2011-2012

SENATE EDUCATION/HIGHER ED

MINUTES

2011-2012 Biennium

Leg. Day: H-087/S-087

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0007	Ingle	COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM.	*S	Vetoed 4/13/2011	03-09-11	03-31-11
H0015=	McElraft	OPT OUT OF FED'L LOAN PROGRAM/COMM. COLLEGES.	*SR	Ch. SL 2011-148	06-09-11	06-14-11
H0022	Crawford	2011 BUDGET TECHNICAL CORRECTIONS.	*SR	Ch. SL 2011-391	03-10-11	03-23-11
H0048=	Holloway	NO STANDARDIZED TESTING UNLESS REQ'D BY FEDS.	*SR	Ch. SL 2011-8	02-21-11	03-02-11
H0058	Burr	COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM	*SR	Ch. SL 2011-155	06-09-11	06-14-11
H0072	Crawford	COMMUNITY COLLEGE INVESTMENT FLEXIBILITY.	*S	Ref to Education/ Higher Education. If fav, re-ref to Finance	05-23-11	
H0134	McElraft	COMM. COLLEGES/OPT OUT OF FED'L LOAN PROG-2.	*SR	Ch. SL 2011-178	06-09-11	06-14-11
H0334=	Insko	REPORT ON FITNESS TESTING IN SCHOOLS.	*S	Ref To Com On Rules and Operations of the Senate	04-07-11	06-07-11
H0342	Blackwell	HIGH SCHOOL ACCREDITATION.	*SR	Ch. SL 2011-306	06-07-11	06-14-11
H0344	Stam	TAX CREDITS FOR CHILDREN WITH DISABILITIES.	*SR	Ch. SL 2011-395	06-08-11	06-14-11
03	Insko	NUTRITION STDS./ALL FOODS SOLD AT SCHOOL.	*S	Ref To Com On Education/Higher Education	06-06-11	
H0515=	Boles	COMM. COLL. TUITION FOR MEMBERS OF MILITARY.	*SR	Ch. SL 2011-184	05-23-11	06-07-11
H0541	Hurley	COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM.	*SR	Ch. SL 2011-154	06-09-11	06-14-11
H0588=	Brubaker	THE FOUNDING PRINCIPLES ACT.	*SR	Ch. SL 2011-273	06-09-11	06-14-11
H0720	Murry	SCHOOL & TEACHER PAPERWORK REDUCTION ACT.	*SR	Ch. SL 2011-379	06-10-11	06-14-11
H0736	Langdon	AMEND LAW RE: SCHOOL DISCIPLINE.	*SR	Ch. SL 2011-282	05-02-11	06-07-11
H0744	Folwell	SAFE STUDENTS ACT.	*SR	Ch. SL 2011-388	06-10-11	06-14-11
H0758	Carney	ESTABLISH ARTS EDUCATION COMMISSION.	*SR	Ch. SL 2011-301	05-26-11	06-07-11
H0765	Lewis	STUDY LENGTH OF SCHOOL YEAR.	*SR	Ch. SL 2011-257	06-09-11	06-14-11
H0766	Cotham	TESTING IN THE PUBLIC SCHOOLS.	S	Ref To Com On Education/Higher Education	04-19-11	
H0769	Cotham	HIGH SCHOOL TO WORK PARTNERSHIP.	*SR	Ch. SL 2011-91	05-02-11	05-11-11

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2011-2012 Biennium

Leg. Day: H-087/S-087

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0822	Holloway	DROPOUT RECOVERY PILOT PROGRAM.	*SR	Ch. SL 2011-259	06-09-11	06-14-11
323	Holloway	GOVERNANCE OF THE DEP'T OF PUBLIC INSTRUCTION.	*S	Re-ref Com On Rules and Operations of the Senate	05-31-11	06-08-11
H0829	Cotham	STREAMLINE EDUCATION PLANNING RESPONSIBILITY.	*S	Re-ref Com On Education/Higher Education	05-02-11	
H0837	Carney	COMPLETION OF CPR BY STUDENTS REQUIRED.	*S	Ref To Com On Education/Higher Education	06-02-11	
H0855	Brandon	PERSONAL LEARNING PLAN FOR EACH CHILD.	*S	Ref To Com On Education/Higher Education	06-02-11	
S0008	Richard Stevens	NO CAP ON NUMBER OF CHARTER SCHOOLS.	*SR	Ch. SL 2011-164	01-31-11	02-16-11
S0020	Jerry W. Tillman	AMEND LAW REGULATING PROPRIETARY SCHOOLS.	*SR	Ch. SL 2011-21	02-02-11	02-23-11
S0074	Rick Gunn	COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM.	*S	Re-ref Com On Rules and Operations of the Senate	02-16-11	02-23-11
S0083=	E. S. (Buck) New	WILSON SCHOOL BOARD.	*SR	Ch. SL 2011-53	02-21-11	03-02-11
S0088	Jean Preston	ELECT STATE COMMUNITY COLLEGE BD MEMBERS.	SR	Ch. Res 2011-3	02-22-11	02-23-11
S0090	Jerry W. Tillman	STATE BOARD OF EDUCATION CONFIRMATION.	S	Re-ref Com On Rules and Operations of the Senate	02-22-11	05-10-11
14=	Austin M. Allran	NO STANDARDIZED TESTING UNLESS REQ'D BY FEDS.	S	Ref To Com On Education/Higher Education	02-24-11	
S0137=	Richard Stevens	ESTABLISH FORGIVABLE LOAN FUND.	*SR	Ch. SL 2011-74	02-28-11	03-16-11
S0154	Richard Stevens	ABOLISH HIGHER EDUCATION BOND OVERSIGHT COMM.	SR	Ch. SL 2011-43	03-02-11	03-16-11
S0159	Ralph Hise	CONVEY BLUE RIDGE CORR. FAC TO MAYLAND CC.	*SR	Ch. SL 2011-305	06-01-11	06-07-11
$ S0166	**Fletcher L. Hart**	**NO ADULT LEFT BEHIND.**	***SR**	**Ch. SL 2011-327**	**03-02-11**	**06-08-11**
$ S0169	**Fletcher L. Hart**	**STUDY INNOVATIONS/ INCENTIVES IN EDUCATION.**	**S**	**Re-ref Com On Appropriations/ Base Budget**	**03-02-11**	**04-27-11**
S0172	Fletcher L. Hart	CLASSROOM EXPERIENCE FOR SCHOOL PERSONNEL.	S	Ref To Com On Education/Higher Education	03-02-11	
S0243	Richard Stevens	PUBLIC-PRIVATE PARTNERSHIP FOR SCHOOLS.	SR	Ch. SL 2011-234	03-08-11	06-08-11
S0255=	Fletcher L. Hart	AMEND UNC ENROLLMENT FUNDING FORMULA.	S	Ref to Education/ Higher Education. If fav, re-ref to Appropriations/ Base Budget	03-09-11	

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S0283	Ralph Hise	SCHOOL CALENDAR FLEXIBILITY/INCLEMENT WEATHER.	S	Re-ref Com On Rules and Operations of the Senate	03-10-11	03-21-11
S0287	Tom Apodaca	EXTEND SMALL BUSINESS CENTER INCUBATOR PERIOD.	SR	Ch. SL 2011-331	03-10-11	03-23-11
S0296	Bob Atwater	DROPOUT RECOVERY PROGRAMS.	*S	Re-ref Com On Appropriations/ Base Budget	03-10-11	03-31-11
S0339	Fletcher L. Hart	MODIFY DRIVER EDUCATION PROGRAM.	*SR	Ch. SL 2011-334	03-15-11	03-31-11
S0348	Bob Atwater	TUITION FOR DEPENDENTS OF DEPLOYED MILITARY.	S	Ref To Com On Education/Higher Education	03-16-11	
S0361	Jerry W. Tillman	INTERSCHOLASTIC SPORTS OPEN TO ALL STUDENTS.	S	Re-ref Com On Rules and Operations of the Senate	03-17-11	03-21-11
S0362	Jerry W. Tillman	REALLOCATE LOTTERY FUNDS.	S	Ref to Education/ Higher Education. If fav, re-ref to Finance	03-17-11	
S0415	William R. Purce	ELIMINATE COST/ REDUCED-PRICE SCH BREAKFAST.	*SR	Ch. SL 2011-342	06-01-11	06-08-11
S0423	Jerry W. Tillman	EDUC. OVERSIGHT COMM. STUDY OF TEACHER TENURE.	S	Re-ref Com On Rules, Calendar, and Operations of the House	03-28-11	04-06-11
66=	Fletcher L. Hart	MODIFY TEACHER CAREER STATUS LAW.	*SR	Ch. SL 2011-348	03-31-11	04-14-11
S0479	Jerry W. Tillman	TESTING IN THE PUBLIC SCHOOLS.	*SR	Ch. SL 2011-280	04-04-11	04-14-11
S0497=	Louis Pate	ECU/BD OF GOVERNORS DENTAL SCHOLARSHIP-LOAN.	S	Ref To Com On Education/Higher Education	04-04-11	
S0498=	Louis Pate	MODIFY LAW RE: CORPORAL PUNISHMENT.	*SR	Ch. SL 2011-270	04-04-11	04-14-11
S0498=	Louis Pate	MODIFY LAW RE: CORPORAL PUNISHMENT.	*SR	Ch. SL 2011-270	04-26-11	05-05-11
S0553	Fletcher L. Hart	REESTABLISH PROGRESS BOARD.	S	Re-ref Com On Appropriations/ Base Budget	04-12-11	05-05-11
S0569	Bob Rucho	COMMUNITY COLLEGE EFFICIENCY INITIATIVES.	S	Re-ref Com On Appropriations/ Base Budget	04-14-11	04-27-11
S0575	Richard Stevens	HIGHER EDUCATION EFFICIENCY AND FLEXIBILITY.	S	Ref to Education/ Higher Education. If fav, re-ref to Finance	04-14-11	
S0576	Fletcher L. Hart	CHANGES TO FEES FOR TEACHER CERTIFICATION.	*S	Re-ref Com On Rules and Operations of the Senate	04-14-11	04-27-11
S0631	Andrew C. Brock	UNC/CHEROKEE LANGUAGE	*S	Re-ref Com On	04-19-11	06-07-11

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		CREDIT.		Appropriations		
S0648	Jean Preston	AMEND LAW RE: SCHOOL DISCIPLINE.	*S	Ref To Com On Education	04-20-11	05-05-11
S0667	James Forrester	PERMIT ADVERTISING ON SCHOOL BUSES.	S	Re-ref Com On Education/Higher Education	05-10-11	
S0685	Tom Apodaca	MODIFY REGULATION OF PROPRIETARY SCHOOLS.	*SR	Ch. SL 2011-308	04-20-11	05-11-11
S0689	Dan Soucek	MOUNTAIN SNOW DAYS.	S	Re-ref Com On Rules and Operations of the Senate	04-20-11	05-02-11
S0700	Wesley Meredith	MODIFY TERMS OF COMMUNITY COLLEGE TRUSTEES.	S	Ref To Com On Education/Higher Education	04-20-11	
S0724	Josh Stein	AN ACT TO IMPROVE PUBLIC EDUCATION.	*S	Ref To Com On Education	04-20-11	05-05-11
S0726	Ralph Hise	MULTIPLE BIRTH SIBLING CLASSROOM PLACEMENT.	*SR	Ch. SL 2011-354	04-20-11	06-07-11
S0727	Ralph Hise	NO DUES CHECKOFF FOR SCHOOL EMPLOYEES.	*S	Vetoed 6/18/2011	04-20-11	05-02-11
S0733	Jim Davis	MODIFY SMALL SCHOOL PROVISIONS.	S	Ref To Com On Education/Higher Education	04-20-11	
S0757	Malcolm Graham	INTERSCHOLASTIC SPORTS/CONCUSSIONS.	S	Ref To Com On Education/Higher Education	04-20-11	
S0759	Malcolm Graham	EQUAL EDUCATION OPPORTUNITY TAX CREDIT.	S	Ref to Education/ Higher Education. If fav, re-ref to Finance	04-20-11	
S0776	Louis Pate	CALENDAR FLEXIBILITY/ GREENE COUNTY SCHOOLS.	S	Re-ref Com On Rules and Operations of the Senate	04-28-11	05-02-11

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NORTH CAROLINA GENERAL ASSEMBLY

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
2011 – 2012 SESSION

Senator Jean Preston
Chair

Senator Dan Soucek
Chair

Senator Jerry W. Tillman
Chair

Senator Tom Apodaca
Vice chair

Senator Austin M. Allran

Senator Andrew C. Brock

Senator Harry Brown

Senator Warren Daniel

Senator Charlie Smith
Dannelly

Senator James Forrester

Senator Linda Garrou

Senator Thom Goolsby

Senator Malcolm Graham

Senator Floyd B. McKissick, Jr.

Senator Martin L. Nesbitt, Jr.

Senator E. S. (Buck) Newton

Senator Louis Pate

Senator William R. Purcell

Senator Gladys A. Robinson

NORTH CAROLINA GENERAL ASSEMBLY

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
2011 – 2012 SESSION

Senator Bob Rucho

Senator Josh Stein

Senator Richard Stevens

Senator Stan White

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, February 2, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on February 2, 2011, in Room 544 of the Legislative Office Building. Seventeen members of the committee were present. Senator Jerry W. Tillman presided.

Call to Order

Chairman Tillman called the meeting to order and introduced the Sergeants-at-Arms and pages. Chairman Tillman then asked that staff and all members introduce themselves.

Committee Discussion

Chairman Tillman explained that there would be no action taken on the bill and Senator Preston moved to adopt the Proposed Committee Substitute (PCS) of Senate Bill 8. The committee then adopted the PCS.

Senator Stevens explained the issues of charter schools and the history of the cap. He explained the PCS and called it a starting point and expressed his desire to create a consensus bill.

Upon the request of Senator Stevens and Chairman Tillman, Drupti Chauhan, lead staff member to the committee, explained the PCS further.

Chairman Tillman then asked for questions or comments from the members.

Senator Purcell made the point that charter schools are public schools and asked Senator Stevens why the bill would in his opinion encourage or make it easier to create segregated schools.

Senator Stevens replied that he does not agree with Senator Purcell's opinion that the bill encourages segregated schools. Senator Stevens also opined that he feels that things should be done a little differently moving forward.

Senator Rucho expressed his concern over LEAs being able to use capital funds for charter schools.

Senator Graham thanked Senator Stevens for bringing the bill forward and agreed that things need to be done differently, but he also opined that there should be fewer commissions in state government. He added that he wanted to avoid having dual systems and asked Senator Stevens why he wanted to create bigger education bureaucracy and make the charter commission separate from the State Board of Education.

Senator Stevens expressed his agreement with Senator Graham about having too many commissions and expressed his interest in getting rid of many of them during the next few years.

He also refuted Senator Graham's point by mentioning that there have been other schools in North Carolina that were governed differently and outside of the State Board's control.

Senator Graham also questioned the bill's use of state funds for capital funding of charter schools.

Senator Stevens mentioned that in his opinion the denial of state capital funding for charter schools has been a serious obstacle for charter schools since they were first implemented in North Carolina. He pointed out that there is disagreement on what role state educational capital funding should be provided to charter schools. He suggested that his bill reflects a middle ground between the two sides of the argument.

Senator Robinson made the point that there needs to be similar accountability about standards for charter schools. She asked how charter school standards would be set.

Senator Stevens asked Drupti Chauhan to respond. She expressed that the bill made no changes to existing standards requirements.

Senator Robinson recommended that the committee create different standards to be applied only to charter schools since they are a different sort of school.

Chairman Tillman asked that all Amendments be submitted by Tuesday for the meeting on Wednesday.

Senator Robinson then asked about counties that already have bonds in place to build new schools.

Senator Stevens replied that the bill would not affect the existing debts incurred by the counties.

Senator McKissick inquired about changing the commission's nature to one of an advisory commission to the State Board of Education.

Senator Stevens responded that the State Board is very open to a strong advisory group.

Senator McKissick then suggested that he would like to have an additional requirement for new charter school applicants to provide Federal free lunch programs. He also expressed his concerns over opening the state lottery funds to charter schools.

Senator Stein thanked Chairman Tillman for the deliberate way in which he conducted the meeting. Senator Stein then mentioned his concern about re-segregation of schools and that he shares Senator Robinson's concerns about creating stronger accountability than currently exists for charter schools. He also asked whether the bill would completely lift the cap or if it would do so in stages.

Senator Stevens replied that the bill would completely lift the cap. He agreed that there should be accountability, but suggested that all schools should be accountable.

Senator Purcell echoed Senator Stein's thanks to Chairman Tillman for allowing concerns to be expressed. He questioned how or if charter schools were required to share techniques and improved tactics with the public school systems.

Senator Stevens answered that he felt that public schools would be unable to change techniques due to limitations place on them by the General Assembly. He expressed his wish that someday public schools would have the freedom to follow the innovations of charters in the State.

Senator Garrou inquired about LEAs regarding funding and what happens to funds if students drop out of a charter school.

Senator Stevens replied that the bill makes no changes to the way in which funding follows students.

Senator Garrou followed up by saying that she feels that the General Assembly should be careful about how it takes money from the public schools.

Senator Dannelly said that he saw that the bill would create two school systems and expressed his opinion about the inequities of the system.

Senator Stevens mentioned that it was similarly unfair for charter schools to be deprived of funding.

Public Comments

Chairman Tillman recognized the public for three-minute comments. He asked for two comments in favor of the bill and two comments in opposition.

Darrell Allison, President, Parents for Education Freedom of North Carolina – expressed his support for lifting the cap on charter schools and provided a handout illustrating that there are over 20,000 on the waiting list to get in to charter schools.

Karen Sutton, Parent, Charlotte – explained that she has a child in the sixth grade and has been waiting for two years to get into a charter school.

Ann McColl, Legislative Liaison, State Board of Education – expressed her constitutional concerns over Sections 2 and 19 in the bill.

Leanne Winner, North Carolina School Board Association – mentioned her concerns over issues of choice and her concerns about making charters accessible to low-income families by requiring them to provide free and reduced lunches and bussing.

Adjournment

No committee action was taken, and Chairman Tillman called for the adjournment of the committee at 11:10AM.

The meeting adjourned at 11:10AM.

Senator Jerry W. Tillman, Presiding

John B. Clark, Committee Clerk

AGENDA

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, February 2, 2011 at 10:00am
Room 643, Legislative Office Building

I. **Welcome and Opening Remarks**

II. **Bills to be Considered –**

SB 8 No Cap on Number of Charter Schools
SPONSOR – Senator Stevens

III. **Other Business**

IV. **Adjournment**

S 1

SENATE BILL 8

Short Title:	No Cap on Number of Charter Schools.	(Public)
Sponsors:	Senators Stevens; Allran, Apodaca, Bingham, Brock, Brown, Brunstetter, Clary, Goolsby, Graham, Gunn, Harrington, Hise, Hunt, Meredith, Newton, Pate, Preston, Rouzer, Soucek, Tillman, and Tucker.	
Referred to:	Education/Higher Education.	

January 31, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

SECTION 2. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 8
PROPOSED COMMITTEE SUBSTITUTE S8-CSRQ-1 [v.6]

2/1/2011 7:35:32 PM

Short Title: Charter Schools Act of 2011. (Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

AN ACT TO INCREASE EDUCATIONAL OPPORTUNITIES FOR THE CHILDREN OF NORTH CAROLINA BY REMOVING THE CAP ON CHARTER SCHOOLS; AND BY CREATING A NEW PUBLIC CHARTER SCHOOLS COMMISSION TO APPROVE AND MONITOR CHARTER SCHOOLS; AND BY CLARIFYING THE FUNDING FORMULA FOR CHARTER SCHOOLS; AND BY STRENGTHENING THE STANDARDS FOR GRANTING AND RETAINING A CHARTER FOR A CHARTER SCHOOL AND GIVING THE PUBLIC CHARTER SCHOOLS COMMISSION DISCRETION IN GRANTING AND REVIEWING CHARTERS; AND BY PROVIDING THAT LOCAL GOVERNMENTS MAY PROVIDE FUNDING FOR CHARTER SCHOOLS IN THEIR JURISDICTIONS; AND TO MAKE OTHER CHANGES TO THE STATUTES GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charter Schools Act of 2011."

SECTION 2. Part 6A of Article 16 of Chapter 115C of the General Statutes reads as rewritten:

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.

The purpose of this Part is to create the North Carolina Public Charter Schools Commission to authorize and administer a system of charter schools ~~to~~ that provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to ~~accomplish all of~~accomplish, in the aggregate, the following:

(1) Improve student ~~learning;~~learning.

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically ~~gifted;~~gifted.

(3) Encourage the use of different and innovative teaching ~~methods;~~methods.

(4) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~site.

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school ~~system;~~system.

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(7) Encourage the replication of successful charter schools.

"**§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**

(a) Creation. – There is created the North Carolina Public Charter Schools Commission, hereinafter referred to as the "Commission". The Commission shall be located administratively under the State Board of Education but shall exercise its powers and duties independent of the State Board of Education.

(b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for final approval of any charter applicant.

(c) Membership. – The Commission shall consist of the following eleven members:

(1) Two members appointed by the Governor.

(2) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The Superintendent of Public Instruction or the Superintendent's designee.

(d) Qualifications of Members. – Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, public charter schools, and public education law. All appointed members of the Commission shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(e) Terms of Office. – No appointed member shall serve more than seven consecutive years. The terms of office are as follows:

(1) The initial term of office for members appointed by the Governor shall be two years until June 30, 2013, and thereafter shall be three years.

(2) The initial term of office for the four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be three years until June 30, 2014, and thereafter shall be three years.

(3) The initial term of office for the four Commission members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be four years until June 30, 2015, and thereafter shall be three years.

(f) Officers. – The Commission shall elect a chair and a vice-chair from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members, and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(h) Expenses. – Members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(i) Removal. – Any member of the Commission, other than the Superintendent of Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held meeting, for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint or elect a member for the remaining portion of the term.

(j) Powers. – In addition to other powers, the Commission shall exercise the following powers:

(1) Receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Part, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law at the time the gift, grant, or donation is received.

(2) Employ, subject to Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix compensation within the limits of funds available to the Commission.

(3) Adopt rules deemed necessary to carry out the provisions of this Part.

(k) Duties. –The Commission shall have the following duties:

(1) Identify locations and populations in need of increased educational opportunity and encourage interested parties to prepare applications for charter schools serving those locations or populations. At least once per year, the Commission shall distribute information announcing the availability of the charter school process described in this Part to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(2) Approve charter applications that meet identified educational needs and promote, in the aggregate, a diversity of educational choices. The Commission shall disapprove applications if it finds that the applicant, available resources, or educational methodology for the proposed charter school do not meet identified educational needs and promote, in the aggregate, a diversity of educational choices.

(3) Negotiate and execute charter contracts with each approved public charter school closely tailored to each school's objectives, methodology and target populations, and shall monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools, including charter schools in operation prior to the establishment of the Commission. The Commission shall determine, based on a process and timeline it establishes, whether each charter contract shall be renewed or subject to nonrenewal or termination under G.S. 115C-238.29G.

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

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. Any public school converting to a charter school shall adopt a policy giving enrollment preference to students who reside within the former attendance area of that public school for at least the first two years of operation of the charter school.

(b) The application shall include an executive summary and shall contain at least the following information:

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

(1a) The targeted student population and the community the school hopes to serve as well as evidence of need and community support for the proposed charter school.

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

(2b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

(2c) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, academically at-risk students, and academically gifted students, including but not limited to compliance with applicable laws and regulations.

(3) The governance structure of the school including proposed governing bylaws and the names and biographical information of the proposed initial members of the board of directors of the nonprofit, tax-exempt ~~corporation~~ corporation. ~~and the process to be followed by the school to ensure parental involvement.~~

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

(4) Admission policies and procedures.

(5) A proposed budget for the school for at least the first five years of operation and evidence that the financial plan for the school is economically sound.

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

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

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

(9) The term of the charter.

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

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

(12) ~~The number of students to be served, which number shall be at least 65,~~ The number of students to be served, including the grades to be served each year for the full term of the charter contract and the minimum, planned, and maximum enrollment per grade per year for the term of the charter contract.~~and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.~~

(12a) The minimum number of teachers to be employed at the school.

(12b) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies, such as advisory bodies or parent and

teacher councils, and any external organizations that will play a role in managing the school.

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

(14) Repealed by Session Laws 1997-430, s. 1.

(15) The process to be followed by the school to ensure parental involvement.

(16) The school's plans, if any, for providing transportation or food services.

(17) Explanations of any partnerships or contractual relationships central to the school's operations or mission.

(18) A detailed school start-up plan, identifying tasks, timelines and responsible individuals.

(c) An applicant shall submit the application to the Commission, which shall have the authority to approve the charter school in accordance with the standards and criteria set forth in this Part. An applicant must also file a bond with the Commission executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond shall be payable to the Commission, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days notice to the Commission. The bond amount shall be at least one hundred thousand dollars ($100,000). ~~a chartering entity for preliminary approval. A chartering entity may be:~~

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

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

~~(3) The State Board of Education.~~

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

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

(d) ~~Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the~~The applicant shall submit a copy of its application to ~~that local board~~the local board of education of the local school administrative unit in which the charter school will be located within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the ~~chartering entity.~~Commission within a time period to be determined by the Commission and imposed uniformly for all applications. ~~The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year.~~ The applicant shall not be required to obtain or deliver this information to the ~~chartering entity~~Commission on behalf of the local board. The ~~State Board~~Commission shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to grant preliminary and final approval of the charter school.

"**§ 115C-238.29C. ~~Preliminary approval of~~Completeness determination for applications for charter schools.**

(a) The ~~chartering entity that receives a request for preliminary approval of a charter school shall act on each request received prior to November 1 of a calendar year by February 1 of the next calendar year.~~Commission shall determine the schedule and deadlines for the submission of charter school applications.

(b) The ~~chartering entity~~Commission shall ~~give preliminary approval to the application~~ issue a determination that the application is complete if the ~~chartering entity~~Commission determines that ~~(i)~~the information contained in the application meets the requirements set out in this Part or adopted by the ~~State Board of Education,~~ Commission.~~(ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) granting the application would improve student learning and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing applications for the establishment of charter schools within a local school administrative unit, the chartering entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. If the chartering entity approves more than one application for charter schools located in a local school administrative unit, the chartering entity may state its order of preference among the applications that it approves.~~

~~(c) If a chartering entity other than the State Board disapproves an application, the applicant may appeal to the State Board of Education prior to February 15. The State Board shall consider the appeal at the same time it is considering final approval in accordance with G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the application, failed to consider appropriately the application, or failed to act within the time set out in G.S. 115C-238.29C.~~

~~If the chartering entity, the State Board of Education, or both, disapprove an application, the applicant may modify the application and reapply subject to the application deadline contained in subsection (a) of this section.~~

§ 115C-238.29D. Final approval of applications for charter schools.

(a) The ~~State Board shall~~Commission may grant final approval of an application if it ~~finds that~~ determines that the application meets the requirements set out in this Part or adopted by the ~~State Board of Education~~Commission and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

The ~~State Board~~Commission shall ~~act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.~~take final action on an application within 60 days of declaring the application complete under G.S. 115C-238.29C. The Commission's decision shall be based on the evidence contained in the application or collected by the Commission following a procedure for application review that is uniform across all applicants, clearly communicated to all applicants at the beginning of the application process, and provides opportunities for applicants to respond to questions and requests for further information.

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

(b1) If the Commission disapproves an application, it shall provide the applicant with the opportunity to request reconsideration of the Commission's decision. However, the

Commission is not required to consider any request for reconsideration from an applicant that fails to include additional information not previously presented by the applicant to the Commission.

(c) The ~~State Board of Education~~Commission may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The ~~State Board of Education~~Commission may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The Commission may include in the charter any standards or requirements it determines are necessary to fulfill the purposes of this Part as well as any other objectives set forth by the charter school applicant. The ~~State Board of Education~~Commission shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the ~~State Board of Education.~~Commission.

~~It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:~~

~~(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;~~

~~(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;~~

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

~~(4) The charter school is not currently identified as low-performing;~~

~~(5) The charter school meets generally accepted standards of fiscal management; and~~

~~(6) It is otherwise appropriate to approve the enrollment growth.~~

(e) The Commission shall not restrict the number of students a charter school may enroll. The capacity of the charter school shall be determined annually by the board of directors of the charter school in conjunction with the Commission and in consideration of the charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

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

(a) A charter school ~~that is approved by the State~~ shall be a public school within the local school administrative unit in which it is ~~located. It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its charter. All other charter schools~~located, and shall be accountable to the ~~State Board~~Commission for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

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

(c) A charter school shall operate under the written charter signed by the Commission ~~entity to which it is accountable under subsection (a) of this section~~ and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the ~~State Board of Education~~Commission. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

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

"§ 115C-238.29F. General requirements.

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information 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.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

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

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the ~~State Board of Education,~~ Commission, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

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

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

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

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

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

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

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

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The ~~State Board of Education~~ Commission ~~provides funds to charter schools,~~ approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the ~~State Board of Education~~Commission for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting ~~System.~~ System, except that reports shall be made to the Commission as well as the State Board of Education.

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

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll persons of school age who are not domiciliaries of the State and charge those students a tuition no less than the per pupil State funding received by the school during that school year.

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

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

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. ~~Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located.~~ The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public

school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(8) Nothing in this subsection shall be interpreted to preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, academically at-risk students, or academically gifted students.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. ~~The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school.~~ At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles ~~of~~ from the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. No requirement of this subsection shall be interpreted to require a charter school to provide busing or any other mode of transportation to any particular student.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, ~~all net~~ the assets of the charter school purchased with public funds shall be distributed to satisfy the creditors of the charter school. Any surplus that remains after the charter school's creditors are satisfied shall then be deemed the property of the local school administrative unit in which the charter school is located.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

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

(a) The ~~State Board of Education, or a chartering entity subject to the approval of the State Board of Education,~~ Commission may terminate or not renew a charter upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;

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

(3) Violations of law;
(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
(5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
(6) Other good cause identified.

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

(c) The ~~State Board~~Commission and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the ~~State Board~~Commission or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The ~~State Board~~Commission and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

"**§ 115C-238.29H. State and local funds for a charter school.**

(a) The State Board of Education shall allocate to each charter school:
(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;
(2) An additional amount for each child attending the charter school who is a child with disabilities; and
(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

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

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

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

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides. The local school administrative unit shall provide a detailed accounting of the funds to be transferred and transfer these funds based on a preliminary projection of charter school enrollment provided to the local school administrative unit by the charter school no later than 15 days after the local school administrative unit receives its local current expense appropriation. Adjustments to this amount shall be made within 30 days of the State Board of Education determining and certifying to the charter school its average daily membership for the school year. If the local school administrative unit fails to comply with the deadlines set forth in this subsection, it shall pay a penalty of 1% of the amount transferred to the charter school.

(c) Cities and counties may provide funds to charter schools or non-profit organizations supporting charter schools by direct appropriation as set forth in G.S. 160A-498.2. These funds shall be used only for the following purposes:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, and athletic fields.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, and similar items of furnishings and equipment.

(d) In order to support the Commission's operations, the State Board shall withhold and remit to the Commission one percent (1%) of the gross state per pupil allotment for each school chartered by the Commission.

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

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

~~(b) Repealed by Session Laws 1997-18, s. 15(i).~~

~~(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report no later than January 1, 2002, to the Joint~~

~~Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~

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

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

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

~~(4) Other information the State Board considers appropriate.~~

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

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

"§ 115C-238.29J. Public and private assistance to charter schools.

(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative units.

(b) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(c) The ~~State Board of Education shall direct the~~ Department of Public Instruction ~~to~~ shall provide guidance and technical assistance, upon request, to existing charter schools as well as applicants ~~and~~ or potential applicants for charters.

(d) ~~The State Board of Education shall direct the Department of Public Instruction to~~ The Commission shall notify the Department of Revenue when the ~~State Board of Education~~Commission terminates, fails to renew, or grants a charter for a charter school.

"§ 115C-238.29K. Criminal history checks.

(a) As used in this section:

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

Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

a. Member of the board of directors of a charter school,

b. Employee of a charter school, or

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

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

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

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the criminal history check authorized under this section.

(c) The ~~Board of Education~~Commission shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the ~~State Board,~~Commission, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The ~~State Board~~ Commission shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Justice shall provide to the ~~State Board of Education~~Commission the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the ~~Board~~ Commission requires a criminal history check.

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the fingerprints authorized under this section.

(d) The ~~State Board~~Commission shall review the criminal history it receives on an individual. The ~~State Board~~Commission shall determine whether the results of the review

indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval of an application for a charter school under G.S. 115C-238.29D and for making an employment recommendation to the board of directors of a charter school. The ~~State Board~~Commission shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D and when making an employment recommendation.

(e) The ~~State Board~~Commission shall notify in writing the board of directors of the charter school of the determination by the ~~State Board~~Commission as to whether the school personnel is qualified to operate or be employed by a charter school based on the school personnel's criminal history. At the same time, the ~~State Board~~Commission shall provide to the charter school's board of directors the written findings the ~~Board~~ Commission makes in subsection (d) of this section and its employment recommendation. If the ~~State Board~~Commission recommends dismissal or nonemployment of any person, the board of directors of the charter school shall dismiss or refuse to employ that person. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the ~~State Board~~Commission shall not release nor disclose any portion of the school personnel's criminal history to the charter school's board of directors or employees. The ~~State Board~~Commission also shall notify the school personnel of the procedure for completing or challenging the accuracy of the criminal history and the personnel's right to contest the ~~State Board's~~Commission's determination in court.

(f) All the information received by the ~~State Board of Education~~Commission or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the ~~State Board of Education~~Commission or the board of directors of the charter school. The ~~State Board of Education~~Commission or the board of directors of the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the ~~State Board of Education~~Commission or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 3. G.S. 105-278.4 reads as rewritten:

"§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

(1) Owned by either of the following:
   a. An educational institution; or
   b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive

pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for nonprofit educational purposes by ~~the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.~~any of the following:

a. the owner.

b. a nonprofit educational institution occupying the building gratuitously.

c. a charter school, whether or not the charter school is the owner.

..."

SECTION 4. G.S. 114-19.2 reads as rewritten:

"**§ 114-19.2. Criminal record checks of school personnel.**

(a) The Department of Justice may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(a1) The Department of Justice may provide a criminal history record check to the Public Charter Schools Commission of a person who is employed at a charter school or of a person who has applied for employment at a charter school, if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.29K by fingerprint card to the Public Charter Schools Commission from National Repositories of Criminal Histories, in accordance with G.S. 115C-238.29K. The information shall be kept confidential by the Public Charter Schools Commission as provided in G.S. 115C-238.29K.

(b) The Department of Justice may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(c) The Department of Justice shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(c1) The Department of Justice may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(d) The Department of Justice shall adopt rules to implement this section."

SECTION 5. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its

administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

SECTION 6. G.S. 115C-426 reads as rewritten:

"**§ 115C-426. Uniform budget format.**

...

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used ~~to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use,~~ only if necessary to comply with a requirement imposed by the donor or grantor that the school system separately account for trust funds, ~~federal appropriations made directly to local school administrative units, funds received for prekindergarten programs,~~ federal grants restricted as to use, and special programs. ~~In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.~~

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 7. G.S. 115C-546.2 reads as rewritten:

"**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.**

...

(d) Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax

rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.

b. "State average effective tax rate" means the average effective county tax rates for all counties.

c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.

(5) A county may not use monies in this Fund to pay for school technology needs.

(6) Counties receiving funds under this subsection may allocate a portion of funds received each budget year under this subsection to charter schools on a per average daily membership basis according to each such school's share of the average daily membership of the unit. Charter schools may use the monies to pay for school construction projects or to retire indebtedness incurred for school construction projects incurred on or after July 1, 2011, and shall not be subject to the matching fund requirement set forth in subsection (c) of this section."

SECTION 8. (a). G.S. 135-5.3 reads as rewritten:

"**§ 135-5.3. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the ~~State Board of Education~~North Carolina Public Charter Schools Commission and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina State Public Charter Schools Commission approval under G.S. 115C-238.29D after 1998.

..."

SECTION 8.(b). G.S. 135-45.5 reads as rewritten:

"**§ 135-45.5. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Executive Administrator, the Board of Trustees, and the ~~State Board of Education.~~North Carolina Public Charter Schools Commission. This election is effective for each charter school employee as of the date of that

employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina Public Charter Schools Commission approval under G.S. 115C-238.29D after 1998.

..."

SECTION 9.(a). Article 21 of Chapter 160A is amended by adding a new section to read:

"§ **160A-498.2. Charter schools.**

Each city and county is authorized to appropriate funds and lease real property to schools chartered by the North Carolina Public Charter Schools Commission under Chapter 115C, Article 16, Part 6A of the General Statutes. Cities and counties may provide funds only for the purposes set forth in G.S. 115C-238.29H(c).

SECTION 9.(b). G.S. 153A-445 reads as rewritten:

"**§ 153A-445. Miscellaneous powers found in Chapter 160A.**

(a) A county may take action under the following provisions of Chapter 160A:

...

(9) G.S. 160A-498.2. – Charter schools.

(b) This section is for reference only, and the failure of any section of Chapter 160A to appear in this section does not affect the applicability of that section to counties."

SECTION 9.(c). G.S. 160A-209(c) reads as rewritten:

(c) Each city may levy property taxes for one or more of the following purposes subject to the rate limitation set out in subsection (d):

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 9.(d). G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 10. Each local board of education shall amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act. In the event that a local board of education fails to amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this Act, and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of compliance with G.S. 115C-238.29H(b).

SECTION 11. If in any fiscal year a local board of education approves a budget resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), that budget resolution shall be deemed to have to have been amended to include all such moneys in the local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

SECTION 12. Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31 are repealed.

SECTION 13. The State Board of Education shall transfer funds appropriated to it and used for operations of the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 14. The State Board of Education shall transfer all staff currently assigned to the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 15. The State Board of Education shall repeal all adopted policies inconsistent with this Act.

SECTION 16. Beginning in 2012, the North Carolina Public Charter Schools Commission shall prepare an annual report to the Joint Legislative Education Oversight Committee of the General Assembly no later than October 15 of each year. The report shall include, at a minimum, the following information:

(1) The Commission's strategic vision and plan for charter schools and progress toward achieving the vision and carrying out the plan;

(2) The academic and financial performance of all operating charter schools overseen by the Commission, according to the performance expectations for charter schools set forth in this Act;

(3) The status of the Commission's charter school portfolio, identifying all charter schools in each of the following categories: approved to open, in operation, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened.

SECTION 17. Appointments required in Section 2 of this Act shall be made no later than October 1, 2011. Sections 6, 10, 11, and 12 of this Act are effective when they become law. The remainder of this act becomes effective July 1, 2011.

SENATE PCS 8:
No Cap on Number of Charter Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 2, 2011
Introduced by:	Sen. Stevens	**Prepared by:**	Drupti Chauhan and Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S8-CSRQ-1 [v.6]		

SUMMARY: ***Senate Bill 8 removes the current cap on the number of charter schools. The Proposed Committee Substitute does all the following: (i) creates a new independent North Carolina Public Charter Schools Commission to approve and monitor charter schools; (ii) removes the cap on the number of charter schools; (iii) clarifies the funding formula for charter schools; and (iv) permits local governments to provide capital funding for charter schools.***

BILL ANALYSIS:

Section 2

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the State Board of Education is the entity that oversees charter schools in the State by granting, monitoring, and revoking charters. A maximum of 100 charter schools may be authorized in the State at any given time. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

Analysis:

115C-238.29A – Adds language to encourage replication of successful charter schools

115C-238.29A1 – Creates North Carolina Public Charter Schools Commission (Commission)

- Commission would operate independent of the State Board of Education. It would have 11 members including the Superintendent of Public Instruction and 10 members appointed by the Governor and the General Assembly.
- The Commission would have the following powers and duties: receive gifts, employ personnel, adopt rules, solicit interest in charter school applications, approval of charter applications, and negotiation of charter contracts.

115C-238.29B – Charter school applications and bond requirements

- Public schools converted to charter schools would be required to give enrollment preference to students in the former attendance area for at least 2 years.
- Applications would be required to include new information including the following: an executive summary; targeted school population and community; instructional design; plans for identifying and serving special populations; proposed governing by-laws; proposed budget for first 5 years of operation; numbers of students to be served, minimum number of teachers to be employed; organizational chart; and plans, if any, for transportation or food services.
- Applicants would be required to file a $100,000 bond with the Commission.
- Other entities such as local boards of education, and constituent institutions of The University of North Carolina would no longer be authorized to grant preliminary charters.

115C-238.29C – Application assessment

- The Commission would be authorized to establish deadlines for applications and make determinations when applications were complete.

The requirements governing preliminary approval of charters by other chartering entities would be eliminated.

115C-238.29D – Final approval of applications.

- The Commission would be authorized to grant approval of applications provided in the statutes or by the Commission.

- The Commission would be required to take action on applications within 60 days of the completed application.
- Applicants would have the opportunity to request reconsideration of a denial of an application.
- Enrollment growth cap of 10% per year would be eliminated with capacity determined by the governing board of the charter school and the Commission.

115C-238.29E – Charter School Operation

- The PCS makes only conforming changes

115C-238.29F – General Requirements

- Charter schools that have capacity would be able to enroll non-domiciled students and charge those students tuition that is equal at least to the per pupil State funding.
- The PCS would eliminate the requirement that the charter school's population reasonable reflect the racial and ethnic composition of the general population residing in the local school administrative unit (LEA) in which the school is located.
- The PCS would clarify that the statutory admissions requirements would not preclude the formation of a charter school to serve special populations.
- The PCS would clarify that charters schools are not required to provide transportation.
- Assets upon dissolution of a charter school would be required to be distributed to satisfy creditors with any surplus deemed the property of the LEA.

115C-238.29G -- Causes for nonrenewal and termination

- The PCS makes only conforming changes.

115C-238.29H – State and local funds for charters schools

- State funds would be allowed to be used to acquire real property, buildings, and mobile classrooms for school facilities.
- LEAs would be required to provide an accounting of the local current expense fund to be transferred to charter schools within 15 days of receipt of that appropriation. LEAs would be assessed a penalty for failure to comply with the deadlines.
- Cities and counties would be permitted to provide funds to charter schools or non-profits supporting charter schools by direct appropriations for specific purposes such as acquisition of facilities and furnishings.
- 1% of the gross per pupil allotment for each charter schools would be withheld and remitted to the Commission.

115C-238.29I – Notice of charter school process and Charter School Advisory Committee

- The PCS would repeal this section in order to make conforming changes.

115C-238.29J – Public and private assistance to charter schools

- The PCS makes only conforming changes

115C-238.29K – Criminal History Checks

- The PCS makes only conforming changes

Section 3

Current Law: G.S. 105.278.4 provides tax exemptions for certain property used for educational purposes.

Analysis: The PCS would add a tax exemption for property wholly and exclusively used for nonprofit educational purposes by a charter school whether or not the charter school is the owner of the property.

Section 4

Current Law: The Department of Justice is authorized to conduct criminal history checks of school personnel.

Analysis: The PCS makes conforming changes to allow the Department of Justice to conduct criminal history checks of charter school employees.

Section 5

Current Law: G.S. 115C-105.37B authorizes the State Board of Education to approve LEA requests to reform low-performing schools.

Analysis: The PCS makes conforming changes eliminating references to the charter schools cap.

Section 6

Current Law: G.S. 115C-426 established the uniform budget format for LEAs. LEAs are required to have the State Public School Fund, the local current expense fund, and the capital outlay fund. They are also authorized to have other funds for items such as tuition and sales tax refunds.

Analysis: The PCS would prohibit the use of other funds except if necessary to comply with donor requirements, restricted federal grants and special programs.

Section 7

Current Law: Funds from the State lottery for school construction are not allocated to charter schools.

Analysis: The PCS would permit counties to allocate a portion of the lottery funds for school construction to charter schools. Charter schools would be able to use the monies to pay for school construction projects or retire debt from school construction projects incurred after July 1, 2011.

Section 8

Current Law: Charter schools can opt into the State Retirement System and the State Health Plan.

Analysis: The PCS would make conforming changes only.

Section 9

Analysis: The PCS would authorize cities and counties to appropriate funds for capital needs for charter schools, lease real property to charter schools, and levy property taxes for these purposes. It would also make conforming changes.

Sections 10-12

Current Law: Section 7.17 of the 2010 Appropriations Act provided that LEAs that had not fully complied with local requirements for funding charters schools and who are subject to a judgment, court order, or settlement agreement may make payments over three years.

Analysis: The PCS would repeal the 2010 Budget provisions and would instead require that LEAs amend their 2010-2011 budget resolutions to comply with Section 6 of this PCS. If an LEA does not amend its budget resolution for this year or in future years, it will have been deemed to do so by this PCS.

Sections 13-15

Analysis: The State Board of Education shall transfer funding and staff from the Office of Charter Schools to the Commission and repeal all policies inconsistent with this Act.

Sections 16

Analysis: The Commission must report annually to the Joint Legislative Education Oversight Committee on its strategic vision and the status of the charter schools.

EFFECTIVE DATE: Appointments required in in the Act shall be by October 1, 2011. Sections 6, 10, 11, and 12 are effective when they become law. The remainder of this Act becomes effective July 1, 2011.

S8-SMRQ-1(CSRQ-1 v5) v7

PARENTS FOR EDUCATIONAL FREEDOM IN NORTH CAROLINA

FOR IMMEDIATE RELEASE
Jan 19, 2011

CONTACT:
Donald Bryson
919-995-0746

Annual State Charter School Law Rankings Announced, North Carolina is Number 32

North Carolina is One of Nine States that Severely Constrains Charter School Growth

Washington, DC - North Carolina's charter school law ranks number 32 for the second year in a row, according to the National Alliance for Public Charter Schools' (NAPCS) second annual ranking of state charter school laws. Minnesota's law ranked first, and Mississippi's newly enacted charter school law ranked last.

Measuring Up to the Model: A Ranking of State Public Charter School Laws analyzes the country's 41 state charter school laws and scores how well each supports charter school quality and growth based on the 20 essential components from the NAPCS' model charter school law.

"North Carolina took a step backwards on charter schools in 2010 by passing legislation that allows school districts to further increase funding inequities between charter schools and school districts. It also remains one of nine states that severely constrain charter school growth," said Todd Ziebarth, vice president, state advocacy and support, National Alliance for Public Charter Schools. Ziebarth is the lead author of the report. "North Carolina can significantly improve its law by lifting the state's restrictive cap; providing facilities support to charter schools; and beefing up its requirements for charter application, review, and decision-making processes, charter school oversight, and renewal, non-renewal, and revocation processes."

"The work done by the National Alliance for Public Charter Schools is simply enlightening and most timely for North Carolina," said Darrell Allison, president of Parents for Educational Freedom in North Carolina. "This report proves, with our low ranking for the second year in a row, that now is the time to take bold steps in the right direction for not only eliminating the cap on the number of public charter schools in North Carolina, but also for our state to take up the banner in the promotion of the growth of high-quality charter schools by requiring solid academic and operational performance expectations."

Eddie Goodall, president of the North Carolina Alliance for Public Charter Schools, said: "Our member schools thank the National Alliance for its work to raise the bar across America for public charter schools. I am sure our state's K-12 public education leaders are willing to partner with charter stakeholders in an effort to open more doors for our children, parents, and educators."

The new report captures all the legislative moves that states made to be more competitive under the U.S. Department of Education's Race to the Top competition.

As a result of positive policy changes made over the past year, Florida made the biggest jump from 2010, moving from number 11 to second place. Because of charter schools legislation passed in 2010, Massachusetts also made a big jump, moving from sixth to third. And the charter school legislation New York enacted in 2010 moved it from eighth to fifth.

Conversely, the District of Columbia fell the furthest from 2010, dropping from second to eighth. In addition, California fell from third to sixth, Georgia moved from fourth to seventh, and Utah dipped from seventh to number 10.

"There were a lot of shake-ups on the list this year," commented Peter C. Groff, president and CEO, National Alliance for Public Charter Schools. "Through the Race to the Top competition, states had a new incentive to take bold steps and make major improvements to their charter school laws. Some chose to do so and gained in our ranking. Those who made superficial or no changes, however, often lost ground."

As a new crop of governors and legislators prepare for the upcoming legislative sessions, the rankings provide clear indications of where some states excel and others come up short in charter school laws. The report also offers a positive roadmap for how governors and legislators can take action to strengthen their charter school laws.

The 10 states with laws shown to best support the growth of high-quality charter schools are: Minnesota, Florida, Massachusetts, Colorado, New York, California, Georgia, District of Columbia, Louisiana, and Utah.

The report also found that 24 states and the District of Columbia still have caps that impede the growth of charter schools. In nine of these states, such caps are severely constraining growth: Arkansas, Connecticut, Hawaii, Idaho, Mississippi, Missouri, New Hampshire, North Carolina, and Ohio. More than 420,000 students on waiting lists across the country are hoping for an additional seat at a charter school, and there is no correlation between caps and school quality or student achievement. "These states should remove their arbitrary restrictions on charter growth," said Ziebarth.

There are 10 states that have still failed to enact a charter school law: Alabama, Kentucky, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont, Washington, and West Virginia.

The complete analysis can be downloaded at the National Alliance for Public Charter Schools' web site: www.publiccharters.org/charterlawrankings2011. See detailed state-by-state summaries and color-coded maps of how states measure against each component at http://charterlaws.publiccharters.org.

###

About the Alliance: The National Alliance for Public Charter Schools (Alliance) is the national nonprofit organization committed to advancing the charter school movement. The Alliance works to increase the number of high-performing charter schools available to all families, particularly low-income and minority families who currently do not have access to quality public schools. The Alliance provides assistance to state charter school associations and resource centers, develops and advocates for improved public policies, and serves as the united voice for this large and diverse movement. More than 1.6 million students attend nearly 5,000 charter schools in 41 states and the District of Columbia.

About PEFNC: Founded on July 5, 2005, Parents for Educational Freedom in North Carolina (PEFNC) is a 501 (c)(3) non-profit organization dedicated to finding ways to improve the educational system for all children in North Carolina. PEFNC supports all programs that provide parents and children with greater educational opportunity and builds awareness of the need for more K-12 options. For more information, please visit www.MySchoolChoiceNC.org.

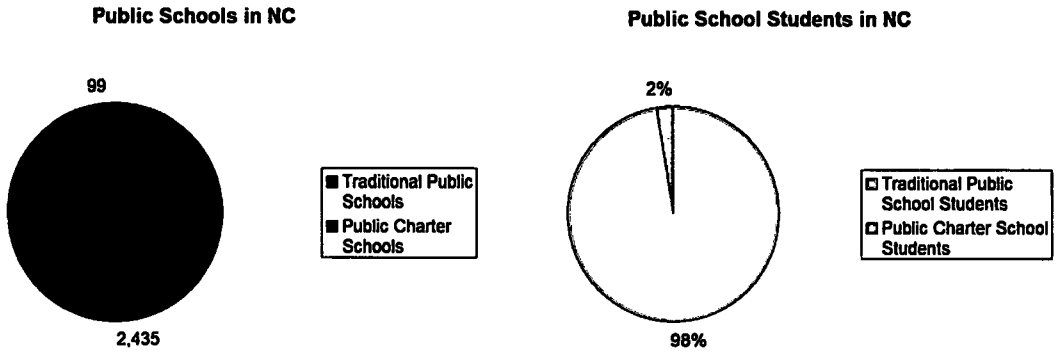
An Overview of Public Charter Schools in North Carolina

What are Public Charter Schools?

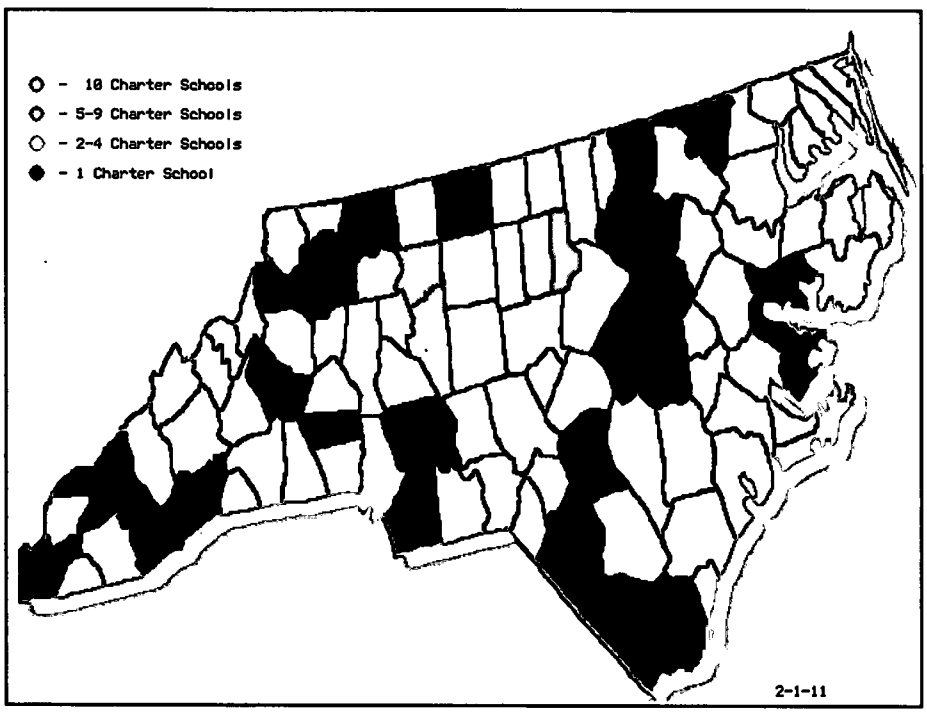
Charter schools are public, non-religious, tuition-free schools that are based on a performance contract with an authorizer. Public charter schools have operational and educational autonomy to implement an innovative educational program in return for accountability in the form of student outcomes. Unlike other public schools, public charter schools can be closed based on their academic or operational performance.

Number of Public Charter Schools and Students

As of January 2011, there are 99 public charter schools serving over 36,000 students in North Carolina.



Public charter schools exist in only 47 of North Carolina's 100 counties. Currently, there are 53 counties without a charter school.



Who Are Charter Schools Serving?

Per North Carolina law, public charter schools are open to any child in North Carolina. These schools have open enrollment with no discrimination, no religious associations, and no tuition. The only requirement to get into a charter school is the availability at the school in the requested grade, due to a cap on charter school student-body growth in the current charter law.

An Overview of Public Charter Schools in North Carolina

Because charter schools have open enrollment with no restrictions, data from the Department of Public Instruction indicates that charter schools are generally serving the same student demographics as traditional public schools.

Minority Students		
Race	**Percentage in Traditional Public Schools**	**Percentage in Public Charter Schools**
Asian	2.5%	1.9%
Black	31.2%	31.5%
Hispanic	10.7%	4.2%
Indian	1.4%	1.3%
White	54.2%	61.2%

Students with Special Needs	
Percentage of Traditional Public Schools	**Percentage of Public Charter Schools**
12.8%	10.6%

Trends in Charter School Performance

Recent data from the North Carolina Department of Public Instruction (DPI) and independent reports indicate that charter school performance is on an upward trend. For the first time in five years, none of North Carolina's public charter schools are labeled as "low performing," the lowest categorization for a public school in North Carolina.

Also, according to DPI, 86 public charter schools out of the 98 open last year (88%) made Adequate Yearly Progress (AYP) in the 2009-2010 academic year, with 13 schools rated as "School of Distinction" or higher. Only 57% of traditional public schools made AYP, according to the Department of Public Instruction.

Additionally, a report from the Center for Research on Education Outcomes (CREDO) at Stanford University concluded, *"that reading gains were significantly higher"* in North Carolina's charter school students than in their traditional public school peers.

Prepared by:

PARENTS FOR EDUCATIONAL FREEDOM IN NORTH CAROLINA

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Raleigh, NC 27609
www.PEFNC.org

Measuring Up to the Model

A Ranking of State Charter School Laws

Second Edition
January 2011

National Alliance for Public Charter Schools

North Carolina

#32 (out of 41)
76 Points (out of 208)

North Carolina took a step backwards on charter schools in 2010 by passing legislation that allows school districts to further increase funding inequities between charter schools and school districts. North Carolina's ranking stayed at number 32, and its total score fell from 78 points to 76 points. For component number 10, its score fell from two points to zero points because the Alliance strengthened the evaluative criteria for this component.

North Carolina's law is open to new start-ups, public school conversions and virtual schools and fares well on charter school autonomy for start-up charters. However, the law needs significant work, starting with lifting the state's restrictive cap. It also needs to improve its requirements for charter application, review and decision-making processes, charter school oversight, and renewal, non-renewal, and revocation processes and provide facilities support to charter schools.

	Essential Components of Strong Public Charter School Law	Current Component Description	Rating	Weight	Total Score
1	No Caps	The state has a cap with no room for growth.	0	3	0
2	A Variety of Public Charter Schools Allowed	The state allows new start-ups, public school conversions and virtual schools.	4	1	4
3	Multiple Authorizers Available	The state has only a single viable authorizer option available and there is some authorizing activity.	1	3	3
4	Authorizer and Overall Program Accountability System Required	The state law includes none of the elements of the model law's authorizer and overall program accountability system.	0	3	0
5	Adequate Authorizer Funding	The state law includes none of the model law's provisions for adequate authorizer funding.	0	2	0
6	Transparent Charter Application, Review and Decision-making Processes	The state law includes a small number of the model law's provisions for transparent charter application, review and decision-making processes.	1	4	4
7	Performance-Based Charter Contracts Required	The state law includes some of the model law's provisions for performance-based charter contracts.	2	4	8
8	Comprehensive Charter School Monitoring and Data Collection Processes	The state law includes a small number of the model law's provisions for comprehensive charter school monitoring and data collection processes.	1	4	4
9	Clear Processes for Renewal, Nonrenewal and Revocation Decisions	The state law includes a small number of the model law's clear processes for renewal, nonrenewal and revocation decisions.	1	4	4
10	Educational Service Providers Allowed	The state law includes none of the model law's provisions for educational service providers.	0	2	0

Year Charter School Law was Enacted: **1996**
Estimated Number of Public Charter Schools in 2010-2011: **98**
Estimated Number of Public Charter School Students in 2010-2011: **42,000**

	Essential Components of Strong Public Charter School Law	Current Component Description	Rating	Weight	Total Score
11	Fiscally and Legally Autonomous Schools, with Independent Public Charter School Boards	The state law includes all of the model law's provisions for fiscally and legally autonomous schools with independent public charter school boards.	4	3	12
12	Clear Student Recruitment, Enrollment and Lottery Procedures	The state law includes many of the model law's requirements for student recruitment, enrollment and lottery procedures.	3	1	3
13	Automatic Exemptions from Many State and District Laws and Regulations	The state law provides automatic exemptions from many state and district laws and regulations and requires some of a school's teachers to be certified.	3	3	9
14	Automatic Collective Bargaining Exemption	The state law exempts some schools from existing school district personnel policies, but not others.	2	3	6
15	Multi-School Charter Contracts and/or Multi-Charter Contract Boards Allowed	The state law is silent regarding these arrangements.	1	1	1
16	Extra-Curricular and Interscholastic Activities Eligibility and Access	The state law is silent about charter eligibility and access.	1	1	1
17	Clear Identification of Special Education Responsibilities	The state law is silent about special education responsibilities and funding for low-incident, high-cost services.	0	2	0
18	Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding	The state law includes a small number of the model law's provisions for equitable operational funding and equal access to all state and federal categorical funding.	1	3	3
19	Equitable Access to Capital Funding and Facilities	The state law includes some of the model law's provisions for equitable access to capital funding and facilities.	2	3	6
20	Access to Relevant Employee Retirement Systems	The state law provides access to relevant employee retirement systems, but does not require participation.	4	2	8
Total					76

For a detailed profile, go to http://www.publiccharters.org/charterlaws/state/NC.

PAGES ATTENDING

COMMITTEE: Education / Higher Ed. **ROOM:** 643 LOB

DATE: 2-2-11 **TIME:** 10 AM

Page

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Sterling Carter	Yanceyville	Sen. Gunn
2 [redacted]	[redacted]	[redacted]
3		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — February 2, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Karen Sutton	parent
Christal Reynolds	Parents for Educational Freedom
Bo Heath	McGuire Woods
Racquel Williams	Parent
Trishana Jones	NC YAIO
Michael S Stack	Principal - charter School
Tamara Thomas	Administrator - Charter School
ROBERT F. ORR	NCICL
Charles McNair	Dillard Academy Charter School
Francis De Luca	Civitas Institute
A.A. Adams	Victim Advocate

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — February 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOHN W. LA CAVA	TEA PARTY 735 TANKARD DR. BATH, NC 27808
Betty Doster	UNC Charlotte
Ed Funderburke	BPWHC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — February 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stan Chambers	Parents for Education Freedom in N.C.
W.L. BUZZ CAYTON	BEAUFORT PATRIOT TEA PARTY CHAIR
Pelma Blinson	" " " "
Becki Gray	John Locke Foundation
Sheria Reid	SOG
Marce Foreman	NCAE
Linda Dunton	NCAE
[illegible]	National Heritage Academies
Lois Strickland	NCAE
Caroline McKay	Reese Fells Ness site
Kwan Graham	Parent

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — February 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alice Garland	NCEL
[signature]	National Heritage Academies
Laura DeVivo	WCSR
Sarah Pfau	Disability Rights NC
[signature]	Tutor Inc.
[signature]	MVC
Christine Wilson	ACS
[signature]	City of Wilmington

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — February 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Evelyn Newsome	PENC; CSNC
Peggy Hockey	Retired
Darrell Allison	
Ed Smith	
Ann McColl	SBE
Leone Winnie	NCSBA
Christopher Hill	NC Justice Center
Michael J. Pratt	Rocky Mount Preparatory Sch.
Sheri Strickland	Pres NCAE
Jane Ellis	Self Help
[illegible]	Public School Forum

Public Speakers 2/21/11

Darrell Allison, - Parents for Educational Freedom of N.C.
Ann McColl - SBE
Sherri Strickland - NCAE
Chris Hill - NC Justice Center
Leanne Winner - NC School Bds Assoc.
Michael Pratt - Rocky Mount Prep
Karen Sutton - parent
Kwan Graham - parent
Jane Ellis - Self-Help
Annaliese Dolph - Disability Rights NC
Jo Ann Norris - Public School Forum of NC
Raquel Williams - parent

AGENDA

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, February 2, 2011 at 10:00am
Room 643, Legislative Office Building

I. **Welcome and Opening Remarks**

II. **Bills to be Considered –**

SB 8 No Cap on Number of Charter Schools
SPONSOR – Senator Stevens

III. **Other Business**

IV. **Adjournment**

SENATE EDUCATION/HIGHER EDUCATION SUBCOMMITTEE ON SENATE BILL 8
Wednesday, February 9, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on February 9, 2011, in Room 544 of the Legislative Office Building. Six members of the committee were present. Senator Jean Preston presided.

Call to Order

Chairman Preston called the meeting to order and introduced the Sergeants-at-Arms.

Committee Discussion

Chairman Preston reminded everyone attending that the meeting was a subcommittee appointed to examine the Proposed Committee Substitute to Senate Bill 8. She explained that there would be no speakers recognized from the audience.

Senator Stevens said that one of the biggest issues that came out of the previous meeting was the issue of governance. He said that Senator Soucek had some ideas on the issue and yielded to him.

Senator Soucek offered Amendment ATC-9, which he explained would change the Charter School Commission from an independent commission to an advisory commission. He added that the Commission would advise the State Board of Education and that the State Board would be required to have a three-fourths majority to overrule the Charter School Commission. He also noted that the amendment reinstated the requirement for charter schools to reflect the racial and ethnic makeup of their respective LEAs.

Senator Stevens expressed his desire that there be some language added to force the State Board of Education to explain and defend over rulings they might make of the Charter School Commission. He mentioned his approval of the other changes made in the amendment.

Senator Stein called the three-fourths requirement extreme and expressed his concerns of a double standard between the State Board, which is required to defend itself when overruling the Commission, whereas the Commission operates without any control.

Senator Tillman mentioned that the three-fourths requirement was meant to make sure that the State Board was serious about overruling the Commission.

Senator Stein inquired as to whether there were any other examples of three-fourths majorities being required elsewhere in state boards. After being informed that staff did not have an answer, he also inquired about why the Commission had the authority to dismiss its members with a two-thirds requirement for any reason.

Senator Stevens replied that the two-thirds requirement has been a part of the bill since the original PCS. He added the removal of members has always been intended to be used only when a member of the Commission is unable to perform their duties. He mentioned that Senator Soucek's amendment is meant as a compromise, since there are many others who would prefer to have maintained the Charter Commission as independent in nature.

Senator Graham thanked Senator Stevens and Senator Soucek for changing the Commission to an advisory commission. He added his concerns about the problematic nature of the three-fourths requirement and expressed his desire to speak with the Department of Public Instruction during the next meeting.

Senator Tillman called for adoption of the amendment. The committee subsequently adopted the amendment.

Senator Soucek offered Amendment ATC-10. He explained that the amendment would prevent teachers switching between charter schools and other public schools from losing longevity pay and leave time.

Senator Stein called for adoption of the amendment. The committee adopted the amendment.

Senator Stevens offered Amendment ARQ-9 and explained that the amendment would streamline the funding process of charter schools.

Senator Stein inquired about the original bill's language regarding money given to public schools.

Senator Stevens responded that there were no changes of that nature in the bill.

Senator Tillman called for adoption of the amendment. The committee then adopted the amendment.

Senator Stevens offered Amendment ATC-4 and explained that the amendment deals with the ability of a local LEA to convert schools to charter schools.

Senator Stein inquired as to the difference between this amendment and existing law that was passed last year.

Staff replied that last year's bill would the changes relate to employment status.

Senator Graham inquired as to whether the local school boards would have the authority and flexibility to replace principals and teachers. He also inquired about charter requirements for credentials of teachers.

Senator Stevens called for adoption of the amendment. The amendment was adopted.

Senator Stevens offered Amendment ATC-5. He explained that the amendment would prevent cities from funding charter schools.

Senator Stein called for adoption of the amendment. The amendment was adopted.

Senator Stevens asked the committee to comment on the idea of virtual charter schools. He explained that he liked the idea of virtual schools, but was unsure about the idea of an out-of-state group setting up a virtual school.

Senator Tillman said he did not have a problem since the Charter School Commission would have to approve all applications for a charter.

Senator Graham added his agreement that with the checks and balances in place, there would be enough to prevent inadequate applications from being accepted.

Senator Stevens asked the committee for comments on the issue of non-LEA residents attending charter schools and paying tuition.

Senator Stein expressed his desire to ensure that charter schools do not become private schools.

Senator Stevens then offered and called for Adoption of ARQ-8. The committee adopted the amendment.

Senator Stein offered ATC-6 on behalf of Senator McKissick. Senator Stein explained that the amendment increased the reporting requirements so that there would be more information available to the public about charter school performance.

Senator Stevens mentioned that he felt that the original PCS dealt with reporting requirements sufficiently.

Chairman Preston announced that the amendment would be taken up again during next week's meeting.

Senator Graham offered Amendment AMH-11. He expressed his desire to implement charter schools in a systematic way through the State. He explained that his amendment would ensure diversity in charter schools.

Senator Stein said that since there was language in this amendment that also exists in the previous amendment that it be held over for next week as well.

Senator Stevens disagreed about the transportation provisions mentioning that since charter schools do not receive capital funding, they cannot afford to provide transportation and meal services that would be required by this amendment.

Chairman Preston announced that the amendment would be held until the next committee meeting.

Senator Stein offered Amendment AMH-2 and explained that the amendment placed additional requirements on charter schools with regard to accountability.

Senator Stevens argued that there should not be special requirements for charter schools.

Senator Tillman asked that the bill be held and Chairman Preston declared that it would be held until next week.

Senator Stein offered Amendment AMH-1. He explained that the bill would add to the requirements upon application for a charter in order to ensure that charters are set up to succeed. He added that the amendment would also add requirements on charters to make sure that they are meeting their growth.

Senator Stevens responded that while he is open to working to refine the first part of the amendment, but added that he is opposed to the second part citing his reticence to add requirements on charters that are not placed on traditional public schools.

Senator Stein said that he would be happy to pull the amendment from consideration to have it held over until the next meeting.

Chairman Preston announced that the amendment would in fact be held for further discussion. She then made a motion to the proposed committee substitute as amended rolled into a new proposed committee substitute with a favorable report to the committee substitute and an unfavorable report to the original bill. The motion passed.

Adjournment

Chairman Preston called for the adjournment of the committee at 11:25AM.

The meeting adjourned at 11:25AM.

Senator Jean Preston, Presiding

John B. Clark, Committee Clerk

AGENDA

SENATE SUBCOMMITTEE ON EDUCATION
Wednesday, February 9th 2011 at 10:00am
Room 544, Legislative Office Building

I. Welcome and Opening Remarks

II. Bills to be Considered

Senate Bill 8 Charter Schools Act of 2011

III. Other Business

IV. Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 8
PROPOSED COMMITTEE SUBSTITUTE S8-CSRQ-1 [v.6]

2/1/2011 7:35:32 PM

Short Title: Charter Schools Act of 2011. (Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

AN ACT TO INCREASE EDUCATIONAL OPPORTUNITIES FOR THE CHILDREN OF NORTH CAROLINA BY REMOVING THE CAP ON CHARTER SCHOOLS; AND BY CREATING A NEW PUBLIC CHARTER SCHOOLS COMMISSION TO APPROVE AND MONITOR CHARTER SCHOOLS; AND BY CLARIFYING THE FUNDING FORMULA FOR CHARTER SCHOOLS; AND BY STRENGTHENING THE STANDARDS FOR GRANTING AND RETAINING A CHARTER FOR A CHARTER SCHOOL AND GIVING THE PUBLIC CHARTER SCHOOLS COMMISSION DISCRETION IN GRANTING AND REVIEWING CHARTERS; AND BY PROVIDING THAT LOCAL GOVERNMENTS MAY PROVIDE FUNDING FOR CHARTER SCHOOLS IN THEIR JURISDICTIONS; AND TO MAKE OTHER CHANGES TO THE STATUTES GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charter Schools Act of 2011."

SECTION 2. Part 6A of Article 16 of Chapter 115C of the General Statutes reads as rewritten:

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.

The purpose of this Part is to create the North Carolina Public Charter Schools Commission to authorize and administer a system of charter schools ~~to~~ that provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to ~~accomplish all of~~accomplish, in the aggregate, the following:

(1) Improve student ~~learning;~~learning.

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically ~~gifted;~~gifted.

(3) Encourage the use of different and innovative teaching ~~methods;~~methods.

(4) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~site.

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school ~~system;~~system.

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(7) Encourage the replication of successful charter schools.

"**§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**

(a) Creation. – There is created the North Carolina Public Charter Schools Commission, hereinafter referred to as the "Commission". The Commission shall be located administratively under the State Board of Education but shall exercise its powers and duties independent of the State Board of Education.

(b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for final approval of any charter applicant.

(c) Membership. – The Commission shall consist of the following eleven members:

(1) Two members appointed by the Governor.

(2) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The Superintendent of Public Instruction or the Superintendent's designee.

(d) Qualifications of Members. – Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, public charter schools, and public education law. All appointed members of the Commission shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(e) Terms of Office. – No appointed member shall serve more than seven consecutive years. The terms of office are as follows:

(1) The initial term of office for members appointed by the Governor shall be two years until June 30, 2013, and thereafter shall be three years.

(2) The initial term of office for the four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be three years until June 30, 2014, and thereafter shall be three years.

(3) The initial term of office for the four Commission members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be four years until June 30, 2015, and thereafter shall be three years.

(f) Officers. – The Commission shall elect a chair and a vice-chair from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members, and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(h) Expenses. – Members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(i) Removal. – Any member of the Commission, other than the Superintendent of Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held meeting, for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint or elect a member for the remaining portion of the term.

(j) Powers. – In addition to other powers, the Commission shall exercise the following powers:

(1) Receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Part, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law at the time the gift, grant, or donation is received.

(2) Employ, subject to Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix compensation within the limits of funds available to the Commission.

(3) Adopt rules deemed necessary to carry out the provisions of this Part.

(k) Duties. –The Commission shall have the following duties:

(1) Identify locations and populations in need of increased educational opportunity and encourage interested parties to prepare applications for charter schools serving those locations or populations. At least once per year, the Commission shall distribute information announcing the availability of the charter school process described in this Part to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(2) Approve charter applications that meet identified educational needs and promote, in the aggregate, a diversity of educational choices. The Commission shall disapprove applications if it finds that the applicant, available resources, or educational methodology for the proposed charter school do not meet identified educational needs and promote, in the aggregate, a diversity of educational choices.

(3) Negotiate and execute charter contracts with each approved public charter school closely tailored to each school's objectives, methodology and target populations, and shall monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools, including charter schools in operation prior to the establishment of the Commission. The Commission shall determine, based on a process and timeline it establishes, whether each charter contract shall be renewed or subject to nonrenewal or termination under G.S. 115C-238.29G.

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

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. Any public school converting to a charter school shall adopt a policy giving enrollment preference to students who reside within the former attendance area of that public school for at least the first two years of operation of the charter school.

(b) The application shall include an executive summary and shall contain at least the following information:

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

(1a) The targeted student population and the community the school hopes to serve as well as evidence of need and community support for the proposed charter school.

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

(2b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

(2c) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, academically at-risk students, and academically gifted students, including but not limited to compliance with applicable laws and regulations.

(3) The governance structure of the school including proposed governing bylaws and the names and biographical information of the proposed initial members of the board of directors of the nonprofit, tax-exempt ~~corporation~~ corporation. ~~and the process to be followed by the school to ensure parental involvement.~~

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

(4) Admission policies and procedures.

(5) A proposed budget for the school for at least the first five years of operation and evidence that the financial plan for the school is economically sound.

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

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

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

(9) The term of the charter.

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

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

(12) ~~The number of students to be served, which number shall be at least 65.~~ The number of students to be served, including the grades to be served each year for the full term of the charter contract and the minimum, planned, and maximum enrollment per grade per year for the term of the charter contract.~~and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.~~

(12a) The minimum number of teachers to be employed at the school.

(12b) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies, such as advisory bodies or parent and

teacher councils, and any external organizations that will play a role in managing the school.

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

(14) Repealed by Session Laws 1997-430, s. 1.

(15) The process to be followed by the school to ensure parental involvement.

(16) The school's plans, if any, for providing transportation or food services.

(17) Explanations of any partnerships or contractual relationships central to the school's operations or mission.

(18) A detailed school start-up plan, identifying tasks, timelines and responsible individuals.

(c) An applicant shall submit the application to the Commission, which shall have the authority to approve the charter school in accordance with the standards and criteria set forth in this Part. An applicant must also file a bond with the Commission executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond shall be payable to the Commission, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days notice to the Commission. The bond amount shall be at least one hundred thousand dollars ($100,000). ~~a chartering entity for preliminary approval. A chartering entity may be:~~

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

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

~~(3) The State Board of Education.~~

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

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

(d) ~~Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the~~The applicant shall submit a copy of its application to ~~that local board~~the local board of education of the local school administrative unit in which the charter school will be located within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the ~~chartering entity.~~Commission within a time period to be determined by the Commission and imposed uniformly for all applications. ~~The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year.~~ The applicant shall not be required to obtain or deliver this information to the ~~chartering entity~~Commission on behalf of the local board. The ~~State Board~~Commission shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to grant preliminary and final approval of the charter school.

"§ 115C-238.29C. ~~Preliminary approval of~~Completeness determination for applications for charter schools.

(a) The ~~chartering entity that receives a request for preliminary approval of a charter school shall act on each request received prior to November 1 of a calendar year by February 1 of the next calendar year.~~Commission shall determine the schedule and deadlines for the submission of charter school applications.

(b) The ~~chartering entity~~Commission shall ~~give preliminary approval to the application~~ issue a determination that the application is complete if the ~~chartering entity~~Commission determines that ~~(i)~~the information contained in the application meets the requirements set out in this Part or adopted by the ~~State Board of Education,~~ Commission.~~(ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) granting the application would improve student learning and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing applications for the establishment of charter schools within a local school administrative unit, the chartering entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. If the chartering entity approves more than one application for charter schools located in a local school administrative unit, the chartering entity may state its order of preference among the applications that it approves.~~

~~(c) If a chartering entity other than the State Board disapproves an application, the applicant may appeal to the State Board of Education prior to February 15. The State Board shall consider the appeal at the same time it is considering final approval in accordance with G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the application, failed to consider appropriately the application, or failed to act within the time set out in G.S. 115C-238.29C.~~

~~If the chartering entity, the State Board of Education, or both, disapprove an application, the applicant may modify the application and reapply subject to the application deadline contained in subsection (a) of this section.~~

§ 115C-238.29D. Final approval of applications for charter schools.

(a) The ~~State Board shall~~Commission may grant final approval of an application if it ~~finds that~~ determines that the application meets the requirements set out in this Part or adopted by the ~~State Board of Education~~Commission and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

The ~~State Board~~Commission shall ~~act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.~~take final action on an application within 60 days of declaring the application complete under G.S. 115C-238.29C. The Commission's decision shall be based on the evidence contained in the application or collected by the Commission following a procedure for application review that is uniform across all applicants, clearly communicated to all applicants at the beginning of the application process, and provides opportunities for applicants to respond to questions and requests for further information.

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

(b1) If the Commission disapproves an application, it shall provide the applicant with the opportunity to request reconsideration of the Commission's decision. However, the

Commission is not required to consider any request for reconsideration from an applicant that fails to include additional information not previously presented by the applicant to the Commission.

(c) The ~~State Board of Education~~Commission may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The ~~State Board of Education~~Commission may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The Commission may include in the charter any standards or requirements it determines are necessary to fulfill the purposes of this Part as well as any other objectives set forth by the charter school applicant. The ~~State Board of Education~~Commission shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the ~~State Board of Education.~~Commission.

~~It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:~~

~~(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;~~

~~(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;~~

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

~~(4) The charter school is not currently identified as low-performing;~~

~~(5) The charter school meets generally accepted standards of fiscal management; and~~

~~(6) It is otherwise appropriate to approve the enrollment growth.~~

(e) The Commission shall not restrict the number of students a charter school may enroll. The capacity of the charter school shall be determined annually by the board of directors of the charter school in conjunction with the Commission and in consideration of the charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

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

(a) A charter school ~~that is approved by the State~~ shall be a public school within the local school administrative unit in which it is ~~located. It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its charter. All other charter schools~~located, and shall be accountable to the ~~State Board~~Commission for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

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

(c) A charter school shall operate under the written charter signed by the Commission ~~entity to which it is accountable under subsection (a) of this section~~ and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the ~~State Board of Education~~Commission. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

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

"§ 115C-238.29F. General requirements.

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information 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.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

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

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the ~~State Board of Education,~~ Commission, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

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

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

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

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

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

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

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

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The ~~State Board of Education~~ Commission ~~provides funds to charter schools,~~ approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the ~~State Board of Education~~Commission for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting ~~System.~~ System, except that reports shall be made to the Commission as well as the State Board of Education.

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

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll persons of school age who are not domiciliaries of the State and charge those students a tuition no less than the per pupil State funding received by the school during that school year.

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

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

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. ~~Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located.~~ The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public

school under G.S. 115C-391 until the period of suspension or expulsion has expired.

(8) Nothing in this subsection shall be interpreted to preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, academically at-risk students, or academically gifted students.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. ~~The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school.~~ At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles ~~of~~ from the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. No requirement of this subsection shall be interpreted to require a charter school to provide busing or any other mode of transportation to any particular student.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, ~~all net~~ the assets of the charter school purchased with public funds shall be distributed to satisfy the creditors of the charter school. Any surplus that remains after the charter school's creditors are satisfied shall then be deemed the property of the local school administrative unit in which the charter school is located.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

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

(a) The ~~State Board of Education, or a chartering entity subject to the approval of the State Board of Education,~~ Commission may terminate or not renew a charter upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;

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

(3) Violations of law;
(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
(5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
(6) Other good cause identified.

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

(c) The ~~State Board~~Commission and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the ~~State Board~~Commission or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The ~~State Board~~Commission and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

"**§ 115C-238.29H. State and local funds for a charter school.**

(a) The State Board of Education shall allocate to each charter school:
(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;
(2) An additional amount for each child attending the charter school who is a child with disabilities; and
(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

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

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

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

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides. The local school administrative unit shall provide a detailed accounting of the funds to be transferred and transfer these funds based on a preliminary projection of charter school enrollment provided to the local school administrative unit by the charter school no later than 15 days after the local school administrative unit receives its local current expense appropriation. Adjustments to this amount shall be made within 30 days of the State Board of Education determining and certifying to the charter school its average daily membership for the school year. If the local school administrative unit fails to comply with the deadlines set forth in this subsection, it shall pay a penalty of 1% of the amount transferred to the charter school.

(c) Cities and counties may provide funds to charter schools or non-profit organizations supporting charter schools by direct appropriation as set forth in G.S. 160A-498.2. These funds shall be used only for the following purposes:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, and athletic fields.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, and similar items of furnishings and equipment.

(d) In order to support the Commission's operations, the State Board shall withhold and remit to the Commission one percent (1%) of the gross state per pupil allotment for each school chartered by the Commission.

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

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

~~(b) Repealed by Session Laws 1997-18, s. 15(i).~~

~~(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report no later than January 1, 2002, to the Joint~~

~~Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~

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

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

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

~~(4) Other information the State Board considers appropriate.~~

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

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

"§ 115C-238.29J. Public and private assistance to charter schools.

(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative units.

(b) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(c) The ~~State Board of Education shall direct the~~ Department of Public Instruction ~~to~~ shall provide guidance and technical assistance, upon request, to existing charter schools as well as applicants ~~and~~ or potential applicants for charters.

(d) ~~The State Board of Education shall direct the Department of Public Instruction to~~ The Commission shall notify the Department of Revenue when the ~~State Board of Education~~Commission terminates, fails to renew, or grants a charter for a charter school.

"§ 115C-238.29K. Criminal history checks.

(a) As used in this section:

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

Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

a. Member of the board of directors of a charter school,

b. Employee of a charter school, or

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

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

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

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the criminal history check authorized under this section.

(c) The ~~Board of Education~~Commission shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the ~~State Board,~~Commission, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The ~~State Board~~ Commission shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Justice shall provide to the ~~State Board of Education~~Commission the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the ~~Board~~ Commission requires a criminal history check.

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the fingerprints authorized under this section.

(d) The ~~State Board~~Commission shall review the criminal history it receives on an individual. The ~~State Board~~Commission shall determine whether the results of the review

indicate that the individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when deciding whether to grant final approval of an application for a charter school under G.S. 115C-238.29D and for making an employment recommendation to the board of directors of a charter school. The ~~State Board~~Commission shall make written findings with regard to how it used the information when deciding whether to grant final approval under G.S. 115C-238.29D and when making an employment recommendation.

(e) The ~~State Board~~Commission shall notify in writing the board of directors of the charter school of the determination by the ~~State Board~~Commission as to whether the school personnel is qualified to operate or be employed by a charter school based on the school personnel's criminal history. At the same time, the ~~State Board~~Commission shall provide to the charter school's board of directors the written findings the ~~Board~~ Commission makes in subsection (d) of this section and its employment recommendation. If the ~~State Board~~Commission recommends dismissal or nonemployment of any person, the board of directors of the charter school shall dismiss or refuse to employ that person. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the ~~State Board~~Commission shall not release nor disclose any portion of the school personnel's criminal history to the charter school's board of directors or employees. The ~~State Board~~Commission also shall notify the school personnel of the procedure for completing or challenging the accuracy of the criminal history and the personnel's right to contest the ~~State Board's~~Commission's determination in court.

(f) All the information received by the ~~State Board of Education~~Commission or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the ~~State Board of Education~~Commission or the board of directors of the charter school. The ~~State Board of Education~~Commission or the board of directors of the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the ~~State Board of Education~~Commission or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 3. G.S. 105-278.4 reads as rewritten:

"§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

(1) Owned by either of the following:
   a. An educational institution; or
   b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive

pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for nonprofit educational purposes by ~~the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.~~any of the following:

a. the owner.

b. a nonprofit educational institution occupying the building gratuitously.

c. a charter school, whether or not the charter school is the owner.

..."

SECTION 4. G.S. 114-19.2 reads as rewritten:

"**§ 114-19.2. Criminal record checks of school personnel.**

(a) The Department of Justice may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(a1) The Department of Justice may provide a criminal history record check to the Public Charter Schools Commission of a person who is employed at a charter school or of a person who has applied for employment at a charter school, if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.29K by fingerprint card to the Public Charter Schools Commission from National Repositories of Criminal Histories, in accordance with G.S. 115C-238.29K. The information shall be kept confidential by the Public Charter Schools Commission as provided in G.S. 115C-238.29K.

(b) The Department of Justice may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(c) The Department of Justice shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(c1) The Department of Justice may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(d) The Department of Justice shall adopt rules to implement this section."

SECTION 5. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its

administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

SECTION 6. G.S. 115C-426 reads as rewritten:

"**§ 115C-426. Uniform budget format.**

...

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used ~~to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use,~~ only if necessary to comply with a requirement imposed by the donor or grantor that the school system separately account for trust funds, ~~federal appropriations made directly to local school administrative units, funds received for prekindergarten programs,~~ federal grants restricted as to use, and special programs. ~~In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.~~

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 7. G.S. 115C-546.2 reads as rewritten:

"**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.**

...

(d) Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax

rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.

b. "State average effective tax rate" means the average effective county tax rates for all counties.

c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.

(5) A county may not use monies in this Fund to pay for school technology needs.

(6) Counties receiving funds under this subsection may allocate a portion of funds received each budget year under this subsection to charter schools on a per average daily membership basis according to each such school's share of the average daily membership of the unit. Charter schools may use the monies to pay for school construction projects or to retire indebtedness incurred for school construction projects incurred on or after July 1, 2011, and shall not be subject to the matching fund requirement set forth in subsection (c) of this section."

SECTION 8. (a). G.S. 135-5.3 reads as rewritten:

"**§ 135-5.3. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the ~~State Board of Education~~North Carolina Public Charter Schools Commission and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina State Public Charter Schools Commission approval under G.S. 115C-238.29D after 1998.

..."

SECTION 8.(b). G.S. 135-45.5 reads as rewritten:

"**§ 135-45.5. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Executive Administrator, the Board of Trustees, and the ~~State Board of Education.~~North Carolina Public Charter Schools Commission. This election is effective for each charter school employee as of the date of that

employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education or North Carolina Public Charter Schools Commission approval under G.S. 115C-238.29D after 1998.

..."

SECTION 9.(a). Article 21 of Chapter 160A is amended by adding a new section to read:

"§ 160A-498.2. Charter schools.

Each city and county is authorized to appropriate funds and lease real property to schools chartered by the North Carolina Public Charter Schools Commission under Chapter 115C, Article 16, Part 6A of the General Statutes. Cities and counties may provide funds only for the purposes set forth in G.S. 115C-238.29H(c).

SECTION 9.(b). G.S. 153A-445 reads as rewritten:

"**§ 153A-445. Miscellaneous powers found in Chapter 160A.**

(a) A county may take action under the following provisions of Chapter 160A:

...

(9) G.S. 160A-498.2. – Charter schools.

(b) This section is for reference only, and the failure of any section of Chapter 160A to appear in this section does not affect the applicability of that section to counties."

SECTION 9.(c). G.S. 160A-209(c) reads as rewritten:

(c) Each city may levy property taxes for one or more of the following purposes subject to the rate limitation set out in subsection (d):

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 9.(d). G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 10. Each local board of education shall amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act. In the event that a local board of education fails to amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this Act, and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of compliance with G.S. 115C-238.29H(b).

SECTION 11. If in any fiscal year a local board of education approves a budget resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), that budget resolution shall be deemed to have to have been amended to include all such moneys in the local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

SECTION 12. Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31 are repealed.

SECTION 13. The State Board of Education shall transfer funds appropriated to it and used for operations of the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 14. The State Board of Education shall transfer all staff currently assigned to the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 15. The State Board of Education shall repeal all adopted policies inconsistent with this Act.

SECTION 16. Beginning in 2012, the North Carolina Public Charter Schools Commission shall prepare an annual report to the Joint Legislative Education Oversight Committee of the General Assembly no later than October 15 of each year. The report shall include, at a minimum, the following information:

(1) The Commission's strategic vision and plan for charter schools and progress toward achieving the vision and carrying out the plan;

(2) The academic and financial performance of all operating charter schools overseen by the Commission, according to the performance expectations for charter schools set forth in this Act;

(3) The status of the Commission's charter school portfolio, identifying all charter schools in each of the following categories: approved to open, in operation, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened.

SECTION 17. Appointments required in Section 2 of this Act shall be made no later than October 1, 2011. Sections 6, 10, 11, and 12 of this Act are effective when they become law. The remainder of this act becomes effective July 1, 2011.

D Soucek

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-9 [v.1]

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

Date _____,2011

Senator Soucek

moves to amend the bill on page 1, lines 2-12 by deleting those lines and substituting the following:

"AN ACT TO INCREASE EDUCATIONAL OPPORTUNITIES FOR THE CHILDREN OF NORTH CAROLINA BY REMOVING THE CAP ON CHARTER SCHOOLS; AND BY CREATING A NEW PUBLIC CHARTER SCHOOLS COMMISSION TO ADVISE THE STATE BOARD OF EDUCATION ON APPROVAL AND MONITORING OF CHARTER SCHOOLS; AND BY CLARIFYING THE FUNDING FORMULA FOR CHARTER SCHOOLS; AND BY STRENGTHENING THE STANDARDS FOR GRANTING AND RETAINING A CHARTER FOR A CHARTER SCHOOL AND GIVING THE STATE BOARD OF EDUCATION DISCRETION IN GRANTING AND REVIEWING CHARTERS; AND BY PROVIDING THAT LOCAL GOVERNMENTS MAY PROVIDE FUNDING FOR CHARTER SCHOOLS IN THEIR JURISDICTIONS; AND TO MAKE OTHER CHANGES TO THE STATUTES GOVERNING CHARTER SCHOOLS."

and on page 1, line 14 through page 22, line 21, by deleting those lines and substituting the following:

"SECTION 1. This act shall be known and may be cited as the "Charter Schools Act of 2011."

SECTION 2. Part 6A of Article 16 of Chapter 115C of the General Statutes reads as rewritten:

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.

The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to ~~accomplish all of~~accomplish, in the aggregate, the following:

(1) Improve student ~~learning;~~learning.

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically ~~gifted;~~gifted.

(3) Encourage the use of different and innovative teaching ~~methods;~~methods.

(4) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~site.

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school ~~system;~~system.

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(7) Encourage the replication of successful charter schools.

"**§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**

(a) Creation. – There is created the North Carolina Public Charter Schools Commission, hereinafter referred to as the "Commission". The Commission shall exercise its powers and functions independently of the State Board of Education and the Department of Public Instruction, except as provided in this subsection.

(b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for approval of any charter applicant.

(c) Membership. – The Commission shall consist of the following eleven members:

(1) Two members appointed by the Governor.

(2) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The Superintendent of Public Instruction or the Superintendent's designee.

(d) Qualifications of Members. – Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, public charter schools, and public education law. All appointed members of the Commission shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(e) Terms of Office. – No appointed member shall serve more than seven consecutive years. The terms of office are as follows:

(1) The initial term of office for members appointed by the Governor shall be two years until June 30, 2013, and thereafter shall be three years.

(2) The initial term of office for the four members appointed by the General Assembly upon the recommendation of the Speaker of the House of

Representatives shall be three years until June 30, 2014, and thereafter shall be three years.

(3) The initial term of office for the four Commission members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be four years until June 30, 2015, and thereafter shall be three years.

(f) Officers. – The Commission shall elect a chair and a vice-chair from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members, and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(h) Expenses. – Members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(i) Removal. – Any member of the Commission, other than the Superintendent of Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held meeting, for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint or elect a member for the remaining portion of the term.

(j) Powers and duties. –The Commission shall have the following duties:

1. To provide technical assistance, through the Office of Charter Schools and the Department of Public Instruction, to charter school applicants and to charter schools that are approved under this Part;
2. To recommend policies for adoption by the State Board of Education regarding all aspects of charter school operation, including timelines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters;
3. To oversee the process for accepting and approving applications for charters and to make recommendations to the State Board of Education for final approval of charter applications;
4. To oversee the process for monitoring the operation of charter schools, with the assistance and counsel of the staff from the Department of Public Instruction;
5. To recommend to the State Board of Education any actions regarding a charter school, including renewals of charter, nonrenewals of charter, and revocation of charters; and
6. To undertake any of the duties and responsibilities consistent with the above duties and incident thereto, or as directed by the State Board of Education.

(d) The Commission shall submit its recommendations under subsection (c) of this section to the State Board. The State Board shall not make any substantive changes to the Commission's recommendations. Unless the State Board shall reject the Commission's recommendation by a three-fourths vote, the Commission's recommendation shall be adopted by the State Board.

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

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. Any public school converting to a charter school shall adopt a policy giving enrollment preference to students who reside within the former attendance area of that public school for at least the first two years of operation of the charter school.

(b) The application shall include an executive summary and shall contain at least the following information:

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

(1a) The targeted student population and the community the school hopes to serve as well as evidence of need and community support for the proposed charter school.

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

(2b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

(2c) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, academically at-risk students, and academically gifted students, including but not limited to compliance with applicable laws and regulations.

(3) The governance structure of the school including proposed governing bylaws and the names and biographical information of the proposed initial members of the board of directors of the nonprofit, tax-exempt ~~corporation~~ corporation. ~~and the process to be followed by the school to ensure parental involvement.~~

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

(4) Admission policies and procedures.

(5) A proposed budget for the school for at least the first five years of operation and evidence that the financial plan for the school is economically sound.

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

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

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

(9) The term of the charter.

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

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

(12) ~~The number of students to be served, which number shall be at least 65,~~ The number of students to be served, including the grades to be served each year for the full term of the charter and the minimum, planned, and maximum enrollment per grade per year for the term of the charter.~~and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.~~

(12a) The minimum number of teachers to be employed at the school.

(12b) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies, such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school.

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

(14) Repealed by Session Laws 1997-430, s. 1.

(15) The process to be followed by the school to ensure parental involvement.

(16) The school's plans, if any, for providing transportation or food services.

(17) Explanations of any partnerships or contractual relationships central to the school's operations or mission.

(18) A detailed school start-up plan, identifying tasks, timelines and responsible individuals.

(c) An applicant shall submit the application to the Commission, which shall have the authority to approve the charter school in accordance with the standards and criteria set forth in this Part. An applicant must also file a bond with the State Board executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond shall be payable to the State Board, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days notice to the Commission and State Board. The bond amount shall be at least one hundred thousand dollars ($100,000). ~~a chartering entity for preliminary approval. A chartering entity may be:~~

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

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

~~(3) The State Board of Education.~~

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

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

(d) ~~Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the~~The applicant shall submit a copy of its application to ~~that local board~~the local board of education of the local school administrative unit in which the charter school will be located within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the ~~chartering entity.~~Commission within a time period to be determined by the Commission and imposed uniformly for all applications. ~~The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year.~~ The applicant shall not be required to obtain or deliver this information to the ~~chartering entity~~Commission on behalf of the local board. The ~~State Board~~Commission shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to ~~grant preliminary and final~~recommend approval of the charter school.

"§ 115C-238.29C. ~~Preliminary approval of~~Completeness determination for applications for charter schools.

(a) The ~~chartering entity that receives a request for preliminary approval of a charter school shall act on each request received prior to November 1 of a calendar year by February 1 of the next calendar year.~~Commission shall determine the schedule and deadlines for the submission of charter school applications.

(b) The ~~chartering entity~~Commission shall ~~give preliminary approval to the application~~ issue a determination that the application is complete if the ~~chartering entity~~Commission determines that ~~(i)~~the information contained in the application meets the requirements set out in this Part or adopted by the State Board of ~~Education,~~Education. ~~(ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) granting the application would improve student learning and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing applications for the establishment of charter schools within a local school administrative unit, the chartering entity is encouraged to give preference to applications that demonstrate the~~

~~capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. If the chartering entity approves more than one application for charter schools located in a local school administrative unit, the chartering entity may state its order of preference among the applications that it approves.~~

~~(c) If a chartering entity other than the State Board disapproves an application, the applicant may appeal to the State Board of Education prior to February 15. The State Board shall consider the appeal at the same time it is considering final approval in accordance with G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the application, failed to consider appropriately the application, or failed to act within the time set out in G.S. 115C-238.29C.~~

~~If the chartering entity, the State Board of Education, or both, disapprove an application, the applicant may modify the application and reapply subject to the application deadline contained in subsection (a) of this section.~~

§ 115C-238.29D. Final approval of applications for charter schools.

(a) The ~~State Board shall~~Commission may grant final approval of an application, subject to review by the State Board of Education, if it ~~finds that~~ determines that the application meets the requirements set out in this Part or adopted by the State Board of Education and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

The ~~State Board~~Commission shall ~~act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.~~take final action on an application within 60 days of declaring the application complete under G.S. 115C-238.29C. The Commission's decision shall be based on the evidence contained in the application or collected by the Commission following a procedure for application review that is uniform across all applicants, clearly communicated to all applicants at the beginning of the application process, and provides opportunities for applicants to respond to questions and requests for further information.

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

(b1) If the Commission disapproves an application, it shall provide the applicant with the opportunity to request reconsideration of the Commission's decision. However, the Commission is not required to consider any request for reconsideration from an applicant that fails to include additional information not previously presented by the applicant to the Commission.

(c) The ~~State Board of Education~~Commission may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates

the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The ~~State Board of Education~~Commission may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The Commission may include in the charter any standards or requirements it determines are necessary to fulfill the purposes of this Part as well as any other objectives set forth by the charter school applicant. The ~~State Board of Education~~Commission shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the ~~State Board of Education.~~Commission, subject to review by the State Board of Education.

~~It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:~~

~~(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;~~

~~(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;~~

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

~~(4) The charter school is not currently identified as low-performing;~~

~~(5) The charter school meets generally accepted standards of fiscal management; and~~

~~(6) It is otherwise appropriate to approve the enrollment growth.~~

(e) The Commission shall not restrict the number of students a charter school may enroll. The capacity of the charter school shall be determined annually by the board of directors of the charter school in conjunction with the Commission and in consideration of the charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

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

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

~~other charter schools~~located, and shall be accountable to the ~~State Board~~Commission for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

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

(c) A charter school shall operate under the written charter signed by the State Board~~entity to which it is accountable under subsection (a) of this section~~ and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the ~~State Board of Education~~Commission. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

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

"§ 115C-238.29F. General requirements.

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information 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.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

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

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, the Commission, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

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

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

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

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

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

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

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

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded

employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting ~~System.~~ System, except that reports shall be made to the Commission as well as the State Board of Education.

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

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll persons of school age who are not domiciliaries of the State and charge those students a tuition no less than the per pupil State funding received by the school during that school year.

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

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

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

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

(8) Nothing in this subsection shall be interpreted to preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, academically at-risk students, or academically gifted students.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. ~~The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school.~~ At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles ~~of~~ from the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. No requirement of this subsection shall be interpreted to require a charter school to provide busing or any other mode of transportation to any particular student.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, ~~all net~~ the assets of the charter school purchased with public funds shall be distributed to satisfy the creditors of the charter school. Any surplus that remains after the charter school's creditors are satisfied shall then be deemed the property of the local school administrative unit in which the charter school is located.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

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

(a) The ~~State Board of Education, or a chartering entity subject to the approval of the State Board of Education,~~ Commission, subject to review by the State Board of Education, may terminate or not renew a charter upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;

(2) Failure to meet generally accepted standards of fiscal management;
(3) Violations of law;
(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
(5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
(6) Other good cause identified.

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

(c) The ~~State Board~~Commission and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the ~~State Board~~Commission or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The ~~State Board~~Commission and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

"§ 115C-238.29H. State and local funds for a charter school.

(a) The State Board of Education shall allocate to each charter school:
(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;
(2) An additional amount for each child attending the charter school who is a child with disabilities; and
(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

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

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

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

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides. The local school administrative unit shall provide a detailed accounting of the funds to be transferred and transfer these funds based on a preliminary projection of charter school enrollment provided to the local school administrative unit by the charter school no later than 15 days after the local school administrative unit receives its local current expense appropriation. Adjustments to this amount shall be made within 30 days of the State Board of Education determining and certifying to the charter school its average daily membership for the school year. If the local school administrative unit fails to comply with the deadlines set forth in this subsection, it shall pay a penalty of 1% of the amount transferred to the charter school.

(c) Cities and counties may provide funds to charter schools or non-profit organizations supporting charter schools by direct appropriation as set forth in G.S. 160A-498.2. These funds shall be used only for the following purposes:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, and athletic fields.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to

buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, and similar items of furnishings and equipment.

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

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

~~(b) Repealed by Session Laws 1997-18, s. 15(i).~~

~~(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report no later than January 1, 2002, to the Joint Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~

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

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

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

~~(4) Other information the State Board considers appropriate.~~

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

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

"**§ 115C-238.29J. Public and private assistance to charter schools.**

(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative units.

(b) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(c) The State Board of Education shall direct the Department of Public Instruction to provide guidance and technical assistance, upon request, to existing charter schools as well as applicants ~~and~~ or potential applicants for charters.

(d) The State Board of Education shall direct the Department of Public Instruction to notify the Department of Revenue when the ~~State Board of Education~~Commission terminates, fails to renew, or grants a charter for a charter school.

"§ 115C-238.29K. Criminal history checks.

(a) As used in this section:

(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

a. Member of the board of directors of a charter school,

b. Employee of a charter school, or

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

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

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

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the criminal history check authorized under this section.

(c) The ~~Board of Education~~Commission shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the ~~State Board~~,Commission, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The ~~State Board~~ Commission shall consider refusal to consent when deciding whether to grant final approval of an application under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Justice shall provide to the ~~State Board of Education~~Commission the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the ~~Board~~ Commission requires a criminal history check.

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the fingerprints authorized under this section.

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

(e) The ~~State Board~~Commission shall notify in writing the board of directors of the charter school of the determination by the ~~State Board~~Commission as to whether the school

personnel is qualified to operate or be employed by a charter school based on the school personnel's criminal history. At the same time, the ~~State Board~~Commission shall provide to the charter school's board of directors the written findings the ~~Board~~ Commission makes in subsection (d) of this section and its employment recommendation. If the ~~State Board~~Commission recommends dismissal or nonemployment of any person, the board of directors of the charter school shall dismiss or refuse to employ that person. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the ~~State Board~~Commission shall not release nor disclose any portion of the school personnel's criminal history to the charter school's board of directors or employees. The ~~State Board~~Commission also shall notify the school personnel of the procedure for completing or challenging the accuracy of the criminal history and the personnel's right to contest the ~~State Board's~~Commission's determination in court.

(f) All the information received by the ~~State Board of Education~~Commission or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the ~~State Board of Education~~Commission or the board of directors of the charter school. The ~~State Board of Education~~Commission or the board of directors of the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the ~~State Board of Education~~Commission or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 3. G.S. 105-278.4 reads as rewritten:

"**§ 105-278.4. Real and personal property used for educational purposes.**

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

(1) Owned by either of the following:
   a. An educational institution; or
   b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for nonprofit educational purposes by ~~the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.~~any of the following:

a. the owner.

b. a nonprofit educational institution occupying the building gratuitously.

c. a charter school, whether or not the charter school is the owner.

..."

SECTION 4. G.S. 114-19.2 reads as rewritten:

"**§ 114-19.2. Criminal record checks of school personnel.**

(a) The Department of Justice may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(a1) The Department of Justice may provide a criminal history record check to the North Carolina Public Charter Schools Commission of a person who is employed at a charter school or of a person who has applied for employment at a charter school, if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.29K by fingerprint card to the North Carolina Public Charter Schools Commission from National Repositories of Criminal Histories, in accordance with G.S. 115C-238.29K. The information shall be kept confidential by the North Carolina Public Charter Schools Commission as provided in G.S. 115C-238.29K.

(b) The Department of Justice may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(c) The Department of Justice shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(c1) The Department of Justice may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information

pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(d) The Department of Justice shall adopt rules to implement this section."

SECTION 5. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

SECTION 6. G.S. 115C-426 reads as rewritten:

"**§ 115C-426. Uniform budget format.**

...

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used ~~to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use,~~ only if necessary to comply with a requirement imposed by the donor or grantor that the school system separately account for trust funds, ~~federal appropriations made directly to local school administrative units, funds received for prekindergarten programs,~~ federal grants restricted as to use, and special programs. ~~In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.~~

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

(c) Each city may levy property taxes for one or more of the following purposes subject to the rate limitation set out in subsection (d):

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 9.(d). G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 160A-498.2.

...."

SECTION 10. Each local board of education shall amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act. In the event that a local board of education fails to amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this Act, and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of compliance with G.S. 115C-238.29H(b).

SECTION 11. If in any fiscal year a local board of education approves a budget resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), that budget resolution shall be deemed to have to have been amended to include all such moneys in the local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

SECTION 12. Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31 are repealed.

SECTION 13. The State Board of Education shall transfer funds appropriated to it and used for operations of the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 14. The State Board of Education shall transfer all staff currently assigned to the Office of Charter Schools to the North Carolina Public Charter Schools Commission.

SECTION 15. The State Board of Education shall repeal all adopted policies inconsistent with this Act.

SECTION 16. Beginning in 2012, the North Carolina Public Charter Schools Commission shall prepare an annual report to the Joint Legislative Education Oversight Committee of the General Assembly no later than October 15 of each year. The report shall include, at a minimum, the following information:

(1) The Commission's strategic vision and plan for charter schools and progress toward achieving the vision and carrying out the plan;

(2) The academic and financial performance of all operating charter schools overseen by the Commission, according to the performance expectations for charter schools set forth in this Act;

(3) The status of the Commission's charter school portfolio, identifying all charter schools in each of the following categories: approved to open, in operation, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened.

SECTION 17. Appointments required in Section 2 of this Act shall be made no later than October 1, 2011. Sections 6, 10, 11, and 12 of this Act are effective when they become law. The remainder of this act becomes effective July 1, 2011.

and renumbering the remaining sections accord

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-AMH-11 [v.4]

Comm. Sub. [YES]
Amends Title [NO]
PCS S8-CSRQ-1

Date _____,2011

Senator Graham

moves to amend the bill on page 1, lines 26 through 28 by rewriting those lines to read:

"(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic ~~failure~~failure, students with disabilities, or academically ~~gifted;~~gifted.";

and on page 4, line 24, by rewriting that line to read:

"(4) Admission policies and ~~procedures.~~procedures, including a plan for recruiting and retaining students from diverse backgrounds, including students with disabilities and students who are socioeconomically diverse.";

and on page 5, lines 3 and 4, by rewriting those lines to read:

"(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided. If such facilities are not compliant with local, state and federal laws, regulations and codes, the application shall include a detailed plan to bring such facilities into compliance.";

and on page 5, line 7, by rewriting that line to read:

"16 The school's plans for providing transportation and food services.";

and on page 6, line 34 by rewriting that line to read:

"one or more of the purposes set out in G.S. 115C-238.29A. In granting charters, the Commission shall give priority to applications that propose to serve low-income communities or are located in neighborhoods served by public schools that (i) had a performance composite below fifty percent (50%), or (ii) failed to meet expected growth in two of the last three years."

and on page 12, lines 8 through 23, by deleting those lines and inserting the following:

"(h) Transportation. – The charter school ~~may~~ shall provide transportation for students enrolled at the ~~school.~~school from families with incomes below 185% of the poverty level as defined by the federal government. The school shall develop a transportation plan so that transportation is not a barrier to any student described in the preceding sentence who resides in the local school administrative unit in which the school is located. The charter school is not

required to provide transportation to any student who (i) lives within ~~one and one half miles~~ one-half mile of the ~~school.~~school, (ii) for schools located in an urban area, lives more than 5 miles from the school, or (iii) for schools located in a rural area, lives more than 10 miles from the school. For purposes of this subsection "urban area" means any Metropolitan Statistical Area as defined by the United States Census Bureau that includes counties of the State and that has a population of 100,000 or more within the State, and "rural area" means any area of the state that is not a "urban area". At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.";

and on page 12, line 23 by inserting the following after that line:
"(h1) Nutrition. – The charter school shall provide free and reduced priced meals to students from families below 185 percent of the poverty level through participation in the National School Lunch Program established by the federal government, or through alternative means approved by the Division of School Support, Child Nutrition Services of the Department of Public Instruction.";

and on page 11, line 36 by rewriting the line to read:
" be admitted. The charter school shall institute a weighted lottery in order to better ensure geographic and economic diversity.~~Within one year after the charter school begins operation, the~~";

and on page 11, line 43 by rewriting the line to read:
"for the local school administrative unit. At least twenty percent (20%) of the student population shall be students eligible to receive free and reduced price meals in public schools under applicable law.";

and on page 22, line 18 by inserting the following language after that line:

"(4) Composite annual data disaggregated by charter school on the gender, race, ethnicity and disability status of students enrolled in charter schools; the number of students who transfer out of the charter school to the student's assigned school district; testing data disaggregated by the purpose of the charter school, and by gender, race and ethnicity, and disability; the number of students given a long term suspension or expulsion; the number of students receiving a free or reduced price meal plan through a federal subsidy program; the number of students receiving a free or reduced price

meal plan through means other than a federal subsidy program; and the number of students receiving special education services."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-10 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
S8-CSRQ-1

Date _____,2011

Senator Soucek

moves to amend the bill on page 10, lines 22-23, by inserting between those lines the following:

"(3a) A teacher employed by a charter school who returns to employment with a local school administrative unit without a break in service shall have unused sick leave and annual leave from previous employment with a local school administrative unit reinstated. A teacher employed by a charter school who returns to employment with a local school administrative unit without a break in service shall be credited for the years of service at the charter school for the purposes of the salary schedule, longevity pay, and rate of earned leave."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

"§ 115C-452. Fines and forfeitures.

The clear proceeds of all penalties and forfeitures and of all fines collected in the General Court of Justice in each county shall be remitted by the clerk of the superior court to the county finance officer, who shall forthwith determine what portion of the total is due to each local school administrative unit and each charter school in the county and remit the appropriate portion of the amount to the finance officer of each local school administrative ~~unit.~~unit and each charter school. Fines and forfeitures shall be apportioned according to the projected average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State Board of ~~Education~~ Education and each charter school as determined by and certified to the charter school and the board of county commissioners by the North Carolina Public Charter Schools Commission pursuant to G.S. 115C-430."

SECTION 7.(c). G.S. 115C-457.3 reads as rewritten:

"§ 115C-457.3. Appropriation of moneys in the Fund.

(a) The General Assembly shall appropriate moneys in the Civil Penalty and Forfeiture Fund in the Current Operations Appropriations Act. These appropriations shall be made to the State Public School Fund for allotment by the State Board of Education, on behalf of the counties, to local school administrative units and charter schools on a per pupil basis in accordance with Article IX, Section 7(b) of the North Carolina Constitution.

(b) In accordance with subsection (a) of this section, the State Board of Education shall allocate these funds according to the allotted average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State ~~Board~~Board and each charter school as determined by and certified to the charter school and the board of county commissioners by the North Carolina Public Charter Schools Commission pursuant to G.S. 115C-430.";

And on page 21, lines 35-48 by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ARQ-9 [v.3]

Comm. Sub. [YES]
Amends Title [NO]
CSRQ-1

Date _____,2011

Senator Stevens

moves to amend the bill on page 14, lines 13-26 by rewriting the lines to read:

"(b) If a student attends a charter school, the ~~local school administrative unit~~ county in which the child resides shall transfer to the charter school ~~an amount equal to the per pupil~~its share of all ~~local current expense appropriation~~appropriations made by the county in accordance with G.S. 115C-430 ~~to the local school administrative unit~~ for the fiscal year. The amount transferred under this subsection that consists of revenue ~~derived~~ funded from supplemental taxes levied less than countywide pursuant to a local act of G.S. 115C-501 115C-511 shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides.";

And on page 19, lines 20-37 by deleting those lines;

And on page 20, lines 27-28 by inserting between those lines the following:

"**SECTION 7.(a).** G.S. 115C-430 reads as rewritten:

"**§ 115C-430. Apportionment of county appropriations among local school administrative ~~units.~~units and charter schools.**

If there is more than one local school administrative unit in a ~~county,~~county or any charter schools who enrolls students who are residents in that county, all appropriations by the county to the local current expense funds of the ~~units,~~units and to the charter schools, except appropriations funded by supplemental taxes levied less than countywide pursuant to a local act of G.S. 115C-501 to 115C-511, must be apportioned according to the membership of each ~~unit,~~unit and each charter school for students residing in that county. County appropriations are properly apportioned when the dollar amount obtained by dividing the amount so appropriated to each unit and charter school by the total membership of the unit and charter school is the same for each ~~unit~~unit and charter school. The total membership of the local school administrative unit is the unit's average daily membership for the budget year to be determined by and certified to the unit and the board of county commissioners by the State Board of ~~Education.~~Education. The total membership of each charter school in a county is the charter school's average daily membership of students residing in that county for the budget year to be determined by and certified to the charter school and the board of county commissioners by the North Carolina Public Charter Schools Commission."

SECTION 7.(b). G.S. 115C-452 reads as rewritten:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-4 [v.4]

Comm. Sub. [YES]
Amends Title [YES]
S8-CSRQ-1(v6)

Date _____ ,2011

Senator Stevens

moves to amend the bill on page 1, line 11, by rewriting that line to read:

"SCHOOLS IN THEIR JURISDICTIONS; AND BY AUTHORIZING LOCAL BOARDS OF EDUCATION TO CONVERT SCHOOLS TO CHARTER SCHOOLS WITH THE APPROVAL OF THE STATE BOARD OF EDUCATION; AND TO MAKE OTHER CHANGES TO THE",

and on page 7, lines 42-43, by inserting the following between those lines:

""**§ 115C-238.29D1. Local Board of Education Charter Schools.**

(a) Notwithstanding G.S. 115C-238.29B, G.S. 115C-238.29C, and G.S. 115C-238.29D, a local board of education may convert an existing school within the local school administrative unit to a charter school with the approval of the State Board of Education. The local board of education shall serve as the board of directors of the charter school. Notwithstanding G.S. 115C-238.29G, the State Board of Education shall have sole authority to terminate or non-renew a charter school approved under this section.

(b) Notwithstanding G.S. 115C-238.29E, charter schools authorized under this section shall be public schools within the local school administrative unit in which it is located, and shall be accountable to the State Board of Education for ensuring compliance with applicable laws and the provisions of their charters. The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures. Except as otherwise provided in this Part and pursuant to the provisions of its charter, a charter school authorized under this section is exempt from the statutes and rules applicable to a local board of education or local school administrative unit.",

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-4 [v.4]

And on page 9, line 39, by deleting the word "located." and substituting the following:

"located, except for employees of charter schools created pursuant to G.S. 115C-238.29D1."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-5 [v.4]

Comm. Sub. [YES]
Amends Title [NO]
S8-CSRQ-1(v6)

Date _____,2011

Senator Stevens

moves to amend the bill on page 14, lines 27-28, by deleting those lines and substituting the following:

"(c) Counties may provide funds to charter schools or non-profit organizations supporting charter schools by direct appropriation as set forth in G.S. 153A-457. These funds",

and on page 21, lines 5 through 34, by deleting those lines and substituting the following:

SECTION 9.(a). Article 23 of Chapter 153A is amended by adding a new section to read:

"**§ 153A-457. Charter schools.**

Each county is authorized to appropriate funds and lease real property to schools chartered by the North Carolina Public Charter Schools Commission under Chapter 115C, Article 16, Part 6A of the General Statutes. Counties may provide funds only for the purposes set forth in G.S. 115C-238.29H(c).

SECTION 9.(b). G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 153A-457.

...."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ARQ-8 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
CSRQ-1

Date _____ ,2011

Senator Stevens

moves to amend the bill on page 11, lines 7-8 by rewriting the lines to read:

"students a tuition equal to the per pupil State and local funding received by the school during that school year. The number of persons of school age who are not domiciliaries of the State who are enrolled in a charter school may not exceed ten percent (10%) of the total number of students enrolled in the charter school.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-ATC-6 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
S8-CSRQ-1

Date _____,2011

Senator McKissick

moves to amend the bill on page 22, line 18-19, by inserting between those lines the following:

"(4) Composite annual data disaggregated by charter school on the gender, race and ethnicity and disability status of students enrolled in charter schools; the number of students who transfer out of the charter school to the student's assigned school district; testing data disaggregated by the purpose of the charter school, and by gender, race and ethnicity, and disability; the number of students long term suspended and expelled; the number of students receiving a free and reduced meal plan through a federal subsidy program; the number of students receiving a free and reduced meal plan through means other than a federal subsidy program; and the number of students receiving special education services."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-AMH-2 [v.5]

Comm. Sub. [YES]
Amends Title [NO]
PCS S8-CSRQ-1

Date _____,2011

Senator Stein

moves to amend the bill on page 13, line 6 by inserting the following after that line:
"(a1) In calculating expected growth or performance composite for any charter school, the Board shall include in the charter school composite the test scores of any student who transfers from a charter school to a traditional public school in the 45 student days prior to the administration of the end of grade or end of course tests in the local school administrative unit."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

All Amendments

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 8

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

S8-AMH-1 [v.8]

Comm. Sub. [YES]
Amends Title [NO]
PCS S8-CSRQ-1

Date _____, 2011

Senator Stein

moves to amend the bill on page 6, line 42 by inserting the following after that line:
"(a1) The Commission shall establish, subject to the approval of the State Board of Education, measurable standards by which it will evaluate (i) the quality of an applicant's educational, financial, administrative, and governance plans, and (ii) the capability of the applicant's governing board and management team to execute those plans. The Commission and the State Board shall base the standards upon the model standards developed by the National Association of Charter School Authorizers.";

and on page 13, line 6 by inserting the following after that line:
"(a1) The Commission, subject to the approval of the State Board of Education, shall terminate or not renew a charter for lack of academic performance if the charter school fails to meet or exceed expected growth (as defined by the Board under the provisions of Article 8B of this Chapter) and has a performance composite below sixty percent (60%) for two years in any three year period.

(a2) The Commission, subject to the approval of the State Board of Education, may terminate or not renew a charter for lack of academic performance if the charter school fails to meet or exceed expected growth (as defined by the Board under the provisions of Article 8B of this Chapter) and has a performance composite below seventy-five percent (75%) for two years in any three year period.

(a3) For any school that meets the criteria for charter termination or non-renewal under subsection (a1) or (a2) of this section, the Commission shall issue a request for proposal to replace the school's current board and administration."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE PCS 8:
No Cap on Number of Charter Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 2, 2011
Introduced by:	Sen. Stevens	**Prepared by:**	Drupti Chauhan and Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S8-CSRQ-1 [v.6]		

SUMMARY: ***Senate Bill 8 removes the current cap on the number of charter schools. The Proposed Committee Substitute does all the following: (i) creates a new independent North Carolina Public Charter Schools Commission to approve and monitor charter schools; (ii) removes the cap on the number of charter schools; (iii) clarifies the funding formula for charter schools; and (iv) permits local governments to provide capital funding for charter schools.***

BILL ANALYSIS:

Section 2

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the State Board of Education is the entity that oversees charter schools in the State by granting, monitoring, and revoking charters. A maximum of 100 charter schools may be authorized in the State at any given time. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

Analysis:

15C-238.29A – Adds language to encourage replication of successful charter schools

115C-238.29A1 – Creates North Carolina Public Charter Schools Commission (Commission)

- Commission would operate independent of the State Board of Education. It would have 11 members including the Superintendent of Public Instruction and 10 members appointed by the Governor and the General Assembly.
- The Commission would have the following powers and duties: receive gifts, employ personnel, adopt rules, solicit interest in charter school applications, approval of charter applications, and negotiation of charter contracts.

115C-238.29B – Charter school applications and bond requirements

- Public schools converted to charter schools would be required to give enrollment preference to students in the former attendance area for at least 2 years.
- Applications would be required to include new information including the following: an executive summary; targeted school population and community; instructional design; plans for identifying and serving special populations; proposed governing by-laws; proposed budget for first 5 years of operation; numbers of students to be served, minimum number of teachers to be employed; organizational chart; and plans, if any, for transportation or food services.
- Applicants would be required to file a $100,000 bond with the Commission.
- Other entities such as local boards of education, and constituent institutions of The University of North Carolina would no longer be authorized to grant preliminary charters.

115C-238.29C – Application assessment

- The Commission would be authorized to establish deadlines for applications and make determinations when applications were complete.

The requirements governing preliminary approval of charters by other chartering entities would be eliminated.

115C-238.29D – Final approval of applications.

- The Commission would be authorized to grant approval of applications provided in the statutes or by the Commission.

- The Commission would be required to take action on applications within 60 days of the completed application.
- Applicants would have the opportunity to request reconsideration of a denial of an application.
- Enrollment growth cap of 10% per year would be eliminated with capacity determined by the governing board of the charter school and the Commission.

115C-238.29E – Charter School Operation

- The PCS makes only conforming changes

115C-238.29F – General Requirements

- Charter schools that have capacity would be able to enroll non-domiciled students and charge those students tuition that is equal at least to the per pupil State funding.
- The PCS would eliminate the requirement that the charter school's population reasonable reflect the racial and ethnic composition of the general population residing in the local school administrative unit (LEA) in which the school is located.
- The PCS would clarify that the statutory admissions requirements would not preclude the formation of a charter school to serve special populations.
- The PCS would clarify that charters schools are not required to provide transportation.
- Assets upon dissolution of a charter school would be required to be distributed to satisfy creditors with any surplus deemed the property of the LEA.

115C-238.29G -- Causes for nonrenewal and termination

- The PCS makes only conforming changes.

115C-238.29H – State and local funds for charters schools

- State funds would be allowed to be used to acquire real property, buildings, and mobile classrooms for school facilities.
- LEAs would be required to provide an accounting of the local current expense fund to be transferred to charter schools within 15 days of receipt of that appropriation. LEAs would be assessed a penalty for failure to comply with the deadlines.
- Cities and counties would be permitted to provide funds to charter schools or non-profits supporting charter schools by direct appropriations for specific purposes such as acquisition of facilities and furnishings.
- 1% of the gross per pupil allotment for each charter schools would be withheld and remitted to the Commission.

115C-238.29I – Notice of charter school process and Charter School Advisory Committee

- The PCS would repeal this section in order to make conforming changes.

115C-238.29J – Public and private assistance to charter schools

- The PCS makes only conforming changes

115C-238.29K – Criminal History Checks

- The PCS makes only conforming changes

Section 3

Current Law: G.S. 105.278.4 provides tax exemptions for certain property used for educational purposes.

Analysis: The PCS would add a tax exemption for property wholly and exclusively used for nonprofit educational purposes by a charter school whether or not the charter school is the owner of the property.

Section 4

Current Law: The Department of Justice is authorized to conduct criminal history checks of school personnel.

Analysis: The PCS makes conforming changes to allow the Department of Justice to conduct criminal history checks of charter school employees.

Section 5

Current Law: G.S. 115C-105.37B authorizes the State Board of Education to approve LEA requests to reform low-performing schools.

Analysis: The PCS makes conforming changes eliminating references to the charter schools cap.

Section 6

Current Law: G.S. 115C-426 established the uniform budget format for LEAs. LEAs are required to have the State Public School Fund, the local current expense fund, and the capital outlay fund. They are also authorized to have other funds for items such as tuition and sales tax refunds.

Analysis: The PCS would prohibit the use of other funds except if necessary to comply with donor requirements, restricted federal grants and special programs.

Section 7

Current Law: Funds from the State lottery for school construction are not allocated to charter schools.

Analysis: The PCS would permit counties to allocate a portion of the lottery funds for school construction to charter schools. Charter schools would be able to use the monies to pay for school construction projects or retire debt from school construction projects incurred after July 1, 2011.

Section 8

Current Law: Charter schools can opt into the State Retirement System and the State Health Plan.

Analysis: The PCS would make conforming changes only.

Section 9

Analysis: The PCS would authorize cities and counties to appropriate funds for capital needs for charter schools, ease real property to charter schools, and levy property taxes for these purposes. It would also make conforming hanges.

Sections 10-12

Current Law: Section 7.17 of the 2010 Appropriations Act provided that LEAs that had not fully complied with local requirements for funding charters schools and who are subject to a judgment, court order, or settlement agreement may make payments over three years.

Analysis: The PCS would repeal the 2010 Budget provisions and would instead require that LEAs amend their 2010-2011 budget resolutions to comply with Section 6 of this PCS. If an LEA does not amend its budget resolution for this year or in future years, it will have been deemed to do so by this PCS.

Sections 13-15

Analysis: The State Board of Education shall transfer funding and staff from the Office of Charter Schools to the Commission and repeal all policies inconsistent with this Act.

Sections 16

Analysis: The Commission must report annually to the Joint Legislative Education Oversight Committee on its strategic vision and the status of the charter schools.

EFFECTIVE DATE: Appointments required in in the Act shall be by October 1, 2011. Sections 6, 10, 11, and 12 are effective when they become law. The remainder of this Act becomes effective July 1, 2011.

S8-SMRQ-1(CSRQ-1 v5) v7

2011-2012

SENATE EDUCATION/HIGHER ED

MINUTES

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, February 16, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on February 16, 2011, in Room 544 of the Legislative Office Building. 22 members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and introduced the Sergeant-at-Arms and the pages.

After explaining how the meeting would proceed, he asked Senator Stevens to offer his new version of a Proposed Committee Substitute (PCS) to Senate Bill 8.

Senator Stevens moved for adoption of the PCS for discussion purposes and the committee adopted the PCS for discussion.

Chairman Soucek then recognized Senator Stevens to explain the new PCS.

After outlining the process that led to the current PCS, Senator Stevens requested that staff be permitted to explain the changes to the bill. Chairman Soucek called upon the committee's lead analyst, Drupti Chauhan to explain the changes. Once the changes were explained, Senator Stevens continued explaining the PCS and asked the committee for support.

Chairman Soucek asked the committee for questions and seeing none, Senator Graham introduced Amendment ARQ-23. Staff explained the amendment and then Senator Graham explained his reasons for offering the amendment.

After the committee discussed the amendment, Chairman Soucek called for a vote on the amendment. The amendment failed.

Chairman Soucek called for questions from the committee and then indicated that there would be time for public comment.

After more discussion, Senator Stein offered an amendment to the bill. Chairman Soucek explained that there was no further time for amendments and asked Senator Stein to bring the amendment back on the Senate Floor. Senator Nesbitt asked the Chairman to allow further amendments and questioned the pace with which the committee was moving. Chairman Soucek responded that there had been sufficient time allowed in the previous three weeks for amendments and reiterated the importance of including public comments.

Darren Hartness, Superintendent, Mount Airy School System expressed his concerns about the bill and expressed his opposition to the current state of the bill.

Cheryl Turner, School Director, Sugar Creek Charter School, Charlotte spoke regarding her concerns about the standards set in the bill.

Christopher Hill, North Carolina Justice Center spoke in opposition to the bill, citing his concerns about a lack of diversity and accountability.

Matt Norcross, Student spoke regarding his positive experience in charter schools and thanked the committee for its support of the bill.

Michael Bracy, Jones County Public Schools thanked the committee and Senator Stevens for changes and shared his concerns about the bill.

Michael Pratt, Headmaster, Rocky Mount Preparatory School spoke in support of the bill and asked for proper funding of and freedom for charter schools.

Chairman Soucek recognized Senator Stevens for a concluding comment. Senator Stevens responded to Senator Nesbitt's comment about the quick pace of the committee. He explained that in his nine previous years in the Senate, similar bills had not even been heard in committee. He suggested that nine years constituted enough time.

Chairman Soucek recognized Senator Stevens for a motion. Senator Stevens moved that the committee return a recommendation that is unfavorable to the bill, but favorable as to the committee substitute bill.

After being seconded by Senator Rucho, the motion was passed.

Chairman Soucek called for adjournment of the meeting.

The meeting adjourned at 10:55AM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, February 16, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 631	UNC/Cherokee Language Credit.	Senator Brock
SB 759	Equal Education Opportunity Tax Credit.	Senator Graham
HB 736	Amend Law Re: School Discipline.	Representative Langdon, Jr. Representative Lucas Representative Daughtry Representative Luebke

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY

SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Senator Jean Preston, Co-Chair

Senator Dan Soucek, Co-Chair

Senator Jerry W. Tillman, Co-Chair

CORRECTED REPORT

Wednesday, February 16, 2011

Senator SOUCEK,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. 8 No Cap on Number of Charter Schools.

Draft Number:	PCS55057
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 8

Short Title:	No Cap on Number of Charter Schools.	(Public)
Sponsors:	Senators Stevens; Allran, Apodaca, Bingham, Brock, Brown, Brunstetter, Clary, Goolsby, Graham, Gunn, Harrington, Hise, Hunt, Meredith, Newton, Pate, Preston, Rouzer, Soucek, Tillman, and Tucker.	
Referred to:	Education/Higher Education.	

January 31, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

SECTION 2. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

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

SENATE PCS 8:
No Cap on Number of Charter Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 16, 2011
Introduced by:	Sen. Stevens	**Prepared by:**	Drupti Chauhan and Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S8-CSRQ-4		

SUMMARY: ***Senate Bill 8 removes the current cap on the number of charter schools. This Proposed Committee Substitute makes a number of changes, including the following, from the Proposed Committee Substitute amended by the subcommittee:***

- ***Provides that the State Board of Education (SBE) has the authority to veto by a ¾ vote any decision of North Carolina Public Charter Schools Commission (Commission) and deletes wording that provides Commission decisions are recommendations to the SBE that are subject to the approval of the SBE.***
- ***Eliminates requirement that charter school applicants file a bond with the SBE in the minimum amount of $100,000 because of requirement in existing law requiring bond information as part of application.***
- ***Exempts local boards of education seeking to convert traditional schools to charter schools from having to form a nonprofit tax-exempt corporation if the local board of education will serve as the board of directors of the charter school. Local boards of education would still follow the same overall procedure for applying for a charter and be monitored by the Commission. Employees of the converted charter school would still be employees of the local boards of education. Removes section providing alternate approval for local board of education charter conversions.***
- ***Deletes the 60 day requirement for the Commission to take final action on an application but requires the Commission to establish a timeline to take final action.***
- ***Provides that decisions to disapprove an application, terminate a charter, or not renew a charter would be exempt from review under Chapter 150B of the General Statutes.***
- ***Allows sick leave and annual leave to be reinstated when a teacher employed by a charter school***
- ***Allows revenue derived from supplemental taxes to be transferred to a charter school for students residing within the tax district for which the taxes are levied.***
- ***Allows counties to provide funds to the nonprofit tax-exempt corporation that holds the charter of charter school but not to other nonprofit corporations supporting a charter school.***
- ***Removes provisions requiring counties to transfer funding directly to charter schools.***

BILL ANALYSIS:

Section 2

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the SBEd is the entity that oversees charter schools in the State by granting, monitoring, and revoking charters. A maximum of 100 charter schools may be authorized in the State at any given time. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

15C-238.29A – Adds language to encourage replication of successful charter schools

15C-238.29A1 – Creates the Commission

- Commission would operate independent of the SBE. It would have 11 members including the Superintendent of Public Instruction and 10 members appointed by the Governor and the General Assembly.

- The Commission would have the following powers and duties: provide technical assistance, adopt policies for charter school operations, oversee and approve charter applications, oversee monitoring of charter schools, and take action on charter renewals, nonrenewals, and revocations.
- The SBE would assign the Office of Charter Schools as staff to the Commission and would have the authority to veto by a three-fourths vote, any decision of the Commission.

115C-238.29B – Charter school applications

- Applications would be required to include new information including the following: an executive summary; targeted school population and community; instructional design; plans for identifying and serving special populations; proposed governing by-laws; proposed budget for first 5 years of operation; numbers of students to be served, minimum number of teachers to be employed; organizational chart; and plans, if any, for transportation or food services. Local boards of education would be exempted from the requirement of having to form a nonprofit, tax-exempt corporation for converting a traditional school to a charter school if the local board of education serves as the board of directors of the charter school.
- The Commission would have the authority to approve the charter school in accordance with the standards and criteria set forth in the charter schools statutes.
- Other entities such as local boards of education, and constituent institutions of The University of North Carolina would no longer be authorized to grant preliminary charters.

115C-238.29C – Application assessment

- The Commission would be authorized to establish deadlines for applications and make determinations when applications were complete.
- The requirements governing preliminary approval of charters by other chartering entities would be eliminated.

115C-238.29D – Final approval of applications.

- The Commission would be authorized to grant approval of applications that met requirements in statute or adopted by the Commission.
- The Commission would be required to establish a timeline to take final action on applications declared complete and make this information available to applicants. The decision on the application must be based on the evidence contained in the application or collected by the Commission through an application review uniform across all applicants.
- Applicants would have the opportunity to request reconsideration of a denial of an application.
- Decisions to disapprove applications would be exempt from review under Chapter 150B.
- Enrollment growth cap of 10% per year would be eliminated with capacity determined by the governing board of the charter school and the Commission.

115C-238.29E – Charter School Operation

- The PCS makes conforming changes.

115C-238.29F – General Requirements

- The Commission would adopt rules regarding liability insurance and set forth the student assessments required of charter schools, and would determine student assessments to be conducted by charters.
- Teachers employed by charter schools who return to employment with a local school administrative unit without a break in service would be able to have unused sick and annual leave from previous employment with a local school administrative unit reinstated and be given credit for the years of service for purposes of the salary schedule, longevity pay and rate of earned leave.
- Charter schools that have capacity would be able to enroll non-domiciled students and charge those students tuition that is equal at least to the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year. Non-domiciliaries of the State would be limited to 10% of the total number of students enrolled in the charter school.
- Public schools converted to charter schools would be required to give enrollment preference to students in the former attendance area for at least 2 years.

- The current statutory requirement that the charter school's population reasonable reflect the racial and ethnic composition of the general population residing in the local school administrative unit (LEA) in which the school is located would be re-instated.
- The PCS would clarify that the statutory admissions requirements would not preclude the formation of a charter school to serve special populations.
- The PCS would clarify that charters schools are not required to provide transportation.
- All assets upon dissolution of a charter school would be required to be distributed to satisfy creditors with any surplus deemed the property of the LEA.

115C-238.29G -- Causes for nonrenewal and termination

- Any decision to terminate or not renew a charter would be exempted from review under Chapter 150B of the General Statutes.

115C-238.29H – State and local funds for charters schools

- State funds would be allowed to be used to acquire equipment, real property, buildings, and mobile classrooms for school facilities and they would be allowed to be used to enter into operational and financing leases for equipment.
- Per pupil local current expense appropriation that consists of revenue derived from supplemental taxes would be transferred to a charter school for students residing within the tax district for which the taxes are levied.
- LEAs would be required to provide an accounting of the local current expense fund to be transferred to charter schools within 15 days of receipt of that appropriation. LEAs would be assessed a penalty for failure to comply with the deadlines.

  Counties would be permitted to provide funds to charter schools by direct appropriations for specific purposes such as acquisition of facilities and furnishings.

115C-238.29I – Notice of charter school process and Charter School Advisory Committee

- The PCS would repeal this section in order to make conforming changes.

115C-238.29J – Public and private assistance to charter schools

- The PCS makes only conforming changes

115C-238.29K – Criminal History Checks

- The PCS makes only conforming changes

Section 3

Current Law: G.S. 105.278.4 provides tax exemptions for certain property used for educational purposes.

Analysis: The PCS would add a tax exemption for property wholly and exclusively used for nonprofit educational purposes by a charter school whether or not the charter school is the owner of the property.

Section 4

Current Law: The Department of Justice is authorized to conduct criminal history checks of school personnel.

Analysis: The PCS makes conforming changes to allow the Department of Justice to conduct criminal history checks of charter school employees.

Section 5

Current Law: G.S. 115C-105.37B authorizes the State Board of Education to approve LEA requests to reform low-performing schools.

Analysis: The PCS makes conforming changes eliminating references to the charter schools cap.

Section 6

Current Law: G.S. 115C-426 established the uniform budget format for LEAs. LEAs are required to have the State Public School Fund, the local current expense fund, and the capital outlay fund. They are also authorized to have other funds for items such as tuition and sales tax refunds.

Analysis: The PCS would prohibit the use of other funds except if necessary to comply with donor requirements and restricted federal grants, and would remove special programs as a use of other funds.

Section 7

Current Law: Funds from the State lottery for school construction are not allocated to charter schools.

Analysis: The PCS would permit counties to allocate a portion of the lottery funds for school construction to charter schools. Charter schools would be able to use the monies to pay for school construction projects or retire debt from school construction projects incurred after July 1, 2011.

Section 8

Current Law: Charter schools can opt into the State Retirement System and the State Health Plan.

Analysis: The PCS would make conforming changes only.

Section 9

Analysis: The PCS makes conforming changes in Chapter 150B allowing for the exemption from review for disapproval of applications and terminations and non-renewals of charters.

Section 10

Analysis: The PCS would authorize counties to appropriate funds for capital needs for charter schools, lease real property to charter schools, and levy property taxes for these purposes.

Sections 11-13

Current Law: Section 7.17 of the 2010 Appropriations Act provided that LEAs that had not fully complied with local requirements for funding charter schools and who are subject to a judgment, court order, or settlement agreement may make payments over three years.

Analysis: The PCS would repeal the 2010 Budget provisions and would instead require that LEAs amend their 2010-2011 budget resolutions to comply with Section 6 of this PCS. If an LEA does not amend its budget resolution for this year or in future years, it will have been deemed to do so by this PCS.

Section 14

Analysis: The State Board of Education would be required to repeal all policies inconsistent with this Act.

Section 15

Analysis: The Commission must report annually to the Joint Legislative Education Oversight Committee on its strategic vision and the status of the charter schools.

EFFECTIVE DATE: Appointments required in in the Act must be made by October 1, 2011. Sections 6, 11, 12, and 13 are effective when they become law. The remainder of this Act becomes effective July 1, 2011.

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schools that receive approval from the State Board of Education or the North Carolina State Public Charter Schools Commission ~~approval~~ under G.S. 115C-238.29D after 1998.

..."

SECTION 8.(b). G.S. 135-45.5 reads as rewritten:

"**§ 135-45.5. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Executive Administrator, the Board of Trustees, and the State Board of Education. This election is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive approval from the State Board of Education or North Carolina Public Charter Schools Commission ~~approval~~ under G.S. 115C-238.29D after 1998.

..."

SECTION 9. G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(18) The State Board of Education with respect to the disapproval, termination, or nonrenewal of charters under Part 6A of Article 16 of Chapter 115C of the General Statutes."

SECTION 10.(a). Article 23 of Chapter 153A is amended by adding a new section to read:

"**§ 153A-457. Charter schools.**

Each county is authorized to appropriate funds and lease real property to schools chartered under Chapter 115C, Article 16, Part 6A of the General Statutes. Counties may provide funds only for the purposes set forth in G.S. 115C-238.29H(c).

SECTION 10.(b). G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

(8a) Charter Schools. – To provide capital funding for charter schools as authorized by G.S. 153A-457.

...."

SECTION 11. Each local board of education shall amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act. In the event that a local board of education fails to amend its budget resolution for the 2010-11 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this Act, and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of compliance with G.S. 115C-238.29H(b).

SECTION 12. If in any fiscal year a local board of education approves a budget resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include in the local current expense fund all those moneys required under G.S. 115C-426(e), that budget resolution shall be deemed to have to have been amended to include all such moneys in the local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

SECTION 13. Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31 are repealed.

SECTION 14. The State Board of Education shall repeal all adopted policies inconsistent with this Act.

SECTION 15. Beginning in 2012, the North Carolina Public Charter Schools Commission shall prepare an annual report to the Joint Legislative Education Oversight Committee of the General Assembly no later than October 15 of each year. The report shall include, at a minimum, the following information:

(1) The Commission's strategic vision and plan for charter schools and progress toward achieving the vision and carrying out the plan;

(2) The academic and financial performance of all operating charter schools overseen by the Commission, according to the performance expectations for charter schools set forth in this Act;

(3) The status of the Commission's charter school portfolio, identifying all charter schools in each of the following categories: approved to open, in operation, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened.

SECTION 16. Appointments required in Section 2 of this Act shall be made no later than October 1, 2011. Sections 6, 11, 12, and 13 of this Act are effective when they become law.The remainder of this act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 8
PROPOSED COMMITTEE SUBSTITUTE S8-CSRQ-4 [v.3]

2/15/2011 5:58:21 PM

Short Title: No Cap on Number of Charter Schools. (Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

AN ACT TO INCREASE EDUCATIONAL OPPORTUNITIES FOR THE CHILDREN OF NORTH CAROLINA BY REMOVING THE CAP ON CHARTER SCHOOLS; AND BY CREATING A NEW PUBLIC CHARTER SCHOOLS COMMISSION TO APPROVE AND MONITOR CHARTER SCHOOLS; AND BY STRENGTHENING THE STANDARDS FOR GRANTING AND RETAINING A CHARTER FOR A CHARTER SCHOOL; AND BY AUTHORIZING LOCAL BOARDS OF EDUCATION TO CONVERT SCHOOLS TO CHARTER SCHOOLS WITHOUT FORMING A NONPROFIT CORPORATION; AND BY CLARIFYING THE FUNDING FORMULA FOR CHARTER SCHOOLS; AND BY PROVIDING THAT COUNTIES MAY PROVIDE FUNDING FOR CHARTER SCHOOLS IN THEIR JURISDICTIONS; AND TO MAKE OTHER CHANGES TO THE STATUTES GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charter Schools Act of 2011."

SECTION 2. Part 6A of Article 16 of Chapter 115C of the General Statutes reads as rewritten:

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.

The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to ~~accomplish all of~~accomplish, in the aggregate, the following:

(1) Improve student ~~learning;~~learning.

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically ~~gifted;~~gifted.

(3) Encourage the use of different and innovative teaching ~~methods;~~methods.

(4) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~site.

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school ~~system;~~system.

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(7) Encourage the replication of successful charter schools.

"**§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**

(a) Creation. – There is created the North Carolina Public Charter Schools Commission, hereinafter referred to as the "Commission". The Commission shall exercise its powers and functions independently of the State Board of Education and the Department of Public Instruction, except as provided in this section.

(b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for approval of any charter applicant.

(c) Membership. – The Commission shall consist of the following eleven members:

(1) Two members appointed by the Governor.

(2) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Four members, one of whom shall be a teacher, administrator, or board member of a charter school or a parent of a child attending a charter school, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The Superintendent of Public Instruction or the Superintendent's designee.

(d) Qualifications of Members. – Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Commission shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(e) Terms of Office. – No appointed member shall serve more than seven consecutive years. The terms of office are as follows:

(1) The initial term of office for members appointed by the Governor shall be two years until June 30, 2013, and thereafter shall be three years.

(2) The initial term of office for the four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be three years until June 30, 2014, and thereafter shall be three years.

(3) The initial term of office for the four Commission members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be four years until June 30, 2015, and thereafter shall be three years.

(f) Officers. – The Commission shall elect a chair and a vice-chair from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members, and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(h) Expenses. – Members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(i) Removal. – Any member of the Commission, other than the Superintendent of Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held meeting, for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint or elect a member for the remaining portion of the term.

(j) Staff. – The State Board of Education shall assign the Office of Charter Schools as staff to the Commisssion.

(k) Powers and duties. –The Commission shall have the following duties:

1. To provide technical assistance, through the Office of Charter Schools and the Department of Public Instruction, to charter school applicants and to charter schools that are approved under this Part.
2. To adopt policies regarding all aspects of charter school operation, including timelines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.
3. To oversee the process for accepting and approving applications for charters and to make final approval of charter applications.
4. To oversee the process for monitoring the operation of charter schools, with the assistance and counsel of staff from the Department of Public Instruction.
5. To take any actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocation of charters.
6. To undertake any duties and responsibilities consistent with the above powers and duties and incident thereto.

(l) The State Board shall have the authority to veto any decision of the Commission by a three-fourths vote.

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

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If ~~the~~ any applicant other than a local board of education seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall include an executive summary and shall contain at least the following information:

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

(1a) The targeted student population and the community the school hopes to serve as well as evidence of need and community support for the proposed charter school.

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

(2b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, and teaching methods.

(2c) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, academically at-risk

students, and academically gifted students, including but not limited to compliance with applicable laws and regulations.

(3) The governance structure of the school including proposed governing bylaws and the names and biographical information of the proposed initial members of the board of directors of the nonprofit, tax-exempt ~~corporation~~ corporation. ~~and the process to be followed by the school to ensure parental involvement.~~ A local board of education seeking to convert a school to a charter school shall not be required to form a nonprofit, tax-exempt corporation if the local board of education serves as the board of directors of the charter school.

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

(4) Admission policies and procedures.

(5) A proposed budget for the school for at least the first five years of operation and evidence that the financial plan for the school is economically sound.

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

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

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

(9) The term of the charter.

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

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

(12) ~~The number of students to be served, which number shall be at least 65.~~ The number of students to be served, including the grades to be served each year for the full term of the charter, and the minimum, planned, and maximum enrollment per grade per year for the term of the charter.~~and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.~~

(12a) The minimum number of teachers to be employed at the school.

(12b) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies, such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school.

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

(14) Repealed by Session Laws 1997-430, s. 1.

(15) The process to be followed by the school to ensure parental involvement.

(16) The school's plans, if any, for providing transportation or food services.

(17) Explanations of any partnerships or contractual relationships central to the school's operations or mission.

(18) A detailed school start-up plan, identifying tasks, timelines, and responsible individuals.

(c) An applicant shall submit the application to the Commission, which shall have the authority to approve the charter school in accordance with the standards and criteria set forth in this Part. ~~a chartering entity for preliminary approval. A chartering entity may be:~~

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

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

~~(3) The State Board of Education.~~

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

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

(d) ~~Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the~~The applicant shall submit a copy of its application to ~~that local board~~the local board of education of the local school administrative unit in which the charter school will be located within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the ~~chartering entity.~~Commission within a time period to be determined by the Commission and imposed uniformly for all applications. ~~The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year.~~ The applicant shall not be required to obtain or deliver this information to the ~~chartering entity~~Commission on behalf of the local board. The ~~State Board~~Commission shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to grant ~~preliminary and final~~ final approval of the charter school.

"**§ 115C-238.29C. ~~Preliminary approval of~~Completeness determination for applications for charter schools.**

(a) The ~~chartering entity that receives a request for preliminary approval of a charter school shall act on each request received prior to November 1 of a calendar year by February 1 of the next calendar year.~~Commission shall determine the schedule and deadlines for the submission of charter school applications.

(b) The ~~chartering entity~~Commission shall ~~give preliminary approval to the application~~ issue a determination that the application is complete if the ~~chartering entity~~Commission determines that ~~(i)~~the information contained in the application meets the requirements set out in this Part or adopted by the ~~State Board of Education,~~Commission. ~~(ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) granting the application would improve student learning and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing applications for the establishment of charter schools within a local school administrative unit, the chartering entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. If the chartering entity approves more than one~~

~~application for charter schools located in a local school administrative unit, the chartering entity may state its order of preference among the applications that it approves.~~

~~(c) If a chartering entity other than the State Board disapproves an application, the applicant may appeal to the State Board of Education prior to February 15. The State Board shall consider the appeal at the same time it is considering final approval in accordance with G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the application, failed to consider appropriately the application, or failed to act within the time set out in G.S. 115C-238.29C.~~

~~If the chartering entity, the State Board of Education, or both, disapprove an application, the applicant may modify the application and reapply subject to the application deadline contained in subsection (a) of this section.~~

"§ 115C-238.29D. Final approval of applications for charter schools.

(a) The ~~State Board shall~~Commission may grant final approval of an application if it ~~finds that~~ determines that the application meets the requirements set out in this Part or adopted by the ~~State Board of Education~~ Commission and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

The ~~State Board~~Commission shall ~~act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.~~establish a timeline to take final action on applications declared complete under G.S. 115C-238.29C and shall make this information available to applicants. The Commission's decision shall be based on the evidence contained in the application or collected by the Commission following a procedure for application review that is uniform across all applicants and provides opportunities for applicants to respond to questions and requests for further information.

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

(b1) If the Commission disapproves an application, it shall provide the applicant with the opportunity to request reconsideration of the Commission's decision. However, the Commission shall not be required to consider any request for reconsideration from an applicant that fails to include additional information not previously presented by the applicant to the Commission.

(b2) A decision to disapprove an application is exempt from review pursuant to Chapter 150B of the General Statutes.

(c) The ~~State Board of Education~~Commission may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The ~~State Board of Education~~Commission may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The Commission may include in the charter any standards or requirements it determines are necessary to fulfill the purposes of this Part as well as any other objectives set forth by the charter school applicant. The ~~State Board of Education~~Commission shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the ~~State Board of Education.~~Commission.

~~It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:~~

~~(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;~~

~~(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;~~

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

~~(4) The charter school is not currently identified as low-performing;~~

~~(5) The charter school meets generally accepted standards of fiscal management; and~~

~~(6) It is otherwise appropriate to approve the enrollment growth.~~

(e) The Commission shall not restrict the number of students a charter school may enroll. The capacity of the charter school shall be determined annually by the board of directors of the charter school in conjunction with the Commission and in consideration of the charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

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

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is ~~located. It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its charter. All other charter schools~~located, and shall be accountable to the ~~State Board~~Commission for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application. A local board of education approved to convert a school to a charter school shall not be required to form a nonprofit, tax-exempt corporation if the local board of education serves as the board of directors of the charter school.

(c) A charter school shall operate under the written charter signed by the Commission ~~entity to which it is accountable under subsection (a) of this section~~ and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the ~~State Board of Education~~Commission. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

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

"§ 115C-238.29F. General requirements.

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information 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.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

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

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The ~~State Board of Education~~ Commission shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least

the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to any chartering entity, to the State Board of Education, the Commission, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

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

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

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

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

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

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is ~~located.~~ located, except for employees of charter schools converted by a local board of education where a nonprofit, tax-exempt corporation was not required to be formed because the local board of education serves as the board of directors of the charter school. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees.

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

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require

that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(3a) A teacher employed by a charter school who returns to employment with a local school administrative unit without a break in service shall have unused sick leave and annual leave from previous employment with a local school administrative unit reinstated. A teacher employed by a charter school who returns to employment with a local school administrative unit without a break in service shall be credited for the years of service at the charter school for the purposes of the salary schedule, longevity pay, and rate of earned leave.

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter ~~schools.~~ and the Commission approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the ~~State Board of Education~~ Commission for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting ~~System.~~ System, except that reports shall be made to the Commission as well as the State Board of Education.

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

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll persons of school age who are not domiciliaries of the State and charge those students a tuition amount equal to the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year. The number of persons of school age who are not domiciliaries of the State who are enrolled in a charter school may not exceed ten percent (10%) of the total number of students enrolled in the charter school.

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

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any ~~local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.~~ public school converting to a charter school shall adopt a policy giving enrollment preference to students who reside within the former attendance area of that public school for at least the first two years of operation of the charter school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

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

(8) Nothing in this subsection shall be interpreted to preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, academically at-risk students, or academically gifted students.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. ~~The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school.~~ At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles ~~of~~ from the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. No requirement of this subsection shall be interpreted to require a charter school to provide busing or any other mode of transportation to any particular student.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, ~~all net~~ the assets of the charter school purchased with public funds shall be distributed to satisfy the creditors of the charter school. Any surplus that remains after the charter school's creditors are satisfied shall then be deemed the property of the local school administrative unit in which the charter school is located.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

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

(a) The ~~State Board of Education, or a chartering entity subject to the approval of the State Board of Education,~~ Commission may terminate or not renew a charter upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;

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

(3) Violations of law;

(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;

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

(6) Other good cause identified.

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

(c) The ~~State Board~~Commission and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the ~~State Board~~Commission or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The ~~State Board~~Commission and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

(d) A decision to terminate or not renew a charter is exempt from review pursuant to Chapter 150B of the General Statutes."

"§ 115C-238.29H. State and local funds for a charter school.

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

(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;

(2) An additional amount for each child attending the charter school who is a child with disabilities; and

(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

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

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

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

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school for students residing within ~~located in~~ the tax district for which these taxes are ~~levied and in which the student resides.~~ levied. The local school administrative unit shall provide a detailed accounting of the funds to be transferred and transfer these funds based on a preliminary projection of charter school enrollment provided to the local school administrative unit by the charter school no later than 15 days after the local school administrative unit receives its local current expense appropriation. Adjustments to this amount shall be made within 30 days of the State Board of Education determining and certifying to the charter school its average daily membership for the school year. If the local school administrative unit fails to comply with the deadlines set forth in this subsection, it shall pay a penalty of 1% of the amount transferred to the charter school.

(c) Counties may provide funds to the nonprofit tax-exempt corporation that holds the charter of a charter school by direct appropriation as set forth in G.S. 153A-457. These funds shall be used only for the following purposes:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, and athletic fields.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, and similar items of furnishings and equipment.

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

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

~~(b) Repealed by Session Laws 1997-18, s. 15(i).~~

~~(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report no later than January 1, 2002, to the Joint Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~

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

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

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

~~(4) Other information the State Board considers appropriate.~~

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

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

"§ 115C-238.29J. Public and private assistance to charter schools.

(a) Local boards of education are authorized and encouraged to provide administrative and evaluative support to charter schools located within their local school administrative units.

(b) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(c) The State Board of Education shall direct the Department of Public Instruction to provide guidance and technical assistance, upon request, to existing charter schools as well as applicants ~~and~~ or potential applicants for charters.

(d) The State Board of Education shall direct the Department of Public Instruction to notify the Department of Revenue when the ~~State Board of Education~~Commission terminates, fails to renew, or grants a charter for a charter school.

"§ 115C-238.29K. Criminal history checks.

(a) As used in this section:

(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. These crimes include the following North Carolina crimes contained in any of the following Articles

of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

a. Member of the board of directors of a charter school,

b. Employee of a charter school, or

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

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

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

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the criminal history check authorized under this section.

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

fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Justice shall provide to the ~~State Board of Education~~Commission the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the ~~Board~~ Commission requires a criminal history check.

The ~~State Board~~Commission shall not require members of boards of directors of charter schools or employees of charter schools to pay for the fingerprints authorized under this section.

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

(e) The ~~State Board~~Commission shall notify in writing the board of directors of the charter school of the determination by the ~~State Board~~Commission as to whether the school personnel is qualified to operate or be employed by a charter school based on the school personnel's criminal history. At the same time, the ~~State Board~~Commission shall provide to the charter school's board of directors the written findings the ~~Board~~ Commission makes in subsection (d) of this section and its employment recommendation. If the ~~State Board~~Commission recommends dismissal or nonemployment of any person, the board of directors of the charter school shall dismiss or refuse to employ that person. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the ~~State Board~~Commission shall not release nor disclose any portion of the school personnel's criminal history to the charter school's board of directors or employees. The ~~State Board~~Commission also shall notify the school personnel of the procedure for completing or challenging the accuracy of the criminal history and the personnel's right to contest the ~~State Board's~~Commission's determination in court.

(f) All the information received by the ~~State Board of Education~~Commission or the charter school in accordance with subsection (e) of this section through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the ~~State Board of Education~~Commission or the board of directors of the charter school. The ~~State Board of Education~~Commission or the board of directors of the charter school may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the ~~State Board of Education~~Commission or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 3. G.S. 105-278.4 reads as rewritten:

"§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

(1) Owned by either of the following:
  a. An educational institution; or
  b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for nonprofit educational purposes by ~~the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.~~any of the following:
  a. the owner.
  b. a nonprofit educational institution occupying the building gratuitously.
  c. a charter school, whether or not the charter school is the owner.

..."

SECTION 4. G.S. 114-19.2 reads as rewritten:

"**§ 114-19.2. Criminal record checks of school personnel.**

(a) The Department of Justice may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(a1) The Department of Justice may provide a criminal history record check to the North Carolina Public Charter Schools Commission of a person who is employed at a charter school or of a person who has applied for employment at a charter school, if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.29K by fingerprint card to the North Carolina Public Charter Schools Commission from National Repositories of Criminal Histories, in accordance with G.S. 115C-238.29K. The information shall be kept confidential by the North Carolina Public Charter Schools Commission as provided in G.S. 115C-238.29K.

(b) The Department of Justice may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(c) The Department of Justice shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(c1) The Department of Justice may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(d) The Department of Justice shall adopt rules to implement this section."

SECTION 5. G.S. 115C-105.37B(a)(2) reads as rewritten:

"(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

...

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).~~"

SECTION 6. G.S. 115C-426 reads as rewritten:

"**§ 115C-426. Uniform budget format.**

...

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used ~~to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use,~~ only if necessary to comply with a requirement imposed by the donor or grantor that the school system separately account for trust funds, ~~federal appropriations made directly to local school administrative units, funds received for prekindergarten programs,~~ and federal grants restricted as to use. ~~and special programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.~~

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 7. G.S. 115C-546.2 reads as rewritten:

"**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.**

...

(d) Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.

b. "State average effective tax rate" means the average effective county tax rates for all counties.

c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.

(5) A county may not use monies in this Fund to pay for school technology needs.

(6) Counties receiving funds under this subsection may allocate a portion of funds received each budget year under this subsection to charter schools on a per average daily membership basis according to each such school's share of the average daily membership of the unit. Charter schools may use the monies to pay for school construction projects or to retire indebtedness incurred for school construction projects incurred on or after July 1, 2011, and shall not be subject to the matching fund requirement set forth in subsection (c) of this section."

SECTION 8.(a). G.S. 135-5.3 reads as rewritten:

"**§ 135-5.3. Optional participation for charter schools operated by private nonprofit corporations.**

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sara Riggins	NCFPC
Eddie Goodall	NC Alliance
Darrell Allison	Parents for Edu. Freedom
Cheryl Turner	Sugar Creek Charter School
Reggie Holley	Longmire Group
[illegible] Johnson	National Heritage Academies
Monique Edus	City
Joe Haas	NC Christian School Association
Jimmy Broughton	Womble Carlyle
Curry Gaskins	Womble Carlyle
Donald Bryson	PEFNC

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joel McNeely	NCDPI
Lynn McCain	SBE
Bob Luebke	Civitas Institute
Martez Hill	State Bd of Ed
David Starling	NCDST
Julie Hochsztein	NCDST
Dan Crawford	NCLCV
Rachel McInturff	NCLCV
Christopher Hill	NC Justice Center

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Beck	Self-Help
Baker A. Mitchell	Charter Day School -
Mark Cramer	Charter Day School
Linda Dunston	NCAE
Liz Mooy	Health Start Academy
[illegible]	Rocky Mount Preparatory School
Joe McClees	McClees Consulting
Gerry Hancock	EGH
Kellie Slappey	JLF
Becki Gray	JLF
Terry Stoops	JLF

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Evelyn Hawthorne	PENC; CISNC
Jim Harrison	NCNA, TA
Leanna Wimmer	NCSBA
Katherine Joyce	NCASA
Matt Howell	NCSBA
Gene Causby	NCSCA
Meredith Swindell	The Policy Group
S. Jackson	DPI
Trish McLaughlin	Lt. Gov. Office
Gail Worthington	parent
Samantha Colafrancesco	NCAPCS

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	BEAUFORT PATRIOT TEA PARTY
W.L. BUZZ CAYTON	WCAYTON@EARTHLINK.NET
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[signature]	Ed Consultant
Alex Abelin	Google
Andrew Meehan	Capstrat
John D Denning	NC New Schools Project
[signature]	NCAE
[signature]	NC SENATE
Dawn Shephard Pope	Office of the Governor
Cheryl Posner-Cahill	NC School Bychology Assoc
[signature]	Durham School Board

VISITOR REGISTRATION SHEET

SENATE EDUCATION/HIGHER EDUCATION 2/16/11

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID HAWDEN	NACSA
Leigh Bradley	Durham Public Schools BOE

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, February 23, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on February 23, 2011, in Room 544 of the Legislative Office Building. 19 members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and explained the order of business for the meeting.

Chairman Tillman then recognized Senator Preston to explain Senate Joint Resolution 88.

Senator Stein moved that the committee adopt the resolution. The committee adopted the resolution.

Senator Preston moved that the committee the Proposed Committee Substitute (PCS) to Senate Bill 20. The committee adopted the PCS.

Senator Clodfelter was recognized to explain the bill and the changes made in the PCS. After explaining the bill, Senator Stein inquired about the provisions addressed on page 3, line 27. Chairman Tillman called on John Pettitt of the North Carolina Community College System to answer the question.

Following discussion, Senator Stevens moved that the committee approve the bill. The committee approved the motion as unfavorable to the the bill, but favorable as to the committee substitute.

Chairman Tillman then moved adoption of the PCS to Senate Bill 74. After the committee adopted the PCS, Senator Gunn was called to explain the bill.

After some discussion, Chairman Tillman recognized the pages and the Sergeant-at-Arms.

In response to a question from Senator Nesbitt, Kenan Briggs, Executive Vice President of the Community College System was recognized to answer. Following his answer, Chairman Tillman recognized Andrea Poole of Fiscal Research to continue.

Chairman Tillman recognized Ran Coble of the North Carolina Center for Public Policy Research, who spoke in opposition to the bill.

Chairman Tillman then recognized Bill Rowe of the North Carolina Justice Center who also spoke in opposition to the bill.

Senator Dannelly made the motion for adoption. Chairman Tillman indicated that the ayes appeared to have it. Senator Stein called for division. Upon the raising of hands, it was

determined that 11 members voted in favor and 8 opposed. Therefore, the committee made the recommendation unfavorable as to the bill, but favorable to the committee substitute.

Chairman Tillman then adjourned the meeting.

The meeting adjourned at 10:55AM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, February 23, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 20	Student Refunds by Proprietary Schools.	Senator Clodfelter Senator Tillman
SB 74	Comm. Colleges/Opt Out of Fed'l Loan Program.	Senator Gunn
SJR 88	Elect State Community College Bd Members.	Senator Soucek Senator Preston Senator Tillman

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, February 23, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.JR. **88** Elect State Community College Bd Members.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **20** Student Refunds by Proprietary Schools.
Draft Number: PCS35075
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

S.B. **74** Comm. Colleges/Opt Out of Fed'l Loan Program.
Draft Number: 65008
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE JOINT RESOLUTION 88

Sponsors:	Senators Preston, Soucek, and Tillman.
Referred to:	Education/Higher Education.

February 22, 2011

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the House of Representatives and the Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Thursday, April 14, 2011. At that time the House of Representatives shall elect one member to the State Board for a term of six years beginning July 1, 2011. The Senate also shall elect one member to the State Board for a term of six years beginning July 1, 2011.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members to the State Board.

SECTION 3. This resolution is effective upon ratification.

SENATE BILL 88:
Elect State Community College Bd Members

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 23, 2011
Introduced by:	Sens. Preston, Soucek, Tillman	**Prepared by:**	Patsy Pierce
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***Senate Joint Resolution 88 would establish Thursday, April 14, 2011, as the date for the Senate and the House of Representatives to elect members to the State Board of Community Colleges.***

CURRENT LAW: G.S. 115D-2.1(b)(4)(f) sets out the procedure for elections by the Senate and the House of Representatives to the State Board of Community Colleges (State Board). The procedures include the following requirements:

- The Speaker of the House and the President Pro Tempore must assign to a committee of their respective houses the duty of receiving nominations of persons to be considered for election by that house to the State Board.
- Chairs of the assigned committees must jointly determine a nomination period. Each member may nominate only one candidate. A person may not simultaneously be a candidate in both houses.
- Once the nominating period is closed, the assigned committee must vote on whether each candidate will be listed as a nominee of the committee. Nominations must be screened by the assigned committee as to their qualifications, background, lack of statutory disabilities, and willingness and ability to serve if elected. At least one candidate must be nominated by the committee for each vacancy; however, if there are sufficient candidates, the committee must nominate at least two persons for each vacancy.
- **The House of Representative and Senate must fix a common date and time by joint resolution for election of members to the State Board.** The committee must report its list of nominees at the election session. No additional nominees are allowed from the floor.
- A nominee is chosen when that person receives the votes of a majority of all members present and voting.

BILL ANALYSIS: As required by G.S. 115D-2.1(b)(4)(f), Senate Joint Resolution 88 would establish Thursday, April 14, 2011 as the date for election of members to the State Board by the House of Representatives and the Senate.

EFFECTIVE DATE: This joint resolution would become effective upon ratification.

BACKGROUND: Twenty-one members serve on the State Board of Community Colleges in staggered six-year terms, four of which are elected by the Senate and four of which are elected by the House in a staggered election cycle. In 2011, the House and Senate must each elect one member from the State at-large to six-year terms beginning July 1, 2011. This year, the terms of Ms. Raichelle Glover, who was elected by the House of Representatives and Ms. Naomi Daggs, who was elected by the Senate, will expire on June 30, 2011. Both Ms. Glover and Ms. Daggs are eligible for re-election.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 20

Short Title:	Student Refunds by Proprietary Schools.	(Public)
Sponsors:	Senators Tillman, Clodfelter; Allran, Apodaca, Bingham, Blake, Brown, Daniel, Gunn, Hise, Hunt, Jenkins, Jones, Meredith, Preston, Purcell, Rouzer, Soucek, Stein, Stevens, and Tucker.	
Referred to:	Education/Higher Education.	

February 2, 2011

A BILL TO BE ENTITLED

AN ACT REGARDING THE REFUND POLICIES OF PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-90(b)(7)i reads as rewritten:

"(7) Such additional information as the State Board, acting by and through the President of the Community College System, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

...

i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the college cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2011-2012 academic year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 20
PROPOSED COMMITTEE SUBSTITUTE S20-PCS35075-LE-2

Short Title: Amend Law Regulating Proprietary Schools. (Public)

Sponsors:

Referred to:

February 2, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGULATING PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-87 reads as rewritten:

"**§ 115D-87. Definitions.**

~~As used in this Article:~~The following definitions apply in this Article:

~~(1)~~ ~~"Correspondence school" means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the student and the school, usually through printed or typewritten matter sent by the school and written responses by the student.~~

(2) ~~"Persons" means any~~ Person. – Any individual, association, partnership or corporation, and includes any director, receiver, referee, trustee, executor, or administrator as well as a natural person.

~~(3)~~ ~~"Proprietary business school" or "business school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers business and office related courses for which tuition is charged, in business or office related subjects or subjects of general education when they contribute value to the objective of the course of study. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~

~~(4)~~ ~~"Proprietary trade school" or "trade school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, knowledge and subjects, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~

~~(5) "Proprietary technical school", "technical school", "proprietary technical institute", or "technical institute" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any technical occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge and subjects, related information, and job judgment, necessary for success in one or more technical or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~

(5) Proprietary school. – An educational institution having a physical presence within North Carolina that meets all of the following conditions:

a. It is privately owned by a sole proprietorship, partnership, limited liability company, or corporation.

b. It is established as a business entity or as a nonprofit charitable organization.

c. It offers instruction to individuals who (i) have completed their elementary and secondary education or (ii) are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both.

d. It charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material.

e. It educates, trains, or claims or offers to educate or train students in a program leading toward (i) examinations for licensing in a profession or vocation, (ii) employment at a beginning or advanced level, or (iii) a postsecondary educational credential below the associate degree level.

The term includes a branch or extension of a private postsecondary educational institution of another state that is located in this State or that offers educational services or education at a physical location within this State. Delivery systems employed may include, but are not limited to, (i) correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling units or areas, or (iv) electronic communications such as those used in distance education. Distance education is education, training courses, or programs delivered to a student who is geographically separate from the instructor.

If a school has physical locations and offers classes in more than one county, the school's operation in each county shall constitute a separate proprietary school, as defined in this section."

SECTION 2. G.S. 115D-88 reads as rewritten:

"**§ 115D-88. Exemptions.**

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

(1) Nonprofit schools conducted by ~~bona fide eleemosynary or religious institutions.~~ (i) charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student or (ii) religious institutions.

(2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.

(3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.

(4) Any school for which there is another legally existing licensing or approving board or agency in this State.

(4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.

~~(4b) Classes or schools that are taught or coached in homes or elsewhere to five or fewer students.~~

(4c) Classes or schools that the State Board, acting by and through the President of the Community College System, determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.

(5) Any established university, professional, or liberal arts college, public or private school regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all ~~business schools, proprietary trade schools, proprietary technical schools, or correspondence~~proprietary schools as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies.

(6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c)."

SECTION 3. G.S. 115D-89 reads as rewritten:

"**§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.**

(a) The State Board of Community Colleges, acting by and through the President of the Community College System, shall have authority to administer and enforce this Article and to grant and issue licenses to ~~proprietary business schools, proprietary trade schools, proprietary technical schools, and correspondence schools,~~proprietary schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such ~~proprietary business school, proprietary trade school, proprietary technical school, or correspondence school,~~proprietary school may by and with the approval of the State Board issue certificates and diplomas.

(c) The State Board, acting by and through the President of the Community College System, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives of the State Board of Community Colleges, the State Board of Community Colleges shall have general supervision over ~~business, trade, technical, and correspondence schools~~proprietary schools in the State, the

object of said supervision being to protect the health, safety and welfare of the public by having the ~~licensed business, trade, technical, and correspondence schools~~proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Community Colleges is authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the President of the Community College System, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency."

SECTION 4. G.S. 115D-90(a) reads as rewritten:

"(a) No person shall operate, conduct or maintain or offer to operate in this State a ~~proprietary trade school, proprietary technical school, proprietary business school, or correspondence school,~~proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved."

SECTION 5. G.S. 115D-90(b)(7)i. reads as rewritten:

"(7) Such additional information as the State Board, acting by and through the President of the Community College System, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

...

i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged."

SECTION 6. G.S. 115D-91(b) reads as rewritten:

"(b) ~~Licenses~~ Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1~~: Provided,~~ if all of the following conditions are met:

(1) ~~an~~ An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the President of the Community College ~~System, and~~ System.

(2) ~~the~~The renewal fee has been ~~paid:~~ paid.

(3) ~~Provided, further that the~~ The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license."

SECTION 7. G.S. 115D-96 reads as rewritten:

"**§ 115D-96. Operating school without license or bond made misdemeanor.**

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a ~~proprietary business school, a proprietary technical school, a proprietary trade school, or a correspondence school,~~proprietary school without first having obtained the license herein required, and without first having executed the bond, paid the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3 misdemeanor, and each day the school continues to be open and operated shall constitute a separate offense."

SECTION 8. G.S. 115D-97 reads as rewritten:

"**§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null and void.**

All contracts entered into by ~~proprietary business, proprietary technical, proprietary trade, or correspondence schools,~~proprietary schools with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article."

SECTION 9. Section 5 of this act is effective when it becomes law and applies beginning with the 2011-2012 academic year. The remainder of this act becomes effective July 1, 2011.

SENATE PCS 20:
Amend Law Regulating Proprietary Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 23, 2011
Introduced by:	Sens. Tillman, Clodfelter	**Prepared by:**	Patsy Pierce
Analysis of:	PCS to First Edition S20-CSLE-2		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) for SB 20 would: (i) discontinue the use of terms, "business school," "trade school," and "technical school" and use the single term, "proprietary school;" (ii) provide a refined definition of "proprietary school" which includes non-profit organizations and specifies eligible students and purposes of instruction; (iii) clarify the exemption for charities that have 501(c)(3)status; (iv) remove the exemption for schools with fewer than 5 students taught in homes or other locations (v) specify the amount of refund of tuition, fees, and other charges for students' non-entry, withdrawal, or discontinued status; and, (vi) grant the State Board of Community College flexibility in duration of licensure renewal.***

CURRENT LAW and BILL ANALYSIS:

Section 1.

Current Law: G.S. 115D-87 provides specific definitions for correspondence, business, trade, and technical schools. Correspondence schools offer instruction usually through printed or type-written material, business schools teach about office-related subjects, trade schools offer training in industrial and mechanical skills, and technical schools provide training in skills and judgment for success in technical fields. Each county location of a business, trade, or technical school is considered a separate school.

Bill Analysis: The PCS discontinues the use of terms and definitions of different types of schools, e.g., trade school, business school and instead, uses the single term, "proprietary school."

The PCS defines "proprietary school" as an educational institution having a physical presence in North Carolina and meeting five conditions listed below:

- is privately owned and operated as a sole proprietorship, partnership, LLC or corporation;
- is a business or a nonprofit charitable organization;
- offers instruction to students whom have completed elementary and secondary education or are beyond the age of compulsory secondary school attendance and have demonstrated the ability to benefit from instruction;
- charges tuition or receives any consideration from students, including for materials;
- educates or claims to educate students in a program leading to licensure, employment, or postsecondary degree below the associate degree level.

The new definition of "proprietary school" also includes branches of private institutions that are primarily located in other states, but whom offer at a physical location in this State. The PCS defines delivery systems used by proprietary schools, including distance education.

The PCS maintains that schools with multi-county classes are considered a separate school in each county.

Section 2.

Current Law: G.S. 115D-88 provides for a number of exemptions from the provisions of the statutes related to proprietary schools including nonprofit schools conducted by "eleemosynary" (charitable) or religious organizations. Another exemption includes schools or classes taught in homes or other locations to five or fewer students.

Bill Analysis: The PCS updates language for nonprofit schools that are 501(c)(3) charities by substituting this language for "bona fide eleemosynary" and requiring that no fee or tuition be charged for courses. The PCS also removes from exemption classes that are taught in homes or other locations to five or fewer students. The PCS adds to the exemptions any institution that is exempt under G.S. 116-15(c), which are private institutions which have been providing post-secondary degree education since 1972.

Sections 3 and 4. The PCS makes conforming changes by substituting "proprietary school" or "proprietary schools" in place of "business schools, trade schools, and correspondence schools."

Section 5.

Current Law: 115D-90(b)(7)i provides that proprietary schools must include in their bulletins or catalog policies and regulations regarding refunds of unused portions of tuitions, fees, and other charges when a student does not actually take a course for which payment has already been received, or if the student withdraws from a course, or if a course is cancelled.

Bill Analysis: The PCS adds clarifying language regarding refunds by specifying that, at a minimum,

- A full refund will be given if:
    - a student withdraws before the first day of class, or
    - a proprietary school (college) cancels the class.
- A 75% refund will be given if:
    - a student withdraws from a class within the first quarter (25%) of the enrollment period for which the student was charged.

Section 6.

Current Law: 115D.-91 provides that all proprietary school must be licensed on an annual basis.

Bill Analysis: The PCS gives the State Board of Community Colleges the authority to set duration of licenses. The PCS also updates language to that used in current statutes by removing "provided."

Sections 7 - 8. The PCS makes conforming changes by substituting "proprietary school" or "proprietary schools" in place of "business schools, trade schools, and correspondence schools."

EFFECTIVE DATE: Section 5 of the act (specification of the refund policy) would be effective when it becomes law and applies beginning with the 2011-12 academic year. The remainder of the act would become effective July 1, 2011.

S20-SMTL-5(CSLE-2) v4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 74*

Short Title:	Comm. Colleges/Opt Out of Fed'l Loan Program.	(Public)
Sponsors:	Senators Gunn; Brown, Clary, Davis, East, Goolsby, Hise, Hunt, Jackson, Meredith, Rouzer, Soucek, Tucker, and Vaughan.	
Referred to:	Education/Higher Education.	

February 16, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CONSTITUENT INSTITUTIONS OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 reads as rewritten:

"**§ 115D-40.1. Financial Assistance for Community College Students.**

...

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan ~~Program.~~Program, unless the board of trustees of an institution by resolution adopted declines to participate in the Program. The State Board shall ensure that at least one counselor is available at each college participating in the William D. Ford Federal Direct Loan Program to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, and the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds. The board of trustees of any institution that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program, but shall thereafter no longer have the option of declining further participation in the Program. "

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 74*
PROPOSED COMMITTEE SUBSTITUTE S74-PCS65008-RJ-2

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Program. (Public)

Sponsors:

Referred to:

February 16, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CONSTITUENT INSTITUTIONS OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1(d) reads as rewritten:

"**§ 115D-40.1. Financial Assistance for Community College Students.**

...

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan ~~Program.~~Program, unless the board of trustees of an institution adopts a resolution declining to participate in the Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, ~~and~~and, for participating colleges, the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds. The board of trustees of any institution that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act becomes effective July 1, 2011.

SENATE PCS 74:
Comm. Colleges/Opt Out of Fed'l Loan Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	February 22, 2011
Introduced by:	Sen. Gunn	**Prepared by:**	Sara Kamprath
Analysis of:	PCS to First Edition H7-CSRJ-1		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 74 would allow the board of trustees of a community college to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). The PCS also adds language that would allow a community college a single opportunity to rescind that resolution and begin participating in the Program. The PCS also clarifies that the financial aid counselors at each participating college will inform the students about the Program and actively encourage them to utilize these funds. The PCS makes stylistic changes and amends the effective date.***

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: The PCS for Senate Bill 74 would allow a community college to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the institution adopted a resolution declining to participate in the Program. The PCS would add language that would allow the board to trustees of an institution to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

The PCS would amend the bill to clarify that the State Board shall ensure that all the community colleges have at least one counselor to inform students about available federal programs and funds but only at the participating colleges would the counselors have to inform students about the William D. Ford Federal Direct Loan Program.

The PCS would change the effective date to July 1, 2011, the date that the amended statute was to become effective.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

S74-SMRJ-4(CSRJ-1) v1

Testimony Before the Education/Higher Education Committee of the N.C. Senate
on Senate Bill 74
Ran Coble, Executive Director
North Carolina Center for Public Policy Research
Wednesday, February 23, 2011

Good morning, and thank you for inviting me to be with you today. My name is Ran Coble, and I serve as Director of the North Carolina Center for Public Policy Research

I. About the N.C. Center for Public Policy Research

The Center is a private nonprofit that was formed in 1977 to do nonpartisan, independent research on important public policy issues facing North Carolina. Our 23-member Board of Directors is designed to mirror the state's population in terms of gender, geography, race, and political party affiliation, with Republicans, Democrats, and Independents on our Board.

The Center takes no government money but receives its funds from 4 sources – foundation grants, corporate contributions, sales of publications, and individual members and donors across North Carolina.

II. About the Center's Study of Financial Aid to Students in North Carolina's Community Colleges

In our study of financial aid to students in North Carolina's 58 community colleges last year, we were shocked to find that 37 of the state's community colleges did not offer federal student loans. As a result, 55 percent of the students in our community colleges, or more than 177,000 students in curriculum programs, were being denied access to the safest and most affordable way to borrow money for college. This makes North Carolina one of only four states in the whole country that deny access to federal loans to so many community college students. Students who pay for school with a federal loan pay 4.5-6.8% interest, while we found students at the other community colleges putting their tuition and fees on their credit cards and paying 16% interest.

A community college that offers federal student loans is not only lowering financial barriers to access to a college education, it is also increasing the likelihood of college completion. Students want to complete their degree in order to get a job to pay back their loans.

One of the major reasons community colleges told us they didn't participate in the loan program is fear of being sanctioned by the federal government for having a high default rate. The sanctions are real, but the fears are unfounded. To be sanctioned under federal law, a school has to have a default rate of 25 percent for three consecutive years, or 40 percent in any one year.

When we first testified about this before the legislative study commission, we had analyzed the last five years of default rate data at all 58 community colleges in North Carolina and found that not one single college has exceeded 25 percent in any one year, let alone 3 years in a row.

Our review of the latest U.S. Department of Education's national database of default rates shows that no community college in North Carolina or in the country was on the danger list. Only five of the 5,672 participating schools in the country were at risk for sanctions in 2011 based on defaults in prior years – the Academy of Healing Arts in Las Vegas, Nevada; the Cuttin' Up Beauty Academy in Denver, Colorado; the Charleston, West Virginia School of Beauty Culture; the private Human Resource Development and Employment Institute, also in West Virginia; and Clinton Junior College, a private college in Rock Hill, South Carolina. The bottom line is that no educational institution in the country that offers federal student loans has actually been sanctioned in the last 7 years.

And now, the newest data on default rates was just released by U.S. Dept. of Education. Again, no community college in North Carolina is in danger of losing its federal money. Only 3 community colleges have seen their default rates go over 20% – even in this very bad economy, and one of those made only one loan. And remember, you've got to hit 25% a year in default rates not just for one year but for 3 consecutive years.

On top of all that, a federal rule change by the U. S. Department of Education in 2009 makes it easier for schools to avoid sanctions if they have a low number of students who borrow – even if they do exceed the 25% default rate. This rule change was specifically designed to help community colleges participate in the program without fear of federal sanctions.

The N.C. State Education Assistance Authority also has offered to help the 37 community colleges that don't yet give their students access to federal loans develop default management initiatives to be sure that colleges can keep their default rates down.

Finally, to make the transition for these 37 community colleges even easier, the 2010 General Assembly agreed to the Department of Community Colleges System's request for budget flexibility to move $50 million from instructional purposes to student services, if necessary, in order to make the federal loan programs available. But, this bill before you – Senate Bill 74 – would give colleges this $50 million whether they provide the loans or not. That's not fair; it's letting them have their cake, eat it, and lick the icing. If you allow them the option to not offer federal student loans to 177,000 students, then you should at least take the flexibility money back from any college that refuses to help their students in this way. But, the best solution is not to pass this bill at all.

In summary, the fear of being sanctioned by the federal government for high default rates is a false fear. No school in North Carolina is anywhere near a one-year default rate of 40 percent or 25 percent for 3 consecutive years. And, remember that no school in the country has been sanctioned since 2004. You should not deprive 177,000 students at 37 community colleges from getting a college education in an economy where they're going to need job training and a college education to get a job. The U.S. Bureau of Labor Statistics estimates that 45 percent of all new jobs will require a college education. The legislation that passed last year was good for the state and good for our economic recovery, and you should give this bill an unfavorable report or have it lie upon the table.

PAGES ATTENDING

COMMITTEE: Education **ROOM:** 544

DATE: 2-23 **TIME:** 10 am

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 David Torres	Raleigh	T. Berger
2		
3		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Senate Education/Higher Education — 2/23/11

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ran Coble	N.C Center for Public Policy Research
Ernest Gilbert	Governor's office
Sheria Reid	SOG
William B. Kennedy	Sen. Stein Intern
Paul Hoffman	MSC
ZEB ALLEY	NMRS
Mary Mcgeff	NCCCT
Jo Anne P. Norris	Public School Forum
Samuel WATTS	N.C. Center Fo. Public Policy Research
Andrew Cagle	DLCa ASSC.

VISITOR REGISTRATION SHEET

Senate Education/Higher Education — 2/23/11
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JACK HENDERSON	BROOKSTONE COLLEGE 10125 BERKELEY PLACE DR CHARLOTTE
T Thomas Moore	Edwin Wall Moore
Jennifer Willis	NCLCS
Bill Rowe	NC Justice Center
BJ Miller	MCHS
Heather Barrett	Williams Mullen
Dana Fenton	City of Charlotte
Chuck Small	NCSCA / Edge H.S. Rep.
Iwinosa Idahor	NCSCA
Jeans	DCS
Tom Vaughn	CFTF

VISITOR REGISTRATION SHEET

Senate Education/Higher Education — 2/23/11
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NCCCS
John Pettitt	"
Paula A. Wolf	NC NOW
Courtney Swanson	NC School Counselors Assoc.
Taheera Blount	North Carolina School Counselor Asso.
Renee HaNGO	" "

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, March 2, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on March 2, 2011, in Room 544 of the Legislative Office Building. 20 members of the committee were present. Senator Jean Preston presided.

Chairman Preston called the meeting to order and recognized the Sergeant-at-Arms and the pages.

Chairman Preston then called on Rep. Bryan Holloway and Rep. Tricia Ann Cotham to explain House Bill 48.

After discussion, Chairman Preston recognized Ann McColl of the State Board of Education and Pablo Friedman, high school mathematics teacher from Warren County, who spoke in opposition to the bill.

Chairman Preston then recognized Brian Lewis of the North Carolina Association of Educators, who spoke in support of the bill.

Senator Stevens then made motion asking for a favorable report on the bill. The committee approved a favorable report.

Senator Dannelly moved that the committee give a favorable report to Senate Bill 83. Chairman Preston recognized Senator Newton to introduce the bill.

The motion was made to give a favorable report and the committee reported favorably to Senate Bill 83.

Senator Preston thanked the members and called for adjournment.

The meeting adjourned at 11:00AM.

Senator Jean Preston, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, March 2, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 48	No Standardized Testing Unless Req'd by Feds.	Representative Holloway Representative Blackwell Representative Hilton Representative Cotham
SB 83	Wilson School Board.	Senator Newton
SB 114	No Standardized Testing Unless Req'd by Feds.	Senator Allran

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, March 02, 2011

Senator PRESTON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **83** Wilson School Board.
Sequential Referral: None
Recommended Referral: None

H.B. **48** No Standardized Testing Unless Req'd by Feds.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comments:

Senator Allran will handle HB 48

HOUSE BILL 48
Second Edition Engrossed 2/17/11

Short Title:	No Standardized Testing Unless Req'd by Feds.	(Public)
Sponsors:	Representatives Holloway, Blackwell, Hilton, and Cotham (Primary Sponsors). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Education.	

February 8, 2011

A BILL TO BE ENTITLED

AN ACT TO REDUCE SPENDING BY ELIMINATING STATEWIDE STANDARDIZED TESTING IN THE PUBLIC SCHOOLS, EXCEPT AS REQUIRED BY FEDERAL LAW OR AS A CONDITION OF A FEDERAL GRANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-174.11 reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving federal grants.

(b) Repealed by Session Laws 2009-451, s. 7.20(c), effective July 1, 2009.

(c) Annual Testing Program.

(1) The State Board of Education shall adopt ~~a system of annual testing~~the tests for grades three through ~~12.~~12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies ~~designated by the State Board~~ for grades nine through 12. ~~The State Board may develop and implement a plan for high school end-of-course tests that must be aligned with the content standards developed under G.S. 115C-12(9c).~~ Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade.

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

(d) Except as provided in subdivision (2) of subsection (c) of this section, the State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant."

SECTION 2. The following end-of-course tests are hereby eliminated:

(1) United States History.

(2) Civics and Economics.

(3) Algebra II.

(4) Physical Science.

SECTION 3. The State Board of Education in conjunction with the Department of Public Instruction shall consider alternative assessment strategies for measuring the academic performance of students and for evaluating teachers. The Department shall report its proposals on any such strategies to Education Committee of the House of Representatives and the Education/Higher Education Committee of the Senate by June 1, 2011.

SECTION 4. This act becomes effective July 1, 2011 and applies beginning with the 2011-2012 school year.

HOUSE BILL 48:
No Standardized Testing Unless Req'd by Feds

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 2, 2011
Introduced by:	Reps. Holloway, Blackwell, Hilton, Cotham	**Prepared by:**	Drupti Chauhan*
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 48 would prohibit the State Board of Education from requiring local school administrative units to administer any standardized test that is not required by federal law or as a condition of a federal grant in grades 3 through 12, except when needed to allow comparisons with national indicators of student achievement. Specifically, the following four end-of-course tests would be eliminated: 1) United States History; 2) Civics and Economics; 3) Algebra II; and 4) Physical Science.***

[As introduced, this bill was identical to S114, as introduced by Sen. Allran, which is currently in Senate Education/Higher Education.]

CURRENT LAW: G.S. 115C-174.11(c) provides that the State Board of Education (State Board) shall adopt a system of annual tests for grades 3 through 12. The tests for grades 3 through 8 are to measure progress toward reading, communication skills, and mathematics while the tests for grades nine through 12 are to measure competencies designated by the State Board. In addition, the State Board may develop and implement a plan for high school end-of-course tests aligned with content standards in the core academic areas of reading, writing, mathematics, science, history, geography, and civics.

BILL ANALYSIS: **Sections 1-2** of House Bill 48 would require that the tests adopted by the State Board for grades 3 through 12 be required by federal law or as a condition of a federal grant and it would prohibit the State Board from requiring the public schools to administer any standardized tests except those required by federal law or as a condition of a federal grant. The State Board would also be required to adopt and provide the local school administrative units with all tests required by federal law or as a condition of a federal grant.

The State Board of Education would still be able to require public schools to administer standardized tests not required by federal law or as a condition of a federal grant if the State Board finds that additional tests are needed to allow comparisons with national indicators of student achievement. The bill would repeal the authority that the State Board has to develop and implement a plan for high school end-of-course tests aligned with content standards in the core academic areas of reading, writing, mathematics, science, history, geography, and civics.

House Bill 48 would specifically eliminate the following four end-of-course tests: 1) United States History; 2) Civics and Economics; 3) Algebra II; and 4) Physical Science.

Section 3 of House Bill 48 would direct the State Board in conjunction with the Department of Public Instruction to consider alternative assessment strategies for measuring student academic performance and the evaluation of teachers. Any such proposals must be reported to the House and Senate Education Committees by June 1, 2011.

EFFECTIVE DATE: The bill would become effective July 1, 2011 and apply starting with the 2011-12 year.

BACKGROUND: Enacted in 2001, the federal No Child Left Behind law required all states to administer annual math and reading/language arts in grades 3-8 beginning in 2005-06. All states were also required to test students at least once annually in mathematics and reading/language arts at grades 10-12. Science tests were required by the 2007-08 school year and were to be administered at least once during grades 3-5, 6-9, and 10-12.

In the 2009 Appropriations bill (S.L. 2009-451), the General Assembly repealed the Competency Testing Program as set out in G.S. 115C-174.11(b) and eliminated funding for most State-administered tests not currently required by federal law or as a condition of federal grants. Beginning with the 2009-10 school year, the following tests were eliminated because of the General Assembly's action:

- Grade 3 Pretests of Reading Comprehension and Mathematics
- Computer Skills

- Chemistry End-of-Course
- Physics End-of-Course
- Competency Tests of Reading and Mathematics

At the March 2010 meeting, the State Board voted to remove the Geometry End-of-Course test beginning in the 2010-11 school year.

NC Testing Program 2010-2011

Grades 3-8	**Grades 9-12**
Reading End-of-Grade*	English I End-of-Course*
Math End-of-Grade*	Grade 10 Writing Test*
Grade 5	Algebra I End-of-Course*
Science End-of-Grade*	Algebra II End-of-Course
Grade 8	Biology End-of-Course*
Science End-of-Grade*	Physical Science End-of-Course
	Civics and Economics End-of-Course
	U.S. History End-of-Course

***Needed to meet NCLB requirements**

Leandro

In Leandro v. State of North Carolina, 346 N.C. 336 (1997) (Leandro I), the NC Supreme Court defined the "sound basic education" guaranteed to every child of the State by the N.C. Constitution as one which provided the following:

(1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society;

(2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state, and nation;

(3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and

(4) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.

The Leandro I Court remanded the case to the trial court for determination if the right to a sound basic education was being violated, indicating that factors such as educational goals and standards adopted by the Legislature, level of performance of the students of the State and its various districts on standard achievement tests, and the level of the State's general educational expenditures and per-pupil expenditures could be considered in the determination.

In Hoke County Board of Education v. State of North Carolina, 358 NC 605 (2004) (Leandro II), the NC Supreme Court again reviewed the case that began in Leandro I, following the trial court's decision on remand. One issue reviewed by the NC Supreme Court was the use of standardized test scores as a measure of whether students were obtaining a sound basic education. The Supreme Court found no error in the trial court's ruling that use of standardized End of Grade (EOG) and End of Course (EOC) tests, and the benchmark of Level III proficiency based on those tests, was a proper standard for establishing if a sound basic education was received. The Supreme Court rejected the argument that test scores were the exclusive measure used to establish whether a sound basic education had been obtained, however, and noted other output evidence considered, such as graduation rates, dropout rates, and post-secondary educational performance and others.

H48-SMRQ-7(e2) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SENATE BILL 83*

Short Title:	Wilson School Board.	(Local)
Sponsors:	Senator Newton.	
Referred to:	Education/Higher Education.	

February 21, 2011

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DATE THAT MEMBERS OF THE WILSON COUNTY BOARD OF EDUCATION TAKE OFFICE AND TO FIX AN ERROR IN A 1987 LOCAL ACT RELATING TO THAT BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection(f) of Section 4 of Chapter 921, Session Laws of 1973, as rewritten by Section 1 of Chapter 236 of the 1987 Session Laws, is rewritten to read:

"(f) Terms of office of the Wilson County Board of Education begin on the second Monday in ~~January~~ December following their election."

SECTION 2. Section 1 of Chapter 236 of the 1987 Session Laws is amended by deleting "Section 4 of Chapter 921, Session Laws of 1983" and substituting "Section 4 of Chapter 921, Session Laws of 1973."

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

SENATE BILL 83:
Wilson School Board

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 2, 2011
Introduced by:	Sen. Newton	**Prepared by:**	Kara McCraw Committee Counsel
Analysis of:	First Edition		

SUMMARY: SB 83 would change the date that members of the Wilson County Board of Education take office from the second Monday in January to the second Monday in December following the general election.

[As introduced, this bill was identical to H67, as introduced by Reps. Tolson, Farmer-Butterfield, which is currently in Rules and Operations of the Senate.]

CURRENT LAW:

S.L. 1973-921, as amended by S.L. 1987-236, establishes the procedure for electing the Wilson County Board of Education. Members are elected to nonpartisan four-year terms in the general election, and take office on the second Monday in January following the election.

BILL ANALYSIS:

Section 1: Would change the date that newly elected members of the Wilson County Board of Education take office to the second Monday in December.

Section 2: Would make a technical correction to correct an incorrect citation to a prior session law.

EFFECTIVE DATE: SB 83 would become effective when it becomes law.

BACKGROUND: Wilson County is one of the 40 counties in North Carolina subject to Section 5 of the Voting Rights Act. SB 83 may not be implemented until the session law has received preclearance approval under Section 5 from the U.S. Department of Justice.

S83-SMTC-1(e1) v2

ACRE Accountability and Curriculum Reform Effort in Response to *A Framework For Change*

PUBLIC SCHOOLS OF NORTH CAROLINA State Board of Education | Department of Public Instruction

North Carolina Education Context

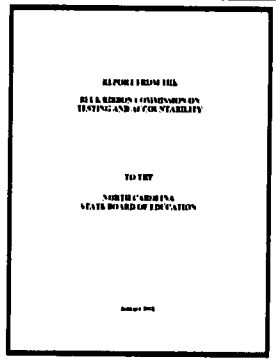
ACRE Accountability and Curriculum Reform Effort in Response to *A Framework For Change*

Background

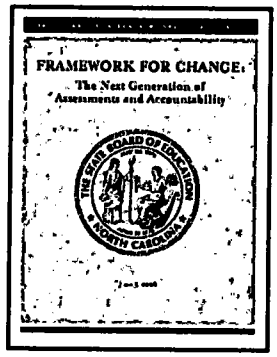
- North Carolina's ABCs emphasize accountability, basics and local control starting in 1995.
- As demands of the workforce change, a next generation model is needed that builds on a solid foundation of standards-based, educational accountability.

ACRE Accountability and Curriculum Reform Effort in Response to A Framework For Change

Vision into Mandate

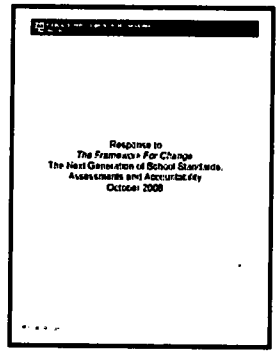


Blue Ribbon Commission (2007-08)
on testing and accountability



Framework For Change (June 2008)

State Board of Education mandate to develop next generation of standards, assessment and accountability



Accountability and Reform Effort (October 2008)

The work to revise standards, assessments and accountability

ACRE Accountability and Curriculum Reform Effort in Response to A Framework For Change

A Simple Vision with 3 Key Parts

Standards	Assessment	Accountability
College and career-ready standards. A new set of academic standards benchmarked against the best national and international expectations. The goal was to set fewer, clearer and higher standards that ensure a student is ready for post-secondary education and work. Standards include Common Core in ELA and Math and NC Essential Standards in all other subjects.	**A comprehensive assessment system** with a focus on using assessments to improve instruction and fairly assess learning and instructional effectiveness. Plan includes updated EOGs and EOCs including using authentic assessments aligned to new, more important standards.	**A revised model** that includes measures of post-secondary readiness (for both college and career), robust, fair growth measures and revised reporting functions. The updated model will motivate behaviors that improve student outcomes for all students in North Carolina.

The new adopted standards are the foundation.

Standards

College and career-ready standards. A new set of academic standards benchmarked against the best national and international expectations.

- Better standards are the starting place for better outcomes and better return on state investment
- Common Core state standards in Math and English shared with 40+ other states
- Other subject area standards will be revised by April 2011
- New standards operational in 2012-13
- Current standards will be operational for both 2010-11 and 2011-12

The assessments system is being reformed and updated.

Assessment

A comprehensive assessment system with a focus on using assessments to improve instruction and fairly assess learning and instructional effectiveness.

- New balanced system to not only measure outcomes but also help teachers adjust instruction for student learning
  - NC FALCON (online professional learning community) operational
  - Online Writing Instruction System operational
- Participation in state assessment consortium to develop Common Core assessments
- Current assessment will be operational for both 2010-11 and 2011-12

A Next Generation of the ABCs is being developed.

Accountability

A **revised model** that includes measures of post-secondary readiness (for both college and career), robust, fair growth measures and revised reporting functions.

- 5 high school indicators
  - Achievement (using End of Course assessments)
  - Growth (using End of Course assessments)
  - Graduation Rate
  - Future-Ready Core
  - Post-Secondary Readiness
- New model will use growth *and* performance for all indicators
- Emphasis on career and college readiness and international competitiveness

Current EOCs are vital to the transition to a new model.

- Physical Science, Algebra II, US History and Civics and Economics assessments are 4 of 7 End of Course assessments used to hold high schools accountable
  - Used to identify high schools in the greatest need of improvement and to measure their growth
- The four assessments are important to effectively measure student learning beyond 9th grade
  - Algebra II is a key gateway to higher education
  - Without Civics and Economics and US History, North Carolina will have no accountability measures for social studies

ACRE Accountability and Curriculum Reform Effort in Response to *A Framework For Change*

Calendar for Roll-Out of **New** North Carolina Standards and Assessments

	Subject Area	Where is North Carolina in the adoption process?	2010-2011 School Year	2011-2012 School Year	2012-2013 School Year
Common Core Standards	English Language Arts	Common Core adopted **June 2010**	*Current standards taught and assessed*	*Current standards taught and assessed*	**Common Core taught & assessed**
	Mathematics	Common Core adopted **June 2010**			**Common Core taught & assessed**
	Science	Essential Standards adopted **February 2010**			**New Essential Standards taught & assessed**
	Social Studies, Healthful Living, Arts, Guidance, World Languages	Social Studies, Arts and World Languages adopted in **Winter 2010.** *(Healthful Living and Guidance - anticipated adoption spring 2011)*			**New Essential Standards taught & assessed**
	Career and Technical Education	Anticipated adoption **in 2011**			**New Essential Standards taught & assessed**
	Early Learning	Anticipated adoption of Essential Standards in **2011**			**New Essential Standards taught**
	Information and Technology Skills	Essential Standards adopted **September 2009**	**New Essential Standards piloted with current SCS**	**New Essential Standards taught**	**New Essential Standards taught**
	Extended Content Standards	**All Extended Content Standards will be on the same operational time line as the standards in each individual content area.**			

March 1, 2011

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — March 2, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Louis M. Fabrizio	NCDPI
Ann McCall	SBE
Rebecca Garland	NCDPI
J Ann Norris	Public School Forum
Mary Ellen Tait	NCSCA
Gene Causby	NCSCA
Tom Darnell	NCICU
Glen Gillette	PFFPNC
Richard O'Brien	PFFPNC
John Bardo	WCU
David Anders	PFFPNC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — March 2, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cheryl Posner-Cahill	NC School Psych Assoc
Andrew Fleming	NCAIFA - Burke
Leanne Winner	NCSBA
Paul Pulley	NCAJ
Sheria Reid	SOG
Joni Allen	BEGINNINGS
Jimmy Dozier	NCLWA
Betty Dozier	UNC Chapel Hill
Julia Adams	The Arc of NC
Jillaine VanEssen	The Arc of NC
Joel Maynard	GAM & ASSOC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — March 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jacob Mader	Teacher
Pablo Friedmann	Teacher
Kellie Slagle	JLF
Becki Gray	JLF
Terry Stoops	JLF
Michelle Frazier	MFTS
David Rice	MFTS
Annaliese Dolph	DPI NC
Katherine W. Joyce	NCASA
Mary Freeman	NCAE
Linda Bunton	NCAE

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — March 2, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jane Stanish	N&O
Monica Johnston	Governor's Office
Bill Lewis	NC Assoc. of Educators

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, March 16, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on March 16, 2011, in Room 544 of the Legislative Office Building. Sixteen members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and introduced the Sergeant-at-Arms and the pages. He then called on Senator Stevens to explain Senate Bill 137.

Chairman Soucek recognized Senator Garrou, who moved for a favorable report.

Chairman Soucek then recognized Senator Stein for a question of Senator Stevens. Senator Stevens deferred the answer to Mr. Steve Brooks of the North Carolina State Education Assistance Authority. Chairman Soucek recognized Mr. Brooks.

After Mr. Brooks answered Senator Stein's question, Chairman Soucek recognized Senator Pate for a question of Senator Stevens. Senator Stevens answered the first part of Senator Pate's question and deferred to Mr. Brooks for the second part. Chairman Soucek recognized Mr. Brooks to continue answering the question.

Chairman Soucek recognized Senator Goolsby who asked to have staff outline the costs associated with the program.

Senator Pate was recognized for a comment.

Chairman Soucek recognized Andrea Poole from the Fiscal Research Division for explanation of the funding involved in the program.

Senator Stein was then recognized for a question of Mr. Brooks.

Chairman Soucek recognized Mr. Brooks to answer the question.

Chairman Soucek then recognized Senator Dannelly for a question of Mr. Brooks.

Mr. Brooks was recognized to answer Senator Dannelly's question.

Chairman Soucek recognized Senator Stevens for a comment.

After Senator Stevens' comment, Chairman Soucek returned to Senator Garrou's motion to give Senate Bill 137 a favorable recommendation. The motion carried.

Chairman Soucek noted that the bill would be additionally referred to the Finance Committee to examine the potential fiscal impact.

Chairman Soucek then called on Senator Stevens to explain Senate Bill 154.

Senator Dannelly moved for a favorable report. The motion carried.

Having no further business, Chairman Soucek thanked the members and adjourned the meeting.

The meeting adjourned at 10:20AM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, March 16, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 137	Establish Forgivable Loan Fund.	Senator Vaughan Senator Stevens
SB 154	Abolish Higher Education Bond Oversight Comm.	Senator Stevens

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, March 16, 2011

Senator SOUCEK,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **137** Establish Forgivable Loan Fund.
Sequential Referral: Finance
Recommended Referral: None

S.B. **154** Abolish Higher Education Bond Oversight Comm.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comments:

SENATE BILL 137*

Short Title:	Establish Forgivable Loan Fund.	(Public)
Sponsors:	Senators Stevens, Vaughan; Atwater and McKissick.	
Referred to:	Education/Higher Education.	

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE FORGIVABLE EDUCATION LOANS FOR SERVICE PROGRAM AND THE FORGIVABLE EDUCATION LOANS FOR SERVICE FUND AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON STATE FUNDED STUDENT FINANCIAL AID.

The General Assembly of North Carolina enacts:

SECTION 1. Effective July 1, 2011, Part 1 of Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-209.45. Forgivable Education Loans for Service Program and Fund.**

(a) Policy. – The General Assembly finds that it is in the public interest to provide financial assistance in the form of forgivable loans for service to qualified students who are committed to working in the State in order to respond to critical employment shortages.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible Institution. – Notwithstanding G.S. 116-201(b)(5) and G.S. 116-201(b)(6) and for purposes of this section only, an institution of higher education that is any of the following:

a. A postsecondary constituent institution of The University of North Carolina as defined in G.S. 116-2(4).

b. A community college as defined in G.S. 115D-2(2).

c. A nonprofit postsecondary institution as defined in G.S. 116-22(1).

d. A postsecondary institution owned or operated by a hospital authority as defined in G.S. 131E-16(14).

e. A school of nursing affiliated with a nonprofit postsecondary institution as defined in G.S. 116-22(1).

f. Another public or nonprofit postsecondary institution offering a program of study not otherwise available in North Carolina that is deemed to be eligible under rules promulgated by the Authority.

(2) Fund. – The Forgivable Education Loans for Service Fund.

(3) Loan. – A forgivable loan made under the Program.

(4) Program. – The Forgivable Education Loans for Service Program.

(c) Establish Forgivable Education Loans for Service Program. – There is established the Forgivable Education Loans for Service Program to be administered by the Authority. The purpose of the program is to facilitate and promote the making, insuring, and collection of loans from the Forgivable Education Loans for Service Fund. The Program shall initially target future teachers, nurses, and allied health professionals.

(d) Establish Forgivable Loans for Service Fund. – There is established the Forgivable Education Loans for Service Fund to be administered by the Authority. The purpose of the

Fund is to provide financial assistance to qualified students to enable them to obtain the requisite education beyond the high school level to work in North Carolina in certain high-need professions as identified by the General Assembly, and to respond to current as well as future employment shortages in North Carolina.

(e) Eligibility for Loans. – The Authority shall establish the criteria for initial and continuing eligibility to participate in the Program. All loan recipients shall be residents of North Carolina and shall attend an eligible institution.

The Authority shall adopt standards deemed appropriate by the Authority to ensure that only qualified, potential recipients receive a loan under the Program. The standards may include minimum grade point average and satisfactory academic progress.

(f) Loan Terms and Conditions. – The following terms and conditions shall apply to each loan made pursuant to this section:

(1) Promissory note. – All loans shall be evidenced by promissory notes made payable to the Authority.

(2) Interest. – All promissory notes shall bear an interest rate established by the Authority that does not exceed ten percent (10%) and is in relation to the current interest rate for non-need-based federal loans made pursuant to Title IV of the Higher Education Act of 1965, as amended. Interest shall accrue from the date of disbursement of the Loan funds.

(3) Loan amount. – The Authority shall establish the amount of the loan based on funds available and factors such as the recipient's educational program, enrollment status, and field of study.

(4) Repayment. – The Authority shall establish the criteria for loan forgiveness for employment in a designated field in North Carolina. These criteria may provide for accelerated repayment and less than full-time employment options. The Authority shall collect cash repayments when service repayment is not completed. The Authority shall establish the terms for cash repayment, including a minimum monthly repayment amount and maximum period of time to complete repayment.

(5) Death and disability. – The Authority may forgive all or part of a loan if it determines that it is impossible for the recipient to repay the loan in cash or service because of the death or disability of the recipient.

(6) Hardship. – The Authority may grant a forbearance, a deferment, or both in hardship circumstances when a good faith effort has been made to repay the loan in a timely manner.

(7) Other. – The Authority may establish other terms and conditions that are necessary or convenient to effectuate the Program.

(g) Advisory Group. – The Authority shall appoint an advisory group composed of, at minimum, appropriate representatives from higher education institutions and health and labor departments, agencies, or commissions to make recommendations to the Authority regarding the Authority's future apportionment and distribution of Program loans based on projected labor market shortages, higher education enrollment projections, and other relevant information.

(h) Use of Fund Monies. – All funds appropriated to or otherwise received by the Authority to provide loans through the Program, all funds received as repayment of loans, and all interest earned on these funds shall be placed in the Fund. The Fund shall be used only for loans made pursuant to this section and for administrative costs of the Authority.

(i) Rule-making Authority. – The Authority may adopt rules necessary to implement, administer, and enforce the provisions of this section.

(j) Report to the General Assembly. – The Authority shall report no later than December 1, 2013, and annually thereafter to the Joint Legislative Education Oversight Committee regarding the Fund and loans awarded from the Fund."

SECTION 2.(a) G.S. 90-171.100 and G.S. 90-171.101 are repealed.

SECTION 2.(b) All financial obligations to any student awarded a scholarship loan from the Graduate Nurse Scholarship Program for Faculty Production Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Graduate Nurse Scholarship Program for Faculty Production Fund. All contractual agreements between a student awarded a scholarship loan from the Graduate Nurse Scholarship Program for Faculty Production Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 90-171.100 and G.S. 90-171.101 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 2.(c) All assets and liabilities in the Graduate Nurse Scholarship Program for Faculty Production Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 3.(a) G.S. 90-171.60, 90-171.61, and 90-171.62 are repealed.

SECTION 3.(b) All financial obligations to any student awarded a scholarship loan from the Nursing Scholars Program Fund and the Masters Nursing Scholars Program Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Nursing Scholars Program Fund and the Masters Nursing Scholars Program Fund. All contractual agreements between a student awarded a scholarship loan from the Nursing Scholars Program Fund and the Masters Nursing Scholars Program Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 90-171.60, 90-171.61, and 90-171.62 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 3.(c) All assets and liabilities in the Nursing Scholars Program Fund and the Masters Nursing Scholars Program Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 4.(a) G.S. 90-171.65 is repealed.

SECTION 4.(b) All financial obligations to any student awarded a scholarship loan from the Nurse Education Scholarship Loan Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Nurse Education Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Nurse Education Scholarship Loan Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 90-171.65 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 4.(c) All assets and liabilities in the Nurse Education Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 5.(a) G.S. 116-40.10 is repealed.

SECTION 5.(b) All financial obligations to any student awarded a scholarship loan from the Board of Governors' Dental Scholarship Loan Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Board of Governors' Dental Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Board of Governors' Dental Scholarship Loan Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the

provisions of G.S. 116-40.10 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 5.(c) All assets and liabilities in the Board of Governors' Dental Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 6.(a) G.S. 116-40.9 is repealed.

SECTION 6.(b) All financial obligations to any student awarded a scholarship loan from the Board of Governors' Medical Scholarship Loan Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Board of Governors' Medical Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Board of Governors' Medical Scholarship Loan Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 116-40.9 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 6.(c) All assets and liabilities in the Board of Governors' Medical Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 7.(a) G.S. 116-209.33 and G.S. 116-209.34 are repealed.

SECTION 7.(b) All financial obligations to any student awarded a scholarship loan from the Prospective Teachers Scholarship Loan Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Prospective Teachers Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Prospective Teachers Scholarship Loan Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 116-209.33 and G.S. 116-209.34 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 7.(c) All assets and liabilities in the Prospective Teachers Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 8. G.S. 116-209.35 is repealed.

SECTION 9.(a) G.S. 116-209.30 is repealed.

SECTION 9.(b) All contractual agreements between a student awarded a scholarship loan from the Social Workers' Education Loan Fund before July 1, 2012, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 116-209.30 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2012.

SECTION 9.(c) All assets and liabilities in the Social Workers' Education Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 10.(a) All financial obligations to any student awarded a scholarship loan from the Student Loan Program for Health, Science and Mathematics Fund before July 1, 2012, shall be fulfilled with funds from the Forgivable Education Loans for Service Fund established under G.S. 116-209.45 provided the student remains eligible under the provisions of the Student Loan Program for Health, Science and Mathematics Fund. All contractual agreements between a student awarded a scholarship loan from the Student Loan Program for Health, Science and Mathematics Fund before July 1, 2012, and the State Education Assistance Authority regarding the loan remain enforceable.

SECTION 10.(b) All assets and liabilities in the Student Loan Program for Health, Science and Mathematics Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 11. All assets and liabilities in the Future Teachers of North Carolina Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 12. All assets and liabilities in the Physical Education Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 13. All assets and liabilities in the Optometry Scholarship Loan Fund shall be transferred to the Forgivable Education Loans for Service Fund established under G.S. 116-209.45.

SECTION 14. Except as otherwise provided herein, this act becomes effective July 1, 2012.

SENATE BILL 137:
Establish Forgivable Loan Fund

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	**Date:**	March 16, 2011
Introduced by:	Sens. Stevens, Vaughan	**Prepared by:**	Sara Kamprath
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 137 would consolidate specific existing financial aid programs to establish the new Forgivable Education Loans for Service Program and Fund to: 1) provide financial assistance to qualified students for certain high-need professions and 2) respond to current and future employment needs in the State. The State Education Assistance Authority (SEAA) would administer the Program and Fund. The SEAA would make a report on loans from the Fund no later than December 1, 2013 and annually thereafter to the Joint Legislative Education Oversight Committee.

The bill is a recommendation of the Joint Select Committee on State Funded Student Financial Aid.

[As introduced, this bill was identical to H120, as introduced by Reps. Rapp, Bell, Glazier, which is currently in House Education, if favorable, Appropriations.]

BILL ANALYSIS: Senate Bill 137 is a recommendation of the Joint Select Committee on State Funded Student Financial Aid that consolidates the following funds into the newly created Forgivable Education Loans for Service Fund:

* Graduate Nurse Scholarship Program for Faculty Production Fund
*Nurse Education Scholarship Loan Fund
*Nursing Scholars Program Fund
*Board of Governors' Dental Scholarship Loan Fund
*Board of Governors' Medical Scholarship Loan Fund
*Prospective Teachers Scholarship Loan Fund
*Teacher Assistant Scholarship Fund
*Social Workers' Education Loan Fund
*Student Loan Program for Health, Science and Mathematics Fund
*Future Teachers of North Carolina Fund
*Coaching Scholarship Loan Fund
*Optometry Scholarship Loan Fund

Section 1 would create the Forgivable Education Loan for Service Program and Fund to provide financial assistance to qualified students to prepare them for certain high-need professions, initially targeting future teachers, nurses and other allied health professionals. The State Education Assistance Authority would be responsible for: 1) administering the program, 2) adopting the eligibility criteria to participate in the Program, 3) establishing the interest rate, loan amount and repayment terms for the loans, 4) appointing an advisory group to make recommendations on the future distribution of loans, 5) making an annual report to the Joint Legislative Education Oversight Committee beginning December 1, 2013, and 6) adopting the rules necessary to implement and administer the Program.

Section 2(a) through Section 7(c) and Sections 9(a) through 9(c) would terminate the existing funds, repeal the statutes that created the existing funds, transfer the assets and liabilities to the Forgivable Education Loans for Service Fund, provide that financial obligations to students who received loans from the terminated funds will be honored under the new Program, and that all contractual agreements between a student with an award from a terminated program and the Authority would remain enforceable. The affected existing programs are: Graduate Nurse Scholarship Program for Faculty

Production Fund (Secs. 2(a) – 2(c)), Nursing Scholars Program Fund and Masters Nursing Scholars Program Fund (Secs. 3(a) – 3(c)), Nurse Education Scholarship Loan Fund (Secs. 4(a) – 4(c), Board of Governors' Dental Scholarship Loan Fund (Secs. 5a – 5(c)), Board of Governors' Medical Scholarship Loan Fund (Secs. 6(a) – 6(c), the Prospective Teachers Scholarship Loan Fund (Secs. 7(a) – 7(c)) and the Social Workers' Education Loan Fund (Secs. 9(a) – 9(c)).

Section 8 would repeal the Teacher Assistant Scholarship Fund.

Sections 10(a) and 10(b) would transfer the assets and liabilities in the Student Loan Program for Health, Science and Mathematics to the Forgivable Education Loans for Service Fund, and provide that financial obligations to students who received loans from the terminated fund will be honored under the new Program.

Sections 11 through 13 would transfer the assets and liabilities in the Future Teachers of North Carolina Fund, Physical Education Scholarship Loan, and the Optometry Scholarship Loan Fund to the Forgivable Education Loans for Service Fund.

EFFECTIVE DATE: Section 1 of the bill would become effective July 1, 2011 and the remaining sections of the bill would become effective July 1, 2012.

BACKGROUND: In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the feasibility of consolidating existing scholarship, loan, and grant programs, especially those programs available for teacher education students. In April 2010, the Committee heard a presentation to consolidate eight existing career-based financial aid programs into one program of "forgivable loans for service" that was supported by UNC President Erskine Bowles and Community Colleges President Scott Ralls.

The Committee's interim report to the 2010 Session of the General Assembly included recommended legislation to create a Work Group to design the forgivable loans for service program. The Work Group included representatives of the State Education Assistance Authority, The University of North Carolina System, the North Carolina Community College System, the NC Independent Colleges and Universities and the NC General Assembly Fiscal Research Division. The Work Group was directed to design a "forgivable loans for service" program that combined at least the following existing programs: the Nurse Educators of Tomorrow; Nurse Scholars Program; Nurse Education Scholarship Loan Program; Board of Governors Medical Scholarship Loans; Board of Governors Dental Scholarship Loans; Health, Science, and Mathematics Student Loan Program; Prospective Teacher Scholarship Loan Program; and the Teacher Assistant Scholarship Loan Program. The consolidated program is to initially focus on the high needs areas of teaching and health professions (including nursing, allied health, and medical, dental and pharmacy careers. The Work Group recommends that loan offers to students would begin in Spring 2012 for academic terms beginning after July 1, 2012 and full implementation would begin in the 2012-13 academic year.

Dr. Steve Brooks, Executive Director, State Education Assistance Authority, presented the Work Group's recommended legislative proposal to the Committee on October 19, 2010. The Committee adopted the Work Group's legislative proposal which became Senate Bill 137.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 154

Short Title:	Abolish Higher Education Bond Oversight Comm.	(Public)
Sponsors:	Senators Stevens; Preston, Soucek, and Tillman.	
Referred to:	Education/Higher Education.	

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO ABOLISH THE HIGHER EDUCATION BOND OVERSIGHT COMMITTEE, WHICH HAS COMPLETED ITS WORK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116D-5 is repealed.

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

SENATE BILL 154: Abolish Higher Education Bond Oversight Comm

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 7, 2011
Introduced by:	Sen. Stevens	**Prepared by:**	Sara Kamprath
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 154 would repeal the Higher Education Bond Oversight Committee which was created to oversee implementation of the bonds issued under the Michael K. Hooker Higher Education Facilities Financing Act (S.L. 2000-3).

CURRENT LAW: S.L. 2000-3 authorized the State to issue general obligation bonds to finance $2.5 billion of capital facilities for The University of North Carolina and $600 million of capital facilities for the community colleges. The 10-member Higher Education Bond Oversight Committee was created and is charged with preparing recommendations about compliance with the Michael K. Hooker Higher Education Facilities Financing Act (Act), whether the awarded contracts are consistent with the budget and scope of the approved projects, whether changes in construction methods could enhance cost-savings, and whether the bonds issuances are adequately timed to reflect cash-flow requirements of the projects.

The Committee is required to make annual reports to the Board of Governors of The University of North Carolina, the State Board of Community Colleges and the Joint Legislative Commission on Governmental Operations. The Committee terminates upon the completion of all funded projects.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: On May 5, 2010, the co-chairs of the Committee sent a letter to Speaker Hackney and President Pro Tempore Basnight formally requesting the dissolution of the Committee effective December 31, 2010. The Committee recommended that oversight of the remaining community college projects be placed within the Office of State Budget and Management and The University of North Carolina General Administration for the remaining UNC project. As of September 2010, 318 of 319 UNC projects were closed. The remaining project is the Digital Conversion project for UNC-TV. As of July 30, 2010, the Community College System Office reported that 94% of the projects had been closed-out or completed. The last project was projected to be completed in July 2012.

S154-SMRJ-6(e1) v2

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 16, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Willis	NCCCS
Steve Brown	NCSEAA
LaVay Spooner	AT&T
Krista Shaw	Butterfly House Child Advocacy Center
Amy Upton	Butterfly House Child Adv. Ctr

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 16, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	CFTF
[illegible]	Ed Consultant
Katherine Joyce	NCASA

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, March 23, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on March 23, 2011, in Room 544 of the Legislative Office Building. Thirteen members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and introduced the Pages and the Sergeant-at-Arms. He then recognized Representative Jim Crawford to explain House Bill 22.

Senator Garrou moved for a favorable report and the committee adopted a favorable report. The bill has an sequential referral to the Senate Finance Committee.

Chairman Tillman relinquished the chair to Senator Preston in order to introduce and be available for questions with regard to Senate Bill 287 since Senator Tom Apodaca was not present.

Senator Garrou moved for a favorable report and the committee adopted a favorable report.

Senator Tillman reassumed the chair and announced that the committee would proceed to the nominations of new members for the State Board of Community Colleges.

Chairman Tillman then recognized Senator Tommy Tucker to introduced Edward Lynn Raye, whom he sponsored for nomination.

Senator Tucker spoke on his behalf and gave a brief biography.

Chairman Tillman then spoke on behalf of his sponsored nominee, Dr. Darrell B. Saunders.

Chairman Tillman then asked for a motion from the committee to accept the nominations of Darrell B. Saunders and Edward Lynn Raye to be put forth to the Senate for election to the State Board of Community Colleges.

Senator Stevens made the motion, which carried.

Chairman Tillman then adjourned the meeting.

The meeting adjourned at 10:20AM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, March 23, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 22	Vance-Granville Comm. Coll. Bond Funds.	Representative Crawford, Jr.
SB 287	Extend Small Business Center Incubator Period.	Senator Apodaca

Presentations

Other Business

Selection of the State Board of Community Colleges Nominees

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, March 23, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **287** Extend Small Business Center Incubator Period.
Sequential Referral: None
Recommended Referral: None

H.B. **22** Vance-Granville Comm. Coll. Bond Funds.
Sequential Referral: Finance
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comments:

SENATE BILL 287

Short Title:	Extend Small Business Center Incubator Period.	(Public)
Sponsors:	Senator Apodaca.	
Referred to:	Education/Higher Education.	

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UMSTEAD ACT TO EXTEND THE PERIOD OF TIME FOR WHICH COMMUNITY COLLEGE SMALL BUSINESS INCUBATORS CAN OFFER SERVICES TO NEW BUSINESS VENTURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58(c)(3a) reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

...

(3a) The use of community college personnel or facilities, with the consent of the trustees of that college, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for one or more of the following specific services in support of economic development:

a. Small business incubators. – As used in this sub-subdivision, the term "small business incubators" means sites for new business ventures in the service area of the community college that are in need of the support and assistance provided by the college; and, without which, the likelihood of success of the business would be greatly diminished. The services of the small business incubator shall not extend to any such new business venture for a period of more than ~~24~~ 48 months.

b. Product testing services.

c. Videoconferencing services provided to the public for occasional use."

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

SENATE BILL 287:
Extend Small Business Center Incubator Period

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 23, 2011
Introduced by:	Sen. Apodaca	**Prepared by:**	Drupti Chauhan
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 287 would extend the period of time for which community college small business incubators can offer services to new business ventures.

CURRENT LAW: As a general rule, G.S. 66-58 (the Umstead Act) prohibits State agencies from competing with private businesses in certain commercial activities. However, there are a number of exceptions that have been made including allowing a community college to permit the use of its personnel or facilities in support of or by a private business enterprise located on the campus of the community college campus or its service areas in support of specific services for economic development if the board of trustees of the college have specifically approved the use of the facilities or personnel. These specific services include "small business incubators" which are sites for new business ventures that are located within a community college's service area and which are not likely to succeed without the support and assistance provided by the college. The services of the small business incubator cannot extend to any such new business venture for more than 24 months.

BILL ANALYSIS: Senate Bill 287 would extend the time period of the service of the small business incubator to qualified new business ventures from 24 to 48 months.

EFFECTIVE DATE: The bill would be effective when it becomes law.

S287-SMRQ-12(e1) v2

HOUSE BILL 22

Short Title:	Vance-Granville Comm. Coll. Bond Funds.	(Public)
Sponsors:	Representative Crawford (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Education, if favorable, Finance.	

February 2, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ADDITIONAL FLEXIBILITY FOR VANCE-GRANVILLE COMMUNITY COLLEGE BOND FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3(b) of S.L. 2000-3 reads as rewritten:

"**Section 3.(b)** Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for new construction only in accordance with the capital allocation formula adopted by the State Board of Community Colleges in March 2000. Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for repair and renovation only in accordance with the repair and renovation formula adopted by the State Board of Community Colleges in May 1998, as supplemented by additional repair and renovation needs determined by the State Board of Community Colleges as of April 2000. The following provisions govern reallocations:

(1) New Construction. – Except as provided in this paragraph, new construction funds allocated in this section to a specific site may not be allocated to another site. If the local board of trustees of a community college determines that new construction funds allocated to a specific site are not needed at that site, the board may request that the State Board of Community Colleges reallocate those funds for new construction at another site of the community college. Except in the case of Mayland Community ~~College,~~College and Vance-Granville Community College, the funds may not be reallocated from a site outside the main campus county to a site within the main campus county. If the State Board of Community Colleges determines that the funds are not needed for new construction at the site for which they were originally allocated, it shall approve the reallocation to the other site and shall substitute the proposed facility at the other site in the Community Colleges System Office's application to the State Treasurer pursuant to G.S. 116D-43.

Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college general obligation bonds allocated to that community college, (ii) certifying that the proposed site is included in the allocations in this section or is a substitute facility at another site because the funds are not needed for new construction at the site for which they are allocated in this section, (iii) certifying that the community college is

prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations.

...."

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

HOUSE BILL 22:
Vance-Granville Comm. Coll. Bond Funds

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	**Date:**	March 23, 2011
Introduced by:	Rep. Crawford	**Prepared by:**	Drupti Chauhan* Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 22 would authorize the use of Vance Granville Community College's bond funds, which are currently allocated to the Granville County campus, for the purchase of property in Vance County.

CURRENT LAW: S.L. 2000-3 authorized the State to issue general obligation bonds to finance $2.5 billion of capital facilities for the University of North Carolina and $600 million of capital facilities for community colleges. The funds for the community colleges were for new construction and for repair and renovation, with a different specific amount for each activity allocated to each community college main campus and satellite campuses existing at that time. Section 3.(b)(1) of S.L. 2000-3 states that if a local board of trustees of a community college finds that new construction funds allocated to a specific site are not needed at that site, then that local board can request that the State Board of Community Colleges reallocate those funds for new construction at another site of the community college. This section also stipulates that, except in the case of Mayland Community College, bond funds could not be reallocated from "a site outside the main campus county to a site within the main campus county."

BILL ANALYSIS: House Bill 22 would grant the same exception to Vance-Granville Community College that was granted to Mayland Community College in 2000 to reallocate bond funds from a site outside the main campus county to a site within the main campus county.

EFFECTIVE DATE: This bill would become effective when it becomes law.

BACKGROUND: Vance Granville Community College (VGCC) has several counties within its service area, and the bond proceeds were allocated among the campuses in Franklin, Warren, Granville and Vance (main campus) counties. For VGCC, $3.8 million was designated for the Granville County campus. Of that amount, $734,669 remains unallocated. These are all the community college-designated funds that remain from the 2000 Higher Education Bond Act.

H22-SMRQ-11(e1) v1

**Patsy Pierce, Committee Analyst, substantially contributed to this summary.*

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, March 23, 2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martez Hill	NC State Bd of Educ
Jackson	DPI
Joyce Peters	JP Assoc
Matt Farrell	NCSBA
Gene Causby	NCSCA
[illegible]	NCICU
Mary Ellen Taft	NCSCA
[illegible]	NCSS
Angel Sams	NSS
[illegible]	Ed Consultant
[illegible]	WCU/UNC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, March 23, 2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Christopher Hill	NC Justice Center
Lesley Cates	UNC GA
Erin Schuldt	UNC-CH
Starla Tanner	NCCU
Mike Tarrant	UNCG
Jennifer Wills	NLLS
Dawn Shepherd Pope	Office of the Governor
Joyce Wallace	OSBM
Gary D Blevins	Wilkes Co. Commissioner
Evelyn Hawthorne	EHGR
Jack Cozort	NSS

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 23, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike McLaughlin	Lt. Governor's Office
Leslie Berrogain Coren	Capstrat
Andrew Meehan	Capstrat

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, March 30, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on March 30, 2011, in Room 544 of the Legislative Office Building. Twenty-two members of the committee were present. Senator Jean Preston presided.

Chairman Preston called the meeting to order and introduced the Sergeant-at-Arms and the Pages. She also recognized students from Athens High School in Raleigh and Mr. Larry Yates from the Program Evaluation Division.

Chairman Preston asked for a motion to adopt the Proposed Committee Substitute to Senate Bill 296. With the motion made, she recognized Senator Atwater to explain the bill.

After explanation, Chairman Preston recognized Senator McKissick to comment on the bill. After a brief statement in support of the bill, Senator McKissick moved for a favorable report of the Proposed Committee Substitute.

Senator Tillman was then recognized for a question of Senator Atwater. Following Senator Atwater's answer, Senator Tillman asked a follow-up question, which Senator Atwater referred to Kara McCraw from the Research Division.

Chairman Preston then recognized Senator Stevens for a comment.

Following Senator Stevens' comment, Chairman Preston returned to Senator McKissick's motion for a favorable report to the Proposed Committee Substitute. The motion carried and Chairman Preston noted that the bill would be additionally referred to the Senate Appropriations Committee.

Chairman Preston then recognized Senator Allran for a motion to adopt a Proposed Committee Substitute to Senate Bill 339. After the motion, Chairman Preston recognized Senator Hartsell to explain the bill.

Following the bill's explanation, Chairman Preston recognized Senator Brown for a question of Senator Hartsell. Senator Hartsell answered and referred the question to Mr. Larry Yates of the Performance Evaluation Division.

Chairman Preston recognized Mr. Yates, who continued answering the question.

Chairman Preston then recognized Senator Allran for a series of questions of Senator Hartsell. Mr. Yates and Paula Hildebrand of the Department of Public Instruction were also referred to in order fully to answer Senator Allran's questions.

Chairman Preston recognized Senator Brown for another question of Senator Hartsell.

Chairman Preston then recognized Senator Newton for a question of Senator Hartsell.

Chairman Preston recognized Senator Allran for additional questions. Senator Hartsell referred questions to Mr. Gary Tsifrin of the Drivers Education Committee.

Chairman Preston recognized Mr. Tsifrin to continue answering Senator Allran's questions.

Senator Rucho was then recognized and made motion for a favorable recommendation to the Proposed Committee Substitute. The motion carried.

Chairman Preston recognized Representative Dan W. Ingle to explain House Bill 7.

After explanation was given, Chairman Preston recognized Senator Garrou for questions of Representative Ingle.

Chairman Preston recognized Senator Tillman for comments on the bill.

Chairman Preston then recognized Senator Daniel who moved that the committee adopt a favorable report on House Bill 7.

Chairman Preston recognized Senator Nesbitt for a question of Representative Ingle.

Chairman Preston called on Andrea Poole for clarification on the questions asked previously.

Chairman Preston then recognized Senator Robinson, who offered an amendment and explained the amendment.

After explanation of the amendment, Chairman Preston recognized Senator Rucho for questions of Representative Ingle.

Chairman Preston recognized Senator Newton for a series of questions of Senator Robinson.

After the questions, Chairman Preston called for a vote on the amendment and the amendment failed.

Senator Brock then called the question on Senator Daniel's original motion for a favorable report on the bill. The motion carried and the bill received a favorable recommendation.

Chairman Preston thanked the committee and adjourned the meeting.

The meeting adjourned at 11:00AM.

Senator Jean Preston, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, March 30, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 7	Comm. Colleges/Opt Out of Fed'l Loan Program.	Representative Ingle Representative McCormick Representative Cleveland
SB 296	Cooperative Innovative High School Programs.	Senator Atwater Senator McKissick
SB 339	Modify Driver Education Program.	Senator Hartsell

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, March 30, 2011

Senator PRESTON,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **7** Comm. Colleges/Opt Out of Fed'l Loan Program.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **296** Cooperative Innovative High School Programs.
Draft Number: PCS55191-TC-4
Sequential Referral: None
Recommended Referral: Appropriations/Base Budget
Long Title Amended: Yes

S.B. **339** Modify Driver Education Program.
Draft Number: PCS55197-TL-3
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 2

HOUSE BILL 7*
Committee Substitute Favorable 2/22/11

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Program. (Public)

Sponsors:

Referred to:

January 27, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CONSTITUENT INSTITUTIONS OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 reads as rewritten:

"**§ 115D-40.1. Financial Assistance for Community College Students.**

...

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan ~~Program.~~Program, unless the board of trustees of an institution adopts a resolution declining to participate in the Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, ~~and~~ and, for participating colleges, the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds. The board of trustees of any institution that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act becomes effective July 1, 2011.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 7*

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

H7-ARJ-31 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date _____,2011

Senator Robinson

moves to amend the bill on page 1, lines 20-21, by adding between the lines the following:
"Any community college that declines to participate in the Program shall report to the State Board of Community Colleges on: 1) the number of students that are borrowing to pay for the cost of attending the community college, 2) the kind of borrowing, especially credit card borrowing, and 3) the interest rate, fees, and repayment terms paid by students for loans and credit card borrowing.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 7:
Comm. Colleges/Opt Out of Fed'l Loan Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 29, 2011
Introduced by:	Reps. Ingle, Cleveland, McCormick	**Prepared by:**	Sara Kamprath
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 7 would allow the board of trustees of a community college to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). A community college would have a single opportunity to rescind that resolution and begin participating in the Program. Financial aid counselors at each participating college will inform the students about the Program and actively encourage them to utilize these funds.***

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: House Bill 7 would allow a community college to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the institution adopted a resolution declining to participate in the Program. The board of trustees of an institution would be able to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

The State Board shall ensure that all the community colleges have at least one counselor to inform students about available federal programs and funds but only at the participating colleges would the counselors have to inform students about the William D. Ford Federal Direct Loan Program.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent

fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

H7-SMRJ-11(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 7 (Second Edition)

SHORT TITLE: Comm. Colleges/Opt Out of Fed'l Loan Program.

SPONSOR(S): Representatives Ingle, Cleveland, and McCormick

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
REVENUES:					
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Community College System

EFFECTIVE DATE: July 1, 2011

BILL SUMMARY:
Currently, G.S. 115D-40.1(d) requires all community colleges to participate in the William D. Ford Federal Direct Loan Program, effective July 1, 2011. House Bill 7 would amend G.S. 115D-40.1(d) to allow a community college to opt out of participating in the William D. Ford Direct Loan Program if the board of trustees of the institution adopted a resolution declining to participate. Boards of trustees would be permitted to rescind the resolution and participate in the program, but would not have the authority of decline participation a second time.

ASSUMPTIONS AND METHODOLOGY:
House Bill 7 would remove the requirement that schools participate in the William D. Ford Federal Loan Program from G.S. 115D-40.1(d). However, the bill does not affect the total funding available to the Community College System, nor does it affect the distribution of funds to colleges (either the amount per college or how colleges can spend their allocations). Therefore, there is no fiscal impact.

BACKGROUND:
As stated above, House Bill 7 affects neither the total funding available to the Community College System nor the distribution of funds within the system. However, in 2010, there was a shift in funding within the Community College System related to the requirement that all colleges

participate in the William D. Ford Federal Direct Loan Program as of July 1, 2011. Following is a brief history of those changes.

In October 2009, the Joint Select Committee on State-funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. In its interim report to the 2010 Session, the Committee recommended legislation to:

- Require all community colleges to participate in the William D. Ford Federal Direct Loan Program by July 1, 2011 and
- Require the State Board of Community Colleges to permanently realign its funding formula by shifting $50 million from curriculum and continuing education instruction allotments to student services (a part of the Institutional Support allotment).

This $50 million realignment was made up of two pieces:

- **$32 million** for financial aid offices to address an increased proportion of students seeking financial aid and increased requirements of the Federal Higher Education Opportunity Act including:
  - Two Pell Grant awards in one academic year,
  - New access to federal aid programs for students with intellectual disabilities, and
  - Expanded requirements for consumer information.
- **$19 million** to address the increased requirements a college would experience by participating in the federal loan program.

These pieces were combined into the one recommendation to realign a total of $50 million. The Committee's recommendations were enacted as Section 8.5 of S.L. 2010-31 (S.B. 897).

It is important to note that Section 8.5 does not change the overall amount of funding available to community colleges, but instead gives the colleges increased flexibility in how they can spend their allocations. Community colleges have broad budget flexibility, but are restricted in the percentage of funding for instruction that can be transferred. Colleges are not similarly restricted in the percentage of Institutional Support funding that can be transferred. Therefore, by shifting the funds to the Institutional Support allocation, colleges have the ability to use the funds in student services but also have the ability to transfer the funds back to instruction.

SOURCES OF DATA:
Joint Select Committee on State-funded Student Financial Aid Interim Report, North Carolina Community College System Office, Session Law 2010-31.

TECHNICAL CONSIDERATIONS: None
FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Andrea Poole

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: February 24, 2011

Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE BILL 296

Short Title:	Cooperative Innovative High School Programs.	(Public)
Sponsors:	Senators Atwater and McKissick.	
Referred to:	Education/Higher Education.	

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE DEFINITION OF COOPERATIVE INNOVATIVE HIGH SCHOOL PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.50(e) reads as rewritten:

"(e) Cooperative innovative high school programs may include the creation of a school within a school, a technical high school, a high school or technical center located on the campus of a college or university, or a five-year career academy operating as part of an existing high ~~school.~~school, or another program operated in cooperation with an institution of higher education."

SECTION 2. G.S. 115C-238.54(a) reads as rewritten:

"(a) The Department of Public Instruction ~~shall~~ may, as it determines appropriate, assign a school code for each program that is approved under this Part, with the exception of a five-year career academy operating as part of an existing high school, which shall continue to use the existing school code. All positions and other State and federal allotments that are generated for this program shall be assigned to that school code. Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the local board of education may use these funds for the program and may transfer these funds between funding allotment categories."

SECTION 3. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 296
PROPOSED COMMITTEE SUBSTITUTE S296-CSTC-4 [v.6]

3/29/2011 2:32:47 PM

Short Title: Dropout Recovery Programs. (Public)

Sponsors:

Referred to:

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO PERMIT COURSES FOR STUDENTS ENROLLED IN THE GATEWAY TO COLLEGE PROGRAM TO GENERATE BUDGET FTE AND TO DEVELOP AN APPROVAL PROCESS FOR DROPOUT RECOVERY PROGRAM PARTNERSHIPS BETWEEN LOCAL COMMUNITY COLLEGES AND LOCAL SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-20(4) reads as rewritten:

"(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Provided, notwithstanding any law or administrative rule to the contrary, local administrative boards and local school boards may establish cooperative programs in the areas they serve to provide for college courses to be offered to qualified high school students with college credits to be awarded to those high school students upon the successful completion of the courses. Provided, further, that during the summer quarter, persons less than 16 years old may be permitted to take noncredit courses on a self-supporting basis, subject to rules of the State Board of Community Colleges. Provided, further, that high school students may be permitted to take noncredit courses in safe driving on a self-supporting basis during the academic year or the summer. Provided, further, that local administrative boards and local school boards may establish dropout recovery programs in the areas they serve, subject to the approval of the State Board of Community Colleges."

SECTION 2. S.L. 2010-31, Sec. 7.24(h) reads as rewritten:

"**SECTION 7.24.(h)** Beginning with the 2010-2011 school year, courses provided in (i) general education, except for mathematics, science, and technology, (ii) physical education, and (iii) college success skills courses offered to high school students shall no longer generate State funding through budget FTE. If an institute of higher education offers these courses to high school students, the colleges may charge an amount sufficient to cover the costs of the courses.

This subsection does not apply to courses provided to students of Early and Middle College High ~~Schools.~~ Schools, or students enrolled in the Gateway to College programs operating at Durham Technical Community College or the College of the Albemarle."

SECTION 3. The State Board of Community Colleges, in conjunction with the State Board of Education, shall develop a process for approval of high school dropout recovery

program partnerships between local community college and local school administrative units. The State Board of Community Colleges and State Board of Education may examine the Gateway to College programs at Durham Technical Community College and College of the Albemarle for examples of best practices in establishing high school dropout recovery program partnerships. The State Board of Community Colleges and the State Board of Education shall report to the Joint Legislative Education Oversight Committee no later than March 1, 2012 on any recommended legislation needed for approval of such programs.

SECTION 4. This act becomes effective July 1, 2011.

SENATE BILL 296:
Cooperative Innovative High School Programs

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 30, 2011
Introduced by:	Sens. Atwater, McKissick	**Prepared by:**	Kara McCraw
Analysis of:	PCS to First Edition S296-CSTC-4		Committee Counsel

SUMMARY: The Proposed Committee Substitute (PCS) for SB296 would permit the establishment of dropout recovery programs by community colleges and local school boards, provide budget FTE funding for students enrolled in Gateway to College programs at Durham Technical Community College and College of the Albemarle, and require the development of a process for approval of high school dropout recovery program partnerships.

CURRENT LAW: G.S. 115D-20(4) permits local community colleges boards of trustees and local boards of education to establish cooperative programs to provide college courses to qualified high school students.

S.L. 2010-31, Sec. 7.24(h) limits the community college courses taken by high school students which may earn State funding through budget FTE to courses in mathematics, science, and technology. Courses taken by students enrolled in Early and Middle College High Schools are not subject to this limitation, and may earn budget FTE for all community college courses in which those students enroll.

BILL ANALYSIS:

Section 1: Amends G.S. 115D-20(4) to add authority for establishment of dropout recovery programs between the local administrative boards and local school boards, if approved of the State Board of Community Colleges.

Section 2: Creates an exception in prior budget language limiting budget FTE for high school students enrolled in community college courses to allow Gateway to College programs operating at the College of the Albemarle and Durham Technical Community College to earn budget FTE for high school students enrolled in those courses.

Section 3: Directs the State Board of Community Colleges and State Board of Education to develop a process for approval of high school dropout recovery program partnerships between local community colleges and local school administrative units, and directs those Boards to report to the Joint Legislative Education Oversight Committee no later than March 1, 2012 on any recommended legislation needed for approval of such programs.

EFFECTIVE DATE: SB 296 would become effective July 1, 2012.

BACKGROUND: The Gateway to College programs operating at the College of the Albemarle and Durham Technical Community College are dropout recovery programs targeted at students 16 and older who have dropped out of high school or are behind in completing high school credits and have expressed a desire to earn a high school diploma and college degree.

S296-SMTC-7(CSTC-4) v2

SENATE BILL 339

Short Title:	Modify Driver Education Program.	(Public)
Sponsors:	Senators Hartsell; and Bingham.	
Referred to:	Education/Higher Education.	

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF PUBLIC INSTRUCTION TO PROVIDE ADDITIONAL FISCAL AND TECHNICAL OVERSIGHT OF THE DRIVER EDUCATION PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-215 reads as rewritten:

"**§ 115C-215. ~~Instruction in driver training and safety education.~~Administration of driver education program by the Department of Public Instruction.**

~~There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be noncredit courses taught by instructors who meet the requirements established by the State Board of Education. Instructors shall not be required to hold teacher certificates.~~

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a standardized program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for this purpose all funds appropriated to it for this purpose, and may use all other funds that become available for its use for this purpose.

(b) The driver education curriculum shall include the following:

(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of this Chapter.

(2) At least six hours of instruction on the offense of driving while impaired and related subjects.

(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.

(c) The State Board of Education shall establish and implement a strategic plan for the driver education program. At a minimum, the strategic plan shall consist of goals and performance indicators, including the number of program participants as compared to the number of persons eligible to participate in the program, the implementation of a standard

curriculum for the program, expenditures for the program, and the success rate of program participants in receiving a drivers license.

(d) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who do not hold teacher certificates.

Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.

(e) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates."

SECTION 2. G.S. 115C-216 reads as rewritten:

"§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.

(a) Course of Training and Instruction Required in Public High Schools. – ~~The State Board of Education and local~~ Local boards of education ~~are required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles, in accordance with G.S. 20-88.1.~~shall offer noncredit driver education courses in high schools using the standardized curriculum provided by the Department of Public Instruction.

(b) Inclusion of Expense in Budget. – The local boards of education ~~of every local school administrative unit are hereby authorized to~~shall include as an item of instructional service and as a part of the current expense fund of the budget of the ~~several~~ high schools under their supervision, the expense necessary ~~to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles~~to offer the driver education course.

(c) to (f) Repealed by Session Laws 1991, c. 689, s. 32(c)."

SECTION 3. G.S. 20-88.1 reads as rewritten:

"§ 20-88.1. Driver education.

~~(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose.~~

~~The driver education program established pursuant to this section must include the following:~~

~~(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of this Chapter.~~

~~(2) At least six hours of instruction on the offense of driving while impaired and related subjects.~~

~~(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.~~

~~(b) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who do not hold teacher certificates.~~

~~Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.~~

~~(b1) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates.~~

~~(c)~~(a) All expenses incurred by the State in carrying out the provisions of ~~this section~~the driver education program administered by the Department of Public Instruction in accordance with G.S. 115C-215 shall be paid out of the Highway Fund.

~~(d)~~(b) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. At the request of the Department of ~~Education,~~ Public Instruction, the Division shall provide free copies of the handbook to that Department for use in the program of driver education offered at public high schools."

SECTION 4.(a) The State Board of Education shall report to the Joint Legislative Program Evaluation Oversight Committee by July 15, 2011, on the status of the implementation of Section 7.12 of S.L. 2010-31, which mandates the creation of a standard curriculum to be used for the driver education program in the Department of Public Instruction.

SECTION 4.(b) For the 2011-2012 school year, no State funds shall be used for driver education programs that do not use the standard driver education curriculum created in accordance with Section 7.12 of S.L. 2010-31.

SECTION 5. The State Board of Education shall establish a pilot program to deliver driver education by electronic means. At least five local school administrative units shall participate in the pilot program. Funds appropriated for driver education shall be used to implement the pilot program. The State Board shall report on the implementation of the pilot program to the Joint Education Oversight Committee and the Joint Legislative Program Evaluation Oversight Committee by February 15, 2012. The report shall include the cost per student of delivering the instruction and the success rate of program participants in receiving a drivers license.

SECTION 6. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and to the Joint Legislative Program Evaluation Oversight Committee by February 15, 2012, on the following:

(1) The most cost-effective method of delivering driver education in the short- and long-term. In making this determination, the State Board of Education shall consider the results of the pilot program implemented pursuant to Section 5 of this act.

(2) The strategic plan adopted by the State Board of Education in accordance with G.S. 115C-215.

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 339
PROPOSED COMMITTEE SUBSTITUTE S339-CSTL-3 [v.6]

3/29/2011 6:21:35 PM

Short Title: Modify Driver Education Program. (Public)

Sponsors:

Referred to:

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF PUBLIC INSTRUCTION TO PROVIDE ADDITIONAL FISCAL AND TECHNICAL OVERSIGHT OF THE DRIVER EDUCATION PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-215 reads as rewritten:

"**§ 115C-215. ~~Instruction in driver training and safety education.~~Administration of driver education program by the Department of Public Instruction.**

~~There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be noncredit courses taught by instructors who meet the requirements established by the State Board of Education. Instructors shall not be required to hold teacher certificates.~~

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a standardized program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for this purpose all funds appropriated to it for this purpose, and may use all other funds that become available for its use for this purpose.

(b) The driver education curriculum shall include the following:

(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of Chapter 20 of the General Statutes.

(2) At least six hours of instruction on the offense of driving while impaired and related subjects.

(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.

(4) At least one hour of motorcycle safety awareness training.

(c) The State Board of Education shall establish and implement a strategic plan for the driver education program. At a minimum, the strategic plan shall consist of goals and performance indicators, including the number of program participants as compared to the number of persons projected to be eligible to participate in the program, the implementation of a standard curriculum for the program, expenditures for the program, and the success rate of program participants in receiving a drivers license as reported by the Division of Motor Vehicles. The strategic plan shall also outline specific roles and duties of an advisory committee consisting of employees of the Division of Motor Vehicles and the Department of Public Instruction and other stakeholders in driver education.

(d) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who do not hold teacher certificates.

Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.

(e) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates."

SECTION 2. G.S. 115C-216 reads as rewritten:

"**§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.**

(a) Course of Training and Instruction Required in Public High Schools. – ~~The State Board of Education and local~~ Local boards of education ~~are required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles, in accordance with G.S. 20-88.1.~~shall offer noncredit driver education courses in high schools using the standardized curriculum provided by the Department of Public Instruction.

(b) Inclusion of Expense in Budget. – The local boards of education ~~of every local school administrative unit are hereby authorized to~~shall include as an item of instructional service and as a part of the current expense fund of the budget of the ~~several~~ high schools under their supervision, the expense necessary ~~to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles~~to offer the driver education course.

(c) to (f) Repealed by Session Laws 1991, c. 689, s. 32(c)."

SECTION 3. G.S. 20-88.1 reads as rewritten:

"**§ 20-88.1. Driver education.**

~~(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose.~~

~~The driver education program established pursuant to this section must include the following:~~

~~(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including~~

~~the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of this Chapter.~~

~~(2) At least six hours of instruction on the offense of driving while impaired and related subjects.~~

~~(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.~~

~~(b) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who do not hold teacher certificates.~~

~~Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.~~

~~(b1) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates.~~

(c) All expenses incurred by the State in carrying out the provisions of ~~this section~~the driver education program administered by the Department of Public Instruction in accordance with G.S. 115C-215 shall be paid out of the Highway Fund.

(d) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. At the request of the Department of ~~Education,~~ Public Instruction, the Division shall provide free copies of the handbook to that Department for use in the program of driver education offered at public high schools."

SECTION 4.(a) The State Board of Education shall report to the Joint Legislative Program Evaluation Oversight Committee by July 15, 2011, on the status of the implementation of Section 7.12 of S.L. 2010-31, which mandates the creation of a standard curriculum to be used for the driver education program in the Department of Public Instruction.

SECTION 4.(b) For the 2011-2012 school year, no State funds shall be used for driver education programs that do not use the standard driver education curriculum created in accordance with Section 7.12 of S.L. 2010-31.

SECTION 5. The State Board of Education shall establish a pilot program to deliver driver education by electronic means. At least five local school administrative units shall participate in the pilot program. Funds appropriated for driver education shall be used to implement the pilot program. The State Board shall report on the implementation of the pilot program to the Joint Legislative Education Oversight Committee and the Joint Legislative Program Evaluation Oversight Committee by June 15, 2012. The report shall include the cost per student of delivering the instruction and the success rate of program participants in receiving a drivers license.

SECTION 6. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and to the Joint Legislative Program Evaluation Oversight Committee by June 15, 2012, on the following:

(1) The most cost-effective method of delivering driver education in the short- and long-term. In making this determination, the State Board of Education shall consider the results of the pilot program implemented pursuant to Section 5 of this act.

(2) The strategic plan adopted by the State Board of Education in accordance with G.S. 115C-215.

SECTION 7. This act is effective when it becomes law.

SENATE BILL 339:
Modify Driver Education Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	March 30, 2011
Introduced by:	Sen. Hartsell	**Prepared by:**	Patsy Pierce Legislative Analyst
Analysis of:	PCS to First Edition S339-CSTL-3		

SUMMARY: ***Senate Bill 339 would move the driver education section out of the motor vehicles statutes and place it in the public school driver education statutes to clarify the State Board of Education's (SBE) authority over driver education. The bill would require the use of a standard driver education curriculum and for the SBE to establish and implement a strategic plan for driver education. Funding for the driver education program would continue to come out of the Highway Fund. A pilot program on electronic delivery of driver education would be established. Several reports from the SBE to the Joint Legislative Education Oversight Committee and the Joint Legislative Program Evaluation Oversight Committee would be required regarding implementation of: (1) the standard driver education curriculum developed by the Department of Public Instruction (Due date: July 15, 2011), (2) electronic delivery of driver education pilot program and a report on cost and effectiveness and, (3) the SBE strategic plan and the most cost-effective way to deliver driver education.***

The Proposed Committee Substitute for SB 339 would: (a) add a requirement of one hour of motorcycle safety awareness training to existing items to be covered in driver education; (b) require the SBE, in the strategic plan, to outline specific roles and duties of an advisory committee consisting of employees of the Division of Motor Vehicles and the Department of Public Instruction and other stakeholders in driver education; (c) change the due dates of reports (2) and (3) above to June 15, 2012; (d) make technical corrections.

CURRENT LAW: G.S. 115C-215 states that a "program of driver training and safety education in the public schools" shall be "organized and administered" under the "general supervision" of the Superintendent of Public Instruction. The courses are non-credit bearing and taught by instructors meeting the requirements set by the State Board of Education (SBE). The instructors do not have to be certified teachers. G.S.115C-216 states that the SBE and local boards of education are required to provide a high school course of training and instruction in the operation of motor vehicles. Local boards of education are authorized to budget for necessary expenses related to providing this course.

G.S. 20-88.1 includes the following information about driver education:

- The SBE and the Superintendent of Public Instruction shall organize and administer a program of driver education to be offered in public high schools.
- Recipients of driver education are all physically and mentally qualified person older than 14 years and six months, approved by the school's principal pursuant to rules adopted by the SBE, enrolled in a public or private high school, and have not previously enrolled in the program.
- Required topics to be covered in driver education include: (1) instruction on the rights and privileges of persons with disabilities and the signs and symbols used to assist these persons relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of Chapter 20, (2) at least six hours of instruction on the offense of driving while impaired and related subjects, and (3) at least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.
- The SBE adopts the salary range for driver education instructors who are public school employees and who are not certified teachers. Driver education instructors who are public school employees and certified teachers are paid on the teacher salary schedule and have the same number of required days of

employment of other regular classroom teachers. The SBE adopts rules to permit local boards of education to contract with public or private entities to provide driver education, provided that instructors not be required to be certified teachers.

- All expenses incurred by the State in carrying out the driver education program are paid out of the Highway Fund. The Division of Motor Vehicles prepares the driver's license handbook and provides free copies to the Department of Public Instruction.

BILL ANALYSIS: **Sections 1-3** of the bill would move driver education specifications from G.S. 20-88.1, as outlined above, and put this language in G.S. 115C-215. A new requirement would be added for the SBE to establish and implement a strategic plan for the driver education program consisting of goals and performance indicators including the number of program participants compared to the number of participants projected to be eligible, implementation of a standard curriculum, expenditures, and success rate of participants receiving a drivers license as reported by DMV. The PCS would require the SBE to outline, in the strategic plan, specific roles and duties of an advisory committee consisting of employees of the Division of Motor Vehicles and the Department of Public Instruction and other stakeholders in driver education.

The bill would also simplify current language in G.S. 115C-216 to more clearly state that the local boards of education shall include expenses of offering the driver education course in their budgets.

The bill would leave the requirement that all expenses incurred by the State in carrying out the driver education program shall be paid out of the Highway fund in G.S. 20-88.1 and adds that the driver education program is "administered by the Department of Public Instruction in accordance with G.S. 115C-215."

The PCS adds at least one hour of motorcycle safety awareness training to the required driver education topics.

Section 4(a) of the bill would require the SBE to report on the implementation status of the driver education standard curriculum to the Joint Legislative Program Evaluation Oversight Committee (JLPEOC) by July 15, 2011.

Section 4(b) of the bill would prohibit the use of State funds by driver education programs not using the standard curriculum for the 2011-12 school year. The curriculum was mandated by the General Assembly in 2010.

Section 5 of the bill would require the SBE to establish a pilot program of at least five local school administrative units to deliver driver education electronically. Funds appropriated for driver education are to be used to fund the pilot program. The SBE would report on the implementation of the pilot program including the cost per student of delivering the instruction and the success rate of the participants in receiving a drivers license to the JLPEOC and to the Joint Legislative Education Oversight Committee (JLEOC). The PCS changes the due date from Feb. 15, 2012 to June 15, 2012.

Section 6 of the bill would require the SBE to report to the JLPEOC and to the JLEOC on (1) the most cost effective way to deliver driver education taking into account the findings of the pilot study on electronic delivery, and (2) the strategic plan adopted by the SBE as required by Section 1of the bill. The PCS changes the due date from Feb. 15, 2012 to June 15, 2012.

EFFECTIVE DATE: This bill would become effective when it becomes law.

BACKGROUND: In November, 2011 the General Assembly's Program Evaluation Division (PED) completed a North Carolina Accountability Report (NCAR) on driver education offered in public schools. The report rated the driver education program as not demonstrating desired results. Several issues with the program were identified including the lack of a standard curriculum, technical, and financial oversight provided by the Department of Public Instruction. The review indicated that program design and operation are delegated to local education agencies. The PED report included the following options: (1) implement and strengthen the statutes regarding driver education and/or (2) include a full evaluation of the driver education program in the PED's 2011-13 work plan. The first option was adopted by the JLPEOC in December, 2011 and is reflected by this bill.

S339-SMTL-15(CSTL-3) v10

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 30, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leanne Winner	NCSBE
Gene Causby	NCDTH
Evelyn Hawthorne	EHGR
Katherine Joyce	NCASA
[illegible]	NCNA/TA
Ann McColl	SBE
Martez Hill	SBE
Reggie Flythe	WCPSS
Paula Hildebrand	DPI

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 30, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Malinda Todd	NC REAL
Eleanor Herndon	NC REAL Entrepreneurship
Mary Ellen Taft	NCBCA
[illegible]	NCICU
[illegible]	Infosys

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 30, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kenny Briggs	NCCCS
Jennifer Willis	"
Val Wilson	"
Dr. Bill Ingram	Durham Tech CC
GARY TSIFRIAS	Forsyth Tech. Com
[illegible]	[illegible]
Sam Watts	NC Center for Public Policy Research
Pam Cobb	" " " " "
Rob Chason	Athens Drive High Athletic Dept
[illegible]	NCCC
[illegible]	NCSBA

Name	Agency
Chris Kulesa	MN
Jodi Myzak	EPA Region
Tina Gordon	NE Nebraska
Jh Pollard	NCRAM
Sarah R. Robinson	NCADA
John Ilderton	NCADA
Jeremy Bartsch	NCADA
April Porterfield	NCADA
Greg Wallis	NLFDC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 30, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Derek Graham	NCDPI
WALTER BRITT	YMCA
LEE Whitaker	YMCA
Jonathan Holt	Sen. Gunn
MIKE HUGHES	ATHENS DRIVE HIGH SCHOOL
Caroline Campbell	Athens Dr. High School
Audrey Carlyle	Athens Dr. High School
Callie Daves	Athen Drive High School
Kay Emanuel	Legislative Reporting Services
Beau Memory	NCCS
[signature]	OSBM

Name	Agency
Daniel Baum	Troutman Sanders
[signature]	[signature]
John Bardish	ADA
[signature]	UNC SOG
Caroline Denning	NMSS - NC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, March 30, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Greenstein	OSBM
Monica Yelverton	Governor's Office
Jon Allen	BEGINNINGS
[illegible]	Sen. Stein
CHAD Merrill	Blue Ridge Comm. College
HANS Dodd	ASTEA - Comm College
Molly Parkhill	Blue Ridge Comm. College
Rose Johnson	Haywood Com. College
Ross Smith	Tomorrow Corp - PCS Principate
Christa Craig	Workforce
FJ Miller	Moss Corp

Name	Agency
[illegible]	[illegible]
[illegible]	NMSS-NC
[illegible]	Caldwell Anthropological
[illegible]	[illegible]
Olivia de Araujo	Olivia de [illegible]
Dr. William de Araujo	[illegible]
[illegible]	NC Medical Society

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, April 6, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on April 6, 2011, in Room 544 of the Legislative Office Building. 16 members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and recognized the Sergeant-at-Arms and the pages.

Chairman Soucek then recognized Senator Jerry Tillman to explain Senate Bill 423 (Education Oversight Committee Study of Teacher Tenure).

Senator Tillman explained that there have been concerns for many years regarding the subject of teacher tenure. This bill will provide opportunity to study this issue and report to the General Assembly the results. Senator Tillman then asked Chairman Soucek to recognize Brian Lewis of the North Carolina Association of Educators (NCAE) to speak on the bill.

Chairman Soucek recognized Brian Lewis who said that the NCAE supports educating people on the subjects of career status and teacher tenure. He indicated that there is a need to educate how teacher and due process work. Mr. Lewis said the NCAE welcomes any bill that educates on the nature of due process.

Senator Stein moved for a favorable report.

Chairman Soucek asked the members for any further discussion.

Chairman Soucek recognized Senator Dannelly for a question of Senator Tillman. He asked if there is a consistent evaluation form in use across the State.

Senator Tillman responded that such a form is in place now. He also said that the form cannot be relied on by itself for evaluation, but that the entire process must be accompanied by correct procedures.

Senator Dannelly was recognized for comments and said that he felt a need for a uniform procedure across the State that also can be used for evaluation of principals.

Senator Tillman was recognized and added his agreement.

Chairman Soucek recognized Senator McKissick, who said that he was glad to see the committee working together on this issue.

With no further discussion, Chairman Soucek called for a vote on Senator Stein's motion for a favorable report.

The motion carried and Senate Bill 423 received a favorable report.

The meeting adjourned at 10:20AM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, April 6, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 423	Educ. Oversight Comm. Study of Teacher Tenure.	Senator Hartsell Senator Tillman Senator Hise

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, April 06, 2011

Senator SOUCEK,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **423** Educ. Oversight Comm. Study of Teacher Tenure.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SENATE BILL 423

Short Title:	Educ. Oversight Comm. Study of Teacher Tenure.	(Public)
Sponsors:	Senators Tillman, Hartsell, Hise; Apodaca, Bingham, Blake, Brock, Brown, Brunstetter, Clary, Clodfelter, Daniel, Davis, East, Forrester, Goolsby, Harrington, Hunt, Jackson, Meredith, Pate, Rouzer, Soucek, Stevens, and Tucker.	
Referred to:	Education/Higher Education.	

March 28, 2011

A BILL TO BE ENTITLED

AN ACT DIRECTING THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO STUDY THE TEACHER TENURE LAW.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Legislative Education Oversight Committee shall study the current law on teacher tenure. The Committee may make an interim report on its findings and recommendations to the 2012 Regular Session of the 2011 General Assembly prior to its convening and shall make a final report to the 2013 Regular Session of the General Assembly.

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

SENATE BILL 423: Educ. Oversight Comm. Study of Teacher Tenure

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	April 6, 2011
Introduced by:	Sens. Tillman, Hartsell, Hise	**Prepared by:**	Patsy Pierce Legislative Analyst
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 423 would require the Joint Legislative Education Oversight Committee to examine teacher tenure law and report findings to the 2012 and 2013 General Assemblies.***

BILL ANALYSIS: The bill would require the Joint Legislative Education Oversight Committee to examine current teacher tenure law, make an interim report to the 2012 Regular Session of the 2011 General Assembly prior to its convening, and make a final report to the 2013 Regular Session of the General Assembly.

EFFECTIVE DATE: The bill would become effective when it becomes law.

S423-SMTL-17(e1) v2

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — April 9, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matt Pannell	NCSBA
Dan Harris	TFA
Genie Causby	NCSCA
Cheryl Posner-Cahill	NC School Psych Assoc
M E Taft	NCSLA
Tom Vaughan	ACF
Hannah Silver	AFC
Dawn Shephard Pope	Office of the Governor
Jim Ayers	Ed Consultant
Dr Al Wentzy	DSS Northampton Co
Delma Blizzard	Tea Party

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — April 9, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	National Heritage Academies
[signature]	NCAE
[signature]	NCAA
[signature]	NCPTSC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — April 9, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rick Adams	Victim Advocate
Joyce Peters Sr.	JPDSSSE

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — April 9, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE
Jaime King	NCEL
Barbara Constantine	BBCOE
[signature]	CSS
[signature]	Sen. Stevens office
Andrew Bell	NCGA
Michael T. James	NCGA
[signature]	[illegible]
Jennifer Willis	NCLS
Hope Williams	NCAE
Christopher Hill	NC Justice Center

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, April 13, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on April 13, 2011, in Room 544 of the Legislative Office Building. 17 members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and recognized the Sergeant-at-Arms and the pages.

Chairman Tillman then turned the chair over to Senator Dan Soucek who then recognized Senator Tillman to explain Senate Bill 479 (Testing in the Public Schools).

Senator Tillman explained that while the committee recently approved doing away with certain End of Course (EOC) testing, that there was a need for tests in place to help compare results in North Carolina with the national standards. Senator Tillman then asked that Ann McColl, Legislative Director of the State Board of Education be recognized to speak to the bill.

Chairman Soucek recognized Ms. McColl, who said that the bill would provide alternative assessments with regard to common core standards. She said that this bill would replace the tests removed by House Bill 48 with diagnostic tests, which would provide work key tests for students completing a second level of vocational and career coursework. She also referenced a pilot of a new United States history assessment that is not memory-based.

Senator Tillman was recognized again and indicated that the North Carolina Association of Educators (NCAE), the North Carolina Department of Public Instruction (DPI) and Governor Perdue are all supportive of this bill.

Chairman Soucek recognized Senator Dannelly, who asked to hear from the NCAE.

Chairman Soucek then recognized Brian Lewis of the NCAE, who said that they do support the bill.

Senator Stein was recognized for a comment, expressed concern about there being no testing in place until 2014, and asked which years of high school would have no testing.

Chairman Soucek recognized Dr. Patsy Pierce of the General Assembly Research staff, who said that the federal guidelines mandate that Algebra II will be tested.

Senator Tillman was recognized again and said that he shared Senator Stein's concerns and noted that the process of installing new tests was moving as fast as possible.

Senator Stevens moved for a favorable report.

The motion carried and Senate Bill 479 received a favorable report.

Chairman Soucek then turned the chair back to Senator Tillman, who called for Senator Hartsell to explain the Proposed Committee Substitute (PCS) for Senate Bill 466 (Modify Teacher Career Status Law).

Senator Hartsell said that Senate Bill 466 has a remarkable consensus. He said that it streamlines how teachers are disciplined or removed for poor performance. He added that the bill clarified what constitutes poor teacher performance and identifies circumstances on how to remove a teacher.

Chairman Tillman recognized Leanne Winner of the North Carolina School Boards Association to speak on the bill. Ms. Winner said that the bill is an important step for education in North Carolina and hoped that the committee would give its support.

Chairman Tillman recognized Senator Allran for a question of Ms. Winner. He asked her to explain the procedure of getting rid of a teacher.

Ms. Winner explained that the procedure is a lengthy two to three year process, which often leaves an allegedly poor-performing teacher in place with students. She deferred the remainder of the question to Mr. Tom Stern of the NCAE.

Chairman Tillman recognized Mr. Stern, who added that the mission of efficiently removing poor-performing teachers, without sacrificing due process, brough about the consensus surrounding this bill. The bill adds a ninety-day limit wherein a case manager must rule. He added further that the bill creates tools to eliminate obstacles and creates a definition of poor performance. He said also that the bill maintains requirements that teachers be notified of areas of poor performance.

Senator Allran was again recognized and asked how poor performance is determined. Mr. Stern replied that it is determined by observation and by the "Race to the Top" requirement of utilizing test scores.

Chairman Tillman recognized Senator Hartsell, who noted that Page 2, lines 40 – 51 contains the definition of poor performance.

Chairman Tillman then recognized Senator Dannelly, who asked for Ms. Winner for clarification on what happens in a LEA when high-performing teachers go to low performing schools.

Ms. Winner said that the bill does not address how the LEA selects teachers, but how their performance is measured once they are in a school.

Senator Dannelly was recognized for a second question and asked if the bill would punish teachers who are in more difficult schools, and suggested that administering the bill's provisions should be fair across the State. He also said that the LEAs should be able to develop a process on their own.

Ms. Winner responded that the new instrument looks at every aspect, taking all of these things into account.

Senator Dannelly was again recognized for comment saying that LEAS can develop additional standards and asked where that fits in with the statewide form that hearing officers will use.

Chairman Tillman responded to Senator Dannelly's question by saing that the state form should be adequate.

Chairman Tillman recognized Senator Hartsell who said that Section 2 should address Senator Dannelly's concerns in part.

Senator Dannelly made a motion for a favorable report to the PCS.

With no further discussion, Chairman Tillman called for a vote on Senator Dannelly's motion.

The motion carried and the committee issued an unfavorable report to the bill, but favorable as to the committee substitute to Senate Bill 466.

Chairman Tillman then recognized Senator Pate to explain Senate Bill 498 (Modify Law Regarding Corporal Punishment). Senator Pate asked that the chair recognize Sara Kamprath of Research staff to explain the bill.

Chairman Tillman recognized Ms. Kamprath, who explained that in the districts that administer corporal punishment, there is no corporal punishment allowed for children with disabilities if their parents have not allowed the school district to administer corporal punishment and that the bill would expand that provision to all students in those districts.

Senator Pate was then recognized to comment further on the bill. He explained that there are 17 LEAs in the state that practice corporal punishment and noted that since nearly 100 LEAs in the state have abandoned the practice, that the time for corporal punishment has passed and that this bill would make the practice of corporal punishment more difficult for the remaining 17 districts.

Chairman Tillman recognized Senator Forrester for a question of Senator Pate. Senator Forrester asked if parents opt-in or opt-out.

Senator Pate replied that they opt-in at the beginning of the year.

Chairman Tillman recognized Senator Brown, who asked how parents would be notified of their option to opt-in.

Senator Pate replied that they would be notified at the beginning of the school year when the child is registered.

Chairman Tillman recognized Senator Robinson for a question. She said that she was appalled that this was still being practiced in schools and asked for clarification on how the opt-in provision would be administered.

Senator Allran was recognized for a question and asked if there was any data to suggest that corporal punishment makes a school district better.

Chairman Tillman replied that there is no data.

Chairman Tillman recognized Senator Stevens for a comment. Senator Stevens mentioned a hypothetical situation where two students are caught fighting. He said that if one of the children was opted-in to the corporal punishment program and the other was not, that it could have an

adverse effect on the two students and on the school as a whole. He asked rhetorically why the Legislature does not simply ban the practice statewide.

Senator Stein was the recognized and moved for a favorable report.

Chairman Tillman recognized Senator Brock for a question of Senator Pate. Senator Brock asked Senator Pate if he represented any of the 17 districts where corporal punishment was practiced.

Senator Pate answered that he did not represent any of those districts.

Senator Brock was recognized for a second question of Senator Pate. He asked how many times corporal punishment had been used in the previous year and the year preceeding.

Senator Pate deferred the question and Chairman Tillman recognized Tom Vitaglione, Senior Fellow, Action for Children who indicated that corporal punishment was administered 697 times last year.

Chairman Tillman recognized Senator Purcell, who said that corporal punishment should be banned completely and that this bill is a step toward that goal.

Chairman Tillman called for a vote on Senator Stein's motion for a favorable report. The motion carried and Senate Bill 498 was given a favorable report.

The meeting adjourned at 10:55AM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, April 13, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 466	Modify Teacher Career Status Law.	Senator Hartsell Senator Tillman
SB 479	Testing in the Public Schools.	Senator Soucek Senator Preston Senator Tillman
SB 498	Modify Law Re: Corporal Punishment.	Senator Pate Senator Purcell

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, April 13, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **479** Testing in the Public Schools.
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None

S.B. **498** Modify Law Re: Corporal Punishment.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **466** Modify Teacher Career Status Law.
Draft Number: PCS35197
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comments:

SENATE BILL 466

Short Title:	Modify Teacher Career Status Law.	(Public)
Sponsors:	Senators Hartsell and Tillman.	
Referred to:	Education/Higher Education.	

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC SCHOOL TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-325 reads as rewritten:

"**§ 115C-325. System of employment for public school teachers.**

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

~~(1d) "Case manager" means a person selected under G.S. 115C-325(h)(7).~~

...

(4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

...

(e) (3) Inadequate Performance. – In determining whether the professional performance of a career employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career employee of an inadequacy or deficiency in ~~his~~ performance shall be conclusive evidence of satisfactory performance. Inadequate performance for a teacher as defined in G.S. 115C-325(a)(6) shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. However, for a probationary teacher who has not yet earned a Professional Standards II license, a performance rating below proficient may or may not be deemed adequate at that state of development by a superintendent or designee.

....

(h) Procedure for Dismissal or Demotion of Career Employee.

(1) a. A career employee may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.

b. G.S. 115C-325(f2) shall apply to the demotion of a career school administrator.

(2) Before recommending to a board the dismissal or demotion of the career employee, the superintendent shall give written notice to the career employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his recommendation the

grounds upon which he believes such dismissal or demotion is justified. The superintendent also shall meet with the career employee and give him written notice of the charges against him, an explanation of the basis for the charges, and an opportunity to respond if the career employee has not done so under G.S. 115C-325(f)(1). The notice shall include a statement to the effect that if the career employee within 14 days after the date of receipt of the notice requests a review, he or she ~~shall be entitled~~ may request to have the grounds for the proposed recommendations of the superintendent reviewed by ~~a case manager.~~ an impartial hearing officer appointed by the Department of Public Instruction as provided for in G.S. 115C-325(h1). A copy of G.S. 115C-325 ~~and a current list of case managers~~ shall also be sent to the career employee. If the career employee does not request a hearing ~~with a case manager~~ before a hearing officer within the 14 days provided, the superintendent may submit his recommendation to the board.

(3) Within the 14-day period after receipt of the notice, the career employee may file with the superintendent a written request for either (i) a hearing on the grounds for the superintendent's proposed recommendation by a ~~case manager~~ hearing officer or (ii) a hearing within 10 days before the board on the superintendent's recommendation. If the career employee requests an immediate hearing before the board, he forfeits his right to a hearing by a ~~case manager.~~ hearing officer. If no request is made within that period, the superintendent may file his recommendation with the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the employee without pay. If a request for review is made, the superintendent shall not file his recommendation for dismissal with the board until a report of the ~~case manager~~ hearing officer is filed with the superintendent. Failure of the hearing officer to submit the report as required by G.S. 115C-325(i1)(2) shall entitle the career employee to a hearing before the board under the same procedures as provided in G.S.115C-325(j).

(4) Repealed by Session Laws 1997, c. 221, s. 13(a).

~~(5) If the career employee elects to request a hearing by a case manager, the career employee and superintendent shall each have the right to eliminate up to one third of the names on the approved list of case managers. The career employee shall specify those case managers who are not acceptable in the career employee's request for a review of the superintendent's proposed recommendation under G.S. 115C 325(h)(3). The superintendent and career employee may jointly select a person to serve as case manager. The person need not be on the master list of case managers maintained by the Superintendent of Public Instruction.~~

(6) If a career employee requests a review by a ~~case manager,~~ hearing officer, the superintendent shall notify the Superintendent of Public Instruction within ~~two days'~~ five days of his or her receipt of the request. ~~The notice shall contain a list of the case managers the career employee and the superintendent have eliminated from the master list or the name of a person, if any, jointly selected. Failure to exercise the right to eliminate names from the master list shall constitute a waiver of that right.~~

(7) ~~The~~ Within five work days of being notified of the request for a hearing before a hearing officer, the Superintendent of Public Instruction shall ~~select~~submit to both parties a list of hearing officers trained and approved by

the Department of Public Instruction.~~case manager within three days of receiving notice from the superintendent.~~ Within five work days of receiving the list, the parties may jointly select a hearing officer from that list, or, if the parties cannot agree to a hearing officer, each party may strike up to one-third of the names on the list and submit their strikeout list to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall then appoint a hearing officer from those individuals remaining on the list. ~~designate the person jointly selected by the parties to serve as case manager provided the person agrees to serve as case manager and can meet the requirements for time frames for the hearing and report as provided in G.S. 115C-325(i1)(1). If a case manager was not jointly selected or if the case manager is not available, the Superintendent of Public Instruction shall select a case manager from the master list.~~ Further, the parties may jointly agree on another hearing officer not on the Department of Public Instruction's list, provided that individual is available to proceed in a timely manner and is willing to accept the terms of appointment required by the State Board of Education. No person eliminated by the career employee or superintendent shall be designated ~~case manager,~~as the hearing officer for that case.

(8) The superintendent and career employee shall ~~provide each other~~ serve a copy to the other party of all documents ~~with copies of all documents~~ submitted to the Superintendent of Public Instruction and/or to the designated ~~case manager.~~hearing officer and include a signed certificate of service similar to that required in court pleadings.

(h1) ~~Case Managers;~~Hearing Officers; Qualifications; Training; Compensation.

(1) Each year the State Board of Education shall select and maintain a master list of no more than ~~42~~ 15 qualified ~~case managers.~~hearing officers. The State Board shall remove a hearing officer from the list who has failed to conduct a hearing or prepare a report within the time specified in G.S. 115C-325(i1) or who has failed to submit a supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A hearing officer shall also be removed from the list for failure to meet the terms and conditions of engagement established by the State Board. Additionally, if a hearing officer is not appointed to a case within a two-year period due to repeated strikes from the list by either party as provided in G.S. 115C-325(h)(6), the State Board may remove the hearing officer from the master list.

(2) Persons selected by the State Board as ~~case managers~~hearing officers shall be ~~be: (i) certified as a North Carolina Superior Court mediator; (ii) a member of the American Arbitration Association's roster of arbitrators and mediators; or (iii) have comparable certification in alternative dispute resolution. Case managers~~ members in good standing of the North Carolina State Bar who have demonstrated experience and expertise in the areas of education law, due process, administrative law, or employment law within the last five years. The State Board shall give special consideration in its selection to persons jointly endorsed by the largest of each statewide organization representing teachers, school administrators, and local boards of education. Following State Board selection, hearing officers must complete a special training course approved by the State Board of ~~Education.~~Education that includes training on the teacher evaluation instrument and performance standards before they are qualified to hear teacher dismissal or demotion cases.

(3) The State Board of Education shall determine the compensation for a ~~case manager~~ hearing officer. The State Board shall pay the hearing officer's ~~case manager's~~ compensation and ~~reimbursement for~~ authorized expenses.

(i) Repealed by Session Laws 1997, c. 221, s. 13(a).

(i1) Report of ~~Case Manager;~~Hearing Officer; Superintendent's Recommendation.

(1) The ~~case manager~~ hearing officer shall complete the hearing held in accordance with G.S. 115C-325(j) and prepare the report within ~~10~~ 90 days from the time of the designation. This time period may be extended only for extraordinary cause and upon written agreement by both parties. ~~The case manager may extend the period of time by up to five additional days if the case manager informs the superintendent and the career employee that justice requires that a greater time be spent in connection with the investigation and the preparation of the report. Furthermore, the superintendent and the career employee may agree to an extension of more than five days.~~The State Board of Education shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely report to the superintendent within the maximum 90-day period set forth in this subdivision, except upon a showing of good cause by the hearing officer.

(2) The ~~case manager~~ hearing officer shall make all necessary findings of fact, based upon the preponderance of the evidence, on all issues related to each and every ground for dismissal and on all relevant matters related to the question of whether the superintendent's recommendation is justified. The hearing officer shall not make a recommendation as to conclusions of law or the disposition of the case. ~~The case manager also shall make a recommendation as to whether the findings of fact substantiate the superintendent's grounds for dismissal.~~ The ~~case manager~~hearing officer shall deliver copies of the report to the superintendent and the career employee.

(3) Within ~~two~~ five work days after receiving the ~~case manager's~~ hearing officer's report, the superintendent shall decide whether to submit a written recommendation to the local board for dismissal, demotion, or disciplinary suspension without pay to the board or to drop the charges against the career employee. The superintendent shall notify the career employee, in writing, of the decision.

(4) If the superintendent contends that the ~~case manager's~~ hearing officer's report fails to address a critical factual issue, the superintendent shall within ~~three days~~ five work days' receipt of the ~~case manager's~~ hearing officer's report, request in writing with a copy to the career employee that the ~~case manager~~ hearing officer prepare a supplement to the report. The superintendent shall specify what critical factual issue the superintendent contends the ~~case manager~~ hearing officer failed to address. If the ~~case manager~~ hearing officer determines that the report failed to address a critical factual issue, the ~~case manager may~~ hearing officer shall prepare a supplement to the report to address the issue and deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing

of good cause by the hearing officer. The failure of the ~~case manager~~ hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(j) Hearing by a ~~Case Manager.~~ Hearing Officer. – The following provisions shall apply to a hearing conducted by the ~~case manager.~~ hearing officer.

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules and regulations adopted by the State Board of Education to govern such ~~case manager~~ hearings.

(3) At the hearing the career employee and the superintendent or the superintendent's designee shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.

(4) Rules of evidence shall not apply to a hearing conducted by a ~~case manager and the case manager~~ hearing officer. The hearing officer may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the superintendent intends to present. At least three days before the hearing, the career employee shall provide to the superintendent a list of witnesses the career employee intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the career employee intends to present. Additional witnesses or documentary evidence may not be presented except upon a finding by the ~~case manager~~ hearing officer that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this subdivision.

(5a) The hearing shall be completed within three work days after commencement, unless extended by the hearing officer on a showing of extraordinary cause. Neither party shall have more than eight hours to present its case in chief, which does not include cross examination of witnesses, rebuttal evidence, or arguments of counsel.

(6) The ~~case manager~~ hearing officer may ~~subpoena~~ issue subpoenas, at his or her discretion or upon written application by either party, and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal.

(7) The ~~case manager~~ hearing officer shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates a hearing before the board or to appeal the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings before the ~~case manager.~~ hearing officer.

(j1) Board Determination.

(1) Within ~~two~~ five work days after receiving the superintendent's notice of intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee can show that the request for a hearing was postmarked within the time provided, the career employee shall not forfeit the right to a board hearing. Within ~~two~~ five work days after receiving the career employee's request for a board hearing, the superintendent shall request that a transcript of the ~~case manager~~ hearing be made. Within ~~two~~ five work days of receiving a copy of the transcript, the superintendent shall submit to the board the written recommendation and shall provide a copy of the recommendation to the career employee. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the ~~case manager's~~ hearing officer's report and a copy of the transcript of the ~~case manager~~ hearing.

(2) If the career employee contends that the ~~case manager's~~ hearing officer's report fails to address a critical factual issue the career employee shall, at the same time he notifies the superintendent of a request for a board hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the superintendent that the ~~case manager~~ hearing officer prepare a supplement to the ~~case manager's~~ hearing officer's report. The career employee shall specify the critical factual issue he contends the ~~case manager~~ hearing officer failed to address. If the ~~case manager~~ hearing officer determines that the report failed to address a critical factual issue, the ~~case manager may~~ hearing officer shall prepare a supplement to the report to address the issue and shall deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the ~~case manager~~ hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(3) Within ~~two~~ five work days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the career employee by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than ~~seven~~ 10 ~~nor~~ nor more than 30 ~~10~~ days after the board has notified the career employee, unless both parties agree to an extension. If the career employee did not request a hearing, the board may, by resolution, reject the superintendent's decision, or accept or modify the decision and dismiss, demote, reinstate, or suspend the career employee without pay.

(4) If the career employee requests a board hearing, it shall be conducted in accordance with G.S. 115C-325(j2).

(5) The board shall make a determination and may (i) reject the superintendent's recommendation or (ii) accept or modify the recommendation and dismiss, demote, reinstate, or suspend the employee without pay.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the career employee and the superintendent.

...."

SECTION 2. G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of ~~certified~~ licensed employees including certain superintendents; ~~action~~ mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all ~~certified~~ licensed employees assigned to a school that has been identified as~~low-performing, but has not received an assistance team.~~ low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of ~~an action~~ a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or an ~~assessment~~ assistance team assigned under ~~G.S. 115C-334~~ G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

Notwithstanding this subsection or any other law, all teachers in low-performing schools who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. ~~All other employees defined as teachers under G.S. 115C-325(a)(6) who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow specified categories of teachers with career status to be evaluated more or less frequently. Local boards also may adopt rules requiring the annual evaluation of noncertified employees.~~ This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement ~~Action~~ Plans. –

(1) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any certified/licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies. The mandatory improvement plan will be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

~~(1)~~(2) If a licensed~~certified~~ employee in a low-performing school receives ~~an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties,~~ a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the teacher was expected to demonstrate, the individual or team that conducted the evaluation shall

recommend to the superintendent that: (i) the employee receive ~~an action~~ a mandatory improvement plan designed to improve the employee's performance; or (ii) the superintendent recommend to the local board that the employee be dismissed or demoted. If the individual or team that conducted the evaluation elects not to make either of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop ~~an action~~ a mandatory improvement plan or to recommend a dismissal proceeding. ~~Action~~ Mandatory improvement plans shall be developed by the person who evaluated the employee or the employee's supervisor unless the evaluation was conducted by an assistance ~~team or an assessment~~ team. If the evaluation was conducted by an assistance ~~team or an assessment~~ team, that team shall develop the ~~action~~ mandatory improvement plan in collaboration with the employee's supervisor. ~~Action~~ Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating ~~certified~~ licensed employees and developing effective ~~action~~ mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of ~~action~~ mandatory improvement plans and policies for the implementation of monitored and directed growth plans. ~~or professional development plans for employees who do not require action plans under this section.~~

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

(c) ~~Reevaluation.~~ Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan ~~Upon completion of an action plan~~ under subdivision ~~(1) of subsection~~ (b)(2) of this section, the superintendent, the superintendent's designee, or the ~~assessment~~ assistance team shall ~~evaluate~~ assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, ~~If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties,~~ the superintendent shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results of the second ~~evaluation~~ assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school for any reason except a reduction in force under ~~G.S. 115C-325(e)(1)l.~~ G.S. 115C-325(e)(1)l., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop ~~an action~~ a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the ~~action~~ mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, ~~an unsatisfactory or below standard~~

~~rating on any function that is related to the employee's instructional duties,~~ the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's ~~certificate~~ license under G.S. 115C-296(d). If on ~~the~~ this next evaluation the employee receives at least a ~~satisfactory~~ proficient rating on all of the performance standards ~~functions~~ that were identified as areas of concern on the mandatory improvement plan, ~~related to the employee's instructional duties,~~ the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under G.S. 115C-325 except for a reduction in force.

(e) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Local Board Evaluation of Certain Superintendents. – Each year the local board of education shall evaluate the superintendent employed by the local school administrative unit and report to the State Board the results of that evaluation if during that year the State Board designated as low-performing:

(1) One or more schools in a local school administrative unit that has no more than 10 schools.

(2) Two or more schools in a local school administrative unit that has no more than 20 schools.

(3) Three or more schools in a local school administrative unit that has more than 20 schools."

SECTION 3. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status to be evaluated more or less frequently. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1). If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the

educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the North Carolina Department of Public Instruction and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the school improvement teams in the school system. The school improvement teams shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same school district is selected to serve as the qualified observer, the administration of the school district must provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same school district is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and/or reports prepared by the qualified observer. The qualified observer will not unduly disrupt the classroom when conducting an observation.

(4) 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 of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subdivision (b)(1) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subdivision (b)(2) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement towards such standards, the superintendent may recommend that the teacher be dismissed or demoted under G.S. 115C-325. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a career employee under the provisions of G.S. 115C-325. However, the superintendent shall not be entitled to the "substantial evidence" provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for any reason except a reduction in force under G.S. 115C-325(e)(1)l., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under G.S. 115C-325 except for a reduction in force. If, however, on this next evaluation the teacher receives a "developing" rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to proficient. If, by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

(g) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this

subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 4. G.S. 115C-288 reads as rewritten:

"**§ 115C-288. Powers and duties of principal.**

...

(i) To Evaluate ~~Certified~~ Licensed Employees and Develop ~~Action~~ Mandatory Improvement Plans. – Each school year, the principal assigned to a low-performing school that has not received an assistance team shall provide for the evaluation of all ~~certified~~ licensed employees assigned to the school. The principal also shall develop ~~action~~ mandatory improvement plans as provided under G.S. 115C-333(b) and shall monitor an employee's progress under ~~an action~~ a mandatory improvement plan.

...."

SECTION 5. G.S. 115C-334 reads as rewritten:

"**§ 115C-334. Assessment teams.**

The State Board shall develop guidelines for local boards to use to create assessment teams. A local board shall assign an assessment team to every low-performing school in the local school administrative unit that has not received an assistance team. Local boards shall ensure that assessment team members are trained in the proper administration of the employee evaluation used by the local school administrative unit. If service on an assessment team is an additional duty for an employee of a local board, the board may pay the employee for that additional work.

Assessment teams shall have the following duties:

(1) Conduct evaluations of ~~certified~~ licensed employees in low-performing schools;

(2) Provide technical assistance and training to principals, assistant principals, superintendents, and superintendents' designees who conduct evaluations of ~~certified~~ licensed employees;

(3) Develop ~~action~~ mandatory improvement plans for ~~certified~~ licensed employees; and

(4) Assist principals, assistant principals, superintendents, and superintendents' designees in the development and implementation of ~~action~~ mandatory improvement plans."

SECTION 6. G.S. 115C-335 reads as rewritten:

"**§ 115C-335. Development of performance standards and criteria for ~~certified~~licensed employees; training and remediation programs.**

...

(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate ~~action~~ professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under G.S. 115C-325. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for ~~certified~~

licensed public school employees that may be included in ~~an action~~ a mandatory improvement plan created under G.S. 115C-333(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 466
PROPOSED COMMITTEE SUBSTITUTE S466-CSRQ-11 [v.6]

4/12/2011 6:06:02 PM

Short Title: Modify Teacher Career Status Law. (Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC SCHOOL TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-325 reads as rewritten:

"**§ 115C-325. System of employment for public school teachers.**

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

~~(1d) "Case manager" means a person selected under G.S. 115C-325(h)(7).~~

...

(4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

...

(5) "Probationary teacher" means a ~~certificated~~ licensed person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.

...

(6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A ~~certificate~~ license or a regular, not provisional or expired, vocational ~~certificate~~ license issued by the ~~Department of Public Instruction;~~ State Board of Education; whose major responsibility is to teach or directly supervises teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel; and who is employed to fill a full-time, permanent position.

...

(e) Grounds for Dismissal or Demotion of a Career Employee.

(1) Grounds. – No career employee shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:

...

k. Any cause which constitutes grounds for the revocation of the career teacher's teaching ~~certificate~~ license or the career school administrator's administrator ~~certificate.~~license.

...

m. Failure to maintain ~~his certificate~~ his or her license in a current status.

...

(2) Reduction in Force. – Before recommending to a board the dismissal or demotion of the career employee pursuant to G.S. 115C-325(e)(1)*l.*, the superintendent shall give written notice to the career employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The notice shall include a statement to the effect that if the career employee within 15 days after receipt of the notice requests a review, he or she shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career employee may file with the superintendent a written request for a hearing before the board within 10 days. If the career employee requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j3) shall be followed. If no request is made within the 15-day period, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit a hearing by a ~~case manager~~ hearing officer shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)l.

When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his or her name shall be placed on a list of available career employees to be maintained by the board. Career employees whose names are placed on such a list shall have a priority on all positions in which they acquired career status and for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed career employee a position for which he or she is ~~certified~~ licensed and he or she refuses it, his or her name shall be removed from the priority list.

(3) Inadequate Performance. – In determining whether the professional performance of a career employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career employee of an inadequacy or deficiency in ~~his~~ performance shall be conclusive evidence of satisfactory performance. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. However, for a probationary teacher, a performance rating below proficient may or may not be deemed adequate at that stage of development by a superintendent or designee. For a career teacher, a performance rating below proficient shall constitute inadequate performance unless the principal noted on the instrument that the teacher is making adequate progress toward proficiency given the circumstances.

...

(f) (1) Suspension without Pay. – If a superintendent believes that cause exists for dismissing a career employee for any reason specified in G.S. 115C-325(e)(1) and that immediate suspension of the career employee is necessary, the superintendent may suspend the career employee without pay. Before suspending a career employee without pay, the superintendent shall meet with the career employee and give him written notice of the charges against him, an explanation of the bases for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the career employee shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the career employee's personnel file.

(2) Disciplinary Suspension Without Pay. – A career employee recommended for suspension without pay pursuant to G.S. 115C-325(a)(4a) may request a hearing before the board. If no request is made within 15 days, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

a. Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325(j3) shall apply if any of the following circumstances exist:

1. The recommended disciplinary suspension without pay is for more than 10 days; or
2. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the revocation of the teacher's or school administrator's ~~certificate,~~ license or providing false information.

b. Board hearing for disciplinary suspensions of no more that [than] 10 days. – The procedures for a board hearing under G.S. 115C-325(j2) shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in G.S. 115C-325(f)(2)a.2.

...

(h) Procedure for Dismissal or Demotion of Career Employee.

(1) a. A career employee may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.

b. G.S. 115C-325(f2) shall apply to the demotion of a career school administrator.

(2) Before recommending to a board the dismissal or demotion of the career employee, the superintendent shall give written notice to the career employee by certified mail or personal delivery of his or her intention to

make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the career employee and ~~give him~~ provide written notice of the charges against ~~him,~~the career employee, an explanation of the basis for the charges, and an opportunity to respond if the career employee has not done so under G.S. 115C-325(f)(1). The notice shall include a statement to the effect that if the career employee within 14 days after the date of receipt of the notice requests a review, he or she ~~shall be entitled~~ may request to have the grounds for the proposed recommendations of the superintendent reviewed by ~~a case manager.~~ an impartial hearing officer appointed by the Superintendent of Public Instruction as provided for in G.S. 115C-325(h)(7). A copy of G.S. 115C-325 ~~and a current list of case managers~~ shall also be sent to the career employee. If the career employee does not request a hearing ~~with a case manager~~ before a hearing officer within the 14 days provided, the superintendent may submit his or her recommendation to the board.

(3) Within the 14-day period after receipt of the notice, the career employee may file with the superintendent a written request for either (i) a hearing on the grounds for the superintendent's proposed recommendation by a ~~case manager~~ hearing officer or (ii) a hearing within 10 days before the board on the superintendent's recommendation. If the career employee requests an immediate hearing before the board, he or she forfeits his or her right to a hearing by a ~~case manager.~~hearing officer. If no request is made within that period, the superintendent may file his or her recommendation with the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the employee without pay. If a request for review is made, the superintendent shall not file ~~his~~ the recommendation for dismissal with the board until a report of the ~~case manager~~ hearing officer is filed with the superintendent. Failure of the hearing officer to submit the report as required by G.S. 115C-325(i1)(1) shall entitle the career employee to a hearing before the board under the same procedures as provided in G.S.115C-325(j).

(4) Repealed by Session Laws 1997, c. 221, s. 13(a).

~~(5) If the career employee elects to request a hearing by a case manager, the career employee and superintendent shall each have the right to eliminate up to one-third of the names on the approved list of case managers. The career employee shall specify those case managers who are not acceptable in the career employee's request for a review of the superintendent's proposed recommendation under G.S. 115C-325(h)(3). The superintendent and career employee may jointly select a person to serve as case manager. The person need not be on the master list of case managers maintained by the Superintendent of Public Instruction.~~

(6) If a career employee requests a review by a ~~case manager,~~ hearing officer, the superintendent shall notify the Superintendent of Public Instruction within ~~two days'~~ five days of his or her receipt of the request. ~~The notice shall contain a list of the case managers the career employee and the superintendent have eliminated from the master list or the name of a person, if any, jointly selected. Failure to exercise the right to eliminate names from the master list shall constitute a waiver of that right.~~

(7) ~~The~~ Within five days of being notified of the request for a hearing before a hearing officer, the Superintendent of Public Instruction shall ~~select~~submit to both parties a list of hearing officers trained and approved by the State Board of Education.~~case manager within three days of receiving notice from the superintendent.~~ Within five days of receiving the list, the parties may jointly select a hearing officer from that list, or, if the parties cannot agree to a hearing officer, each party may strike up to one-third of the names on the list and submit its strikeout list to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall then appoint a hearing officer from those individuals remaining on the list. ~~designate the person jointly selected by the parties to serve as case manager provided the person agrees to serve as case manager and can meet the requirements for time frames for the hearing and report as provided in G.S. 115C-325(i1)(1). If a case manager was not jointly selected or if the case manager is not available, the Superintendent of Public Instruction shall select a case manager from the master list.~~ Further, the parties may jointly agree on another hearing officer not on the State Board of Eduation's list, provided that individual is available to proceed in a timely manner and is willing to accept the terms of appointment required by the State Board of Education. No person eliminated by the career employee or superintendent shall be designated ~~case manager,~~as the hearing officer for that case.

(8) The superintendent and career employee shall ~~provide each other~~ serve a copy to the other party of all documents ~~with copies of all documents~~ submitted to the Superintendent of Public Instruction and~~or~~ to the designated ~~case manager.~~hearing officer and include a signed certificate of service similar to that required in court pleadings.

(h1) ~~Case Managers;~~Hearing Officers; Qualifications; Training; Compensation.

(1) ~~Each year the~~ The State Board of Education shall select and maintain a master list of no more than ~~42~~ 15 qualified ~~case managers.~~hearing officers. The State Board shall, except for good cause shown, remove a hearing officer from the list who has failed to conduct a hearing or prepare a report within the time specified in G.S. 115C-325(i1) or who has failed to submit a supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A hearing officer shall, except for good cause shown, also be removed from the list for failure to meet the terms and conditions of engagement established by the State Board. Additionally, if a hearing officer is not appointed to a case within a two-year period due to repeated strikes from the list by either party as provided in G.S. 115C-325(h)(7), the State Board may remove the hearing officer from the master list.

(2) Persons selected by the State Board as ~~case managers~~hearing officers shall be ~~be: (i) certified as a North Carolina Superior Court mediator; (ii) a member of the American Arbitration Association's roster of arbitrators and mediators; or (iii) have comparable certification in alternative dispute resolution. Case managers~~ members in good standing of the North Carolina State Bar who have demonstrated experience and expertise in the areas of education law, due process, administrative law, or employment law within the last five years. The State Board shall give special consideration in its selection to persons jointly endorsed by the largest by membership of each statewide organization representing teachers, school administrators, and local boards of education. Following State Board selection, hearing officers must complete a special training course approved by the State Board of

~~Education.~~Education that includes training on the teacher evaluation instrument and performance standards before they are qualified to hear teacher dismissal or demotion cases.

(3) The State Board of Education shall determine the compensation for a ~~case manager.~~hearing officer. The State Board shall pay the hearing officer's ~~case manager's~~ compensation and ~~reimbursement for~~authorized expenses.

(i) Repealed by Session Laws 1997, c. 221, s. 13(a).

(i1) Report of ~~Case Manager;~~Hearing Officer; Superintendent's Recommendation.

(1) The ~~case manager~~ hearing officer shall complete the hearing held in accordance with G.S. 115C-325(j) and prepare the report within ~~10~~ 90 days from the time of the designation. This time period may be extended only for extraordinary cause and upon written agreement by both parties. ~~The case manager may extend the period of time by up to five additional days if the case manager informs the superintendent and the career employee that justice requires that a greater time be spent in connection with the investigation and the preparation of the report. Furthermore, the superintendent and the career employee may agree to an extension of more than five days.~~The State Board of Education shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely report to the superintendent within the maximum 90-day period set forth in this subdivision, except upon a showing of good cause by the hearing officer.

(2) The ~~case manager~~ hearing officer shall make all necessary findings of fact, based upon the preponderance of the evidence, on all issues related to each and every ground for dismissal and on all relevant matters related to the question of whether the superintendent's recommendation is justified. The hearing officer shall not make a recommendation as to conclusions of law or the disposition of the case. ~~The case manager also shall make a recommendation as to whether the findings of fact substantiate the superintendent's grounds for dismissal.~~ The ~~case manager~~hearing officer shall deliver copies of the report to the superintendent and the career employee.

(3) Within ~~two~~ five days after receiving the ~~case manager's~~ hearing officer's report, the superintendent shall decide whether to submit a written recommendation to the local board for dismissal, demotion, or disciplinary suspension without pay to the board or to drop the charges against the career employee. The superintendent shall notify the career employee, in writing, of the decision.

(4) If the superintendent contends that the ~~case manager's~~ hearing officer's report fails to address a critical factual issue, the superintendent shall within ~~three days~~ five days' receipt of the ~~case manager's~~ hearing officer's report, request in writing with a copy to the career employee that the ~~case manager~~ hearing officer prepare a supplement to the report. The superintendent shall specify what critical factual issue the superintendent contends the ~~case manager~~ hearing officer failed to address. If the ~~case manager~~ hearing officer determines that the report failed to address a critical factual issue, the ~~case manager may~~ hearing officer shall prepare a supplement to the report to address the issue and deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the

State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the ~~case manager~~ hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(j) Hearing by a ~~Case Manager.~~Hearing Officer. – The following provisions shall apply to a hearing conducted by the ~~case manager.~~hearing officer.

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules and regulations adopted by the State Board of Education to govern such ~~case manager~~ hearings.

(3) At the hearing the career employee and the superintendent or the superintendent's designee shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.

(4) Rules of evidence shall not apply to a hearing conducted by a ~~case manager and the case manager~~ hearing officer. The hearing officer may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the superintendent intends to present. At least three days before the hearing, the career employee shall provide to the superintendent a list of witnesses the career employee intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the career employee intends to present. Additional witnesses or documentary evidence may not be presented except upon a finding by the ~~case manager~~ hearing officer that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this subdivision.

(5a) The hearing shall be completed within three days after commencement, unless extended by the hearing officer on a showing of extraordinary cause. Neither party shall have more than eight hours to present its case in chief, which does not include cross examination of witnesses, rebuttal evidence, or arguments of counsel.

(6) The ~~case manager~~ hearing officer may ~~subpoena~~ issue subpoenas, at his or her discretion or upon written application by either party, and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal.

(7) The ~~case manager~~ hearing officer shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates a hearing before the board or to appeal the board's decision to a court of law, the career employee may request and shall

receive at no charge a transcript of the proceedings before the ~~case manager.~~ hearing officer.

(j1) Board Determination.

(1) Within ~~two~~ five days after receiving the superintendent's notice of intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee can show that the request for a hearing was postmarked within the time provided, the career employee shall not forfeit the right to a board hearing. Within ~~two~~ five days after receiving the career employee's request for a board hearing, the superintendent shall request that a transcript of the ~~case manager~~ hearing be made. Within ~~two~~ five days of receiving a copy of the transcript, the superintendent shall submit to the board the written recommendation and shall provide a copy of the recommendation to the career employee. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the ~~case manager's~~ hearing officer's report and a copy of the transcript of the ~~case manager~~ hearing.

(2) If the career employee contends that the ~~case manager's~~ hearing officer's report fails to address a critical factual issue the career employee shall, at the same time he or she notifies the superintendent of a request for a board hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the superintendent that the ~~case manager~~ hearing officer prepare a supplement to the ~~case manager's~~ hearing officer's report. The career employee shall specify the critical factual issue he or she contends the ~~case manager~~ hearing officer failed to address. If the ~~case manager~~ hearing officer determines that the report failed to address a critical factual issue, the ~~case manager may~~ hearing officer shall prepare a supplement to the report to address the issue and shall deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the ~~case manager~~ hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(3) Within ~~two~~ five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the career employee by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than ~~seven~~ 10 ~~nor~~ nor more than 30 ~~10~~ days after the board has notified the career employee, unless both parties agree to an extension. If the career employee did not request a hearing, the board may, by resolution, reject the superintendent's decision, or accept or modify the decision and dismiss, demote, reinstate, or suspend the career employee without pay.

(4) If the career employee requests a board hearing, it shall be conducted in accordance with G.S. 115C-325(j2).

(5) The board shall make a determination and may (i) reject the superintendent's recommendation or (ii) accept or modify the recommendation and dismiss, demote, reinstate, or suspend the employee without pay.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the career employee and the superintendent.

(j2) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

...

(2) If the career employee requested a hearing by a ~~case manager,~~hearing officer, the board shall receive the following:

a. The whole record from the hearing held by the ~~case manager,~~hearing officer including a transcript of the hearing, as well as any other records, exhibits, and documentary evidence submitted to the case manager at the hearing.

b. The ~~case manager's~~hearing officer's findings of fact, including any supplemental findings prepared by the ~~case manager~~ hearing manager under G.S. 115C-325 (i1)(4) or G.S. 115C-325(j1)(2).

~~c. The case manager's recommendation as to whether the grounds in G.S. 115C-325(e) submitted by the superintendent are substantiated.~~

d. The superintendent's recommendation and the grounds for the recommendation.

(3) If the career employee did not request a hearing by a ~~case manager,~~hearing officer the board shall receive the following:

a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the career employee seven days before the hearing.

b. Any documentary evidence the career employee intends to use to rebut the superintendent's recommendation. The career employee shall provide the superintendent with the documentary evidence three days before the hearing.

c. The superintendent's recommendation and the grounds for the recommendation.

...

(6) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence at the hearing before the ~~case manager.~~hearing officer.

(7) The board shall accept the ~~case manager's~~ hearing officer's findings of fact unless a majority of the board determines that the findings of fact are not supported by substantial evidence when reviewing the record as a whole. In such an event, the board shall make alternative findings of fact. If a majority of the board determines that the ~~case manager~~ hearing officer did not address a critical factual issue, the board may remand the findings of fact to the ~~case manager~~ hearing officer to complete the report to the board. If the ~~case manager~~ hearing officer does not submit the report within seven days receipt of the board's request, the board may determine its own findings of fact regarding the critical factual issues not addressed by the ~~case~~

~~manager.~~hearing officer. The board's determination shall be based upon a preponderance of the evidence.

...

(o) Resignation. –

(1) If a career employee has been recommended for dismissal under G.S. 115C-325(e)(1) and the employee chooses to resign without the written agreement of the superintendent, then:

a. The superintendent shall report the matter to the State Board of Education.

b. The employee shall be deemed to have consented to (i) the placement in the employee's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this employee to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

c. The employee shall be deemed to have voluntarily surrendered his or her ~~certificate~~ license pending an investigation by the State Board of Education in a determination whether or not to seek action against the employee's ~~certificate.~~license. This ~~certificate~~ license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the ~~certificate~~ license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the employee's ~~certificate~~ license within 45 days from the date of resignation.

(2) A teacher, career or probationary, who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's ~~certificate~~ license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

...

(p1) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Residential Schools. –

(1) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of teachers, principals, assistant principals, directors, supervisors, and other ~~certificated~~ licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Part 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary shall dismiss a teacher, principal, assistant principal, director, supervisor, or other ~~certificated~~licensed personnel when the Secretary receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These

findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

The Secretary may dismiss a teacher, principal, assistant principal, director, supervisor, or other ~~certificated~~ licensed personnel when:

a. The Secretary determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under Part 3A of Article 3 of Chapter 143B of the General Statutes; and

b. That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other ~~certificated~~ licensed personnel for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

Within 30 days of any dismissal under this subdivision, a teacher, principal, assistant principal, director, supervisor, or other ~~certificated~~ licensed personnel may request a hearing before a panel of three members designated by the Secretary. The Secretary shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of ~~certificated~~ licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the ~~certified~~ licensed staff member.

Within 30 days of any dismissal under this subdivision, a ~~certificated~~licensed staff member may request a hearing before a panel of three members designated by the Secretary of Health and Human Services. The Secretary shall adopt procedures to ensure that due process rights are afforded to ~~certificated~~ licensed staff members recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

...

(q) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Schools.

...

(2a) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of ~~certified~~ licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(a) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the ~~certified~~ licensed staff member.

A ~~certified~~ licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to ~~certified~~ licensed staff members recommended

for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

...."

SECTION 2. G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of ~~certified~~ licensed employees including certain superintendents; ~~action~~ mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all ~~certified~~ licensed employees assigned to a school that has been identified as~~low-performing, but has not received an assistance team.~~ low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of ~~an action~~ a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or an ~~assessment~~ assistance team assigned under ~~G.S. 115C-334~~ G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

~~Notwithstanding this subsection or any other law, all~~ All teachers in low-performing schools who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. ~~All other employees defined as teachers under G.S. 115C-325(a)(6) who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow specified categories of teachers with career status to be evaluated more or less frequently. Local boards also may adopt rules requiring the annual evaluation of noncertified employees.~~ This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board ~~unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board.~~ and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement ~~Action~~ Plans. –

~~(1) If a certified employee in a low-performing school receives an unsatisfactory or below-standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the superintendent that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the superintendent recommend to the local board that the employee be dismissed or demoted. The superintendent shall determine whether to develop an action plan or to recommend a dismissal proceeding. Action plans shall be developed by the person who evaluated the employee or the employee's supervisor unless the evaluation was conducted by an assistance team or an assessