee:	House Assigned To Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	May 31, 2005
Introduced by:	Rep. Jeffus	Summary by:	Shirley Iorio, Ph D
Version:	PCS to First Edition H1151-CSSF-20 [v.5]		Legislative Analyst

SUMMARY: *The Proposed Committee Substitute (PCS) to House Bill 1151 would require school improvement plans to include a plan to provide (a) a duty-free lunch period for every teacher on a daily basis or as otherwise approved by the school improvement team, and (b) instructional planning time for every teacher, with the goal of providing an average of at least five hours of planning time per week.*

The PCS removes the authority of the State Board of Education to grant waivers of State laws pertaining to duty-free periods for classroom teachers when the waivers are requested as part of a school improvement plan.

The PCS:

- *amends the statute pertaining to the development and approval of school improvement plans. The original bill amended the statute pertaining to a duty-free period for classroom teachers;*
- *amends the statute pertaining to the State Board of Education's authority to grant waivers of certain state laws when the waiver is requested as part of a school improvement plan. The original bill had no such provision; and*
- *makes technical changes.*

CURRENT LAW:

§ 115C-301.1. Duty free period.

All full-time assigned classroom teachers shall be provided a daily duty free period during regular student contact hours. The duty free period shall be provided to the maximum extent that (i) the safety and proper supervision of children may allow during regular student contact hours and (ii) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty free period for that teacher shall revert to the general fund. Principals shall not unfairly burden a given teacher by making that teacher give up his or her duty free period on an ongoing, regular basis without the consent of the teacher.

BILL ANALYSIS: The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school make up the school improvement team that develops the school improvement plan. Teachers, therefore, would be a part of the process of developing the plans for duty-free periods.

House Bill 1151

Page 2

The school improvement team would have to develop, as part of their school improvement plan, a plan that sets out how their school would provide both a duty-free lunch period and instructional planning time for all teachers. In effect, the school improvement team would have to plan for a second duty-free period for every teacher since G.S. 115C-301.1 already provides for one daily duty-free period during regular student contact hours.

School improvement plans remain in effect for no more than three years. However, the school improvement team may amend the plan as often as is necessary or appropriate. Although these requirements for duty-free periods would become effective July 1, 2005, and would apply beginning with the 2006-2007 school year, a school improvement team could amend their school improvement plan to include the duty-free period plans before the 2006-2007 school year.

EFFECTIVE DATE: The bill would become effective July 1, 2005, and would apply to school improvement plans beginning with the 2006-2007 school year.

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

H.B. 1151
TEACHERS.

AN ACT TO PROVIDE FOR A DUTY-FREE LUNCH PERIOD FOR

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

s/ Marvin W. Lucas

☐ With a favorable report.

☐ With a favorable report, as amended.

☒ With a favorable report as to the committee substitute bill unfavorable as to the original bill.

03/26/03

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☒ Committee Substitute for

H.B. 1074

**AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING
CHILDREN IN PUBLIC SCHOOLS.**

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.

s/ Maurin W. Lucas

- ☐ 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 #1

03/26/03

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

Thursday, June 9, 2005

11:00 AM

Room 421, LOB

AGENDA

I. OPENING REMARKS AND INTRODUCTIONS

Representative Rick Glazier, Presiding Chair

II. AGENDA ITEM

SB 821 PERMISSIBLE SCHOOL BUS ROUTES MODIFIED, Sen. Jenkins

III. ADJOURN

MINUTES
HOUSE EDUCATION SUBCOMMITTEE ON
PRE-SCHOOL, ELEMENTARY AND SECONDARY EDUCATION

June 9, 2005

The House Education Subcommittee on Pre-School, Elementary and Secondary Education met on Thursday, June 9, 2005, in Room 421 of the Legislative Office Building at 11:00 AM. The following members were present: Chairman Rick Glazier, Chairman Parmon, Vice Chairs: Representatives Blackwood and Goforth, Members: Bernard Allen, Carney, Cleveland, Fisher, Folwell, Harrison, Johnson, Langdon, Pate, Preston, Walker, and Wiley. Shirley Iorio, Sara Kamprath and Robin Johnson, Staff Counselors, were in attendance. A Visitor Registration list is attached and made part of these minutes.

Chairman Glazier called the meeting to order and introduced the Pages and Sergeant-At-Arms.


The following bills were considered:

SB 821, AN ACT PERMITTING THE ROUTING OF SCHOOL BUSES ON CERTAIN STREETS DESIGNATED AS PUBLIC. A copy of the bill, proposed committee substitute, and bill summary is attached and made part of these minutes. After discussion, and upon motion made by Representative Parmon, the committee voted for a favorable report to the proposed committee substitute, unfavorable to the original bill, to be reported to the House floor.

There being no further business, the Chair adjourned the meeting at 11:45 AM.

Respectfully submitted,


Representative Rick Glazier
Chair


Carin Savel
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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SENATE BILL 821

Education/Higher Education Committee Substitute Adopted 4/28/05

Short Title: Permissible School Bus Routes Modified.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

AN ACT PERMITTING THE ROUTING OF SCHOOL BUSES ON CERTAIN
STREETS DESIGNATED AS PUBLIC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-246(b) reads as rewritten:

"(b) Unless road or other conditions shall make it inadvisable to do so, public school buses shall be so routed on state-maintained highways or streets designated as a school bus route as ordained by the Division of Highways, that the school bus, to which such pupil is assigned, shall pass within one mile of the residence of each pupil, who lives one and one half miles or more from the school to which such pupil is assigned."

SECTION 2. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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SENATE BILL 821

Education/Higher Education Committee Substitute Adopted 4/28/05
PROPOSED COMMITTEE SUBSTITUTE S821-PCS85269-SF-26

Short Title: Permissible School Bus Routes Modified.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

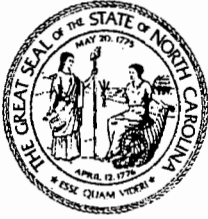
AN ACT PERMITTING THE ROUTING OF SCHOOL BUSES ON CERTAIN
STREETS DESIGNATED AS PUBLIC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-246(b) reads as rewritten:

"(b) Unless road or other conditions shall make it inadvisable to do so, inadvisable, public school buses shall be so routed on state-maintained highways highways, municipal streets, or other streets with publicly dedicated right-of-way. that the school bus, to which such pupil is assigned, shall pass within one mile of the residence of each pupil, who lives one and one half miles or more from the school to which such pupil is assigned. Each public school bus shall be routed so that the bus passes within one mile of the residence of each pupil assigned to that bus. A pupil who lives one and one-half miles or more from the school to which the pupil is assigned shall be eligible for school bus transportation."

SECTION 2. This act becomes effective July 1, 2005.



SENATE BILL 821: Permissible School Bus Routes Modified

BILL ANALYSIS

Committee:	House Education Subcommittee on Pre-School, Elementary and Secondary Education	Date:	June 9, 2005
Introduced by:	Sen. Jenkins	Summary by:	Shirley Iorio, Ph D Legislative Analyst
Version:	PCS to Second Edition S821-CSSF-26 [v.2]		

SUMMARY: *The PCS to Senate Bill 821 adds language that would allow public school buses to operate on municipal streets and other streets with publicly dedicated right-of-way, in addition to state-maintained highways.*

The PCS also makes changes to clarify the current language in G.S. 115C-246(b).

CURRENT LAW: G.S. 115C-246(b) requires that public school buses be routed on state-maintained highways unless the road or other conditions make it inadvisable.

BILL ANALYSIS: Currently, the law says that school bus routes must be on state-maintained highways. In some counties, school buses are routed on roads other than state-maintained roads, such as neighborhood streets or city streets. Under this bill, it would be permissible to have school buses operate on state-maintained highways, municipal streets, or other streets with publicly dedicated right-of-way.

EFFECTIVE DATE: The bill would become effective July 1, 2005.

**2005 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 Glazier and Parmon (Chairs) for the EDUCATION Subcommittee on Pre-School, Elementary and Secondary Education.

☐ Committee Substitute for

S.B. 683 AN ACT PERMITTING THE ROUTING OF SCHOOL BUSES ON CERTAIN
STREETS DESIGNATED AS PUBLIC.

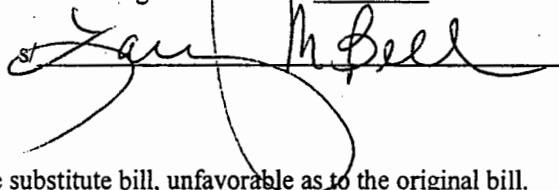
REPORTED TO THE STANDING COMMITTEE ON

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 Lucas, Bell, McLawhorn for the Standing Committee on Education.



- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

03/26/03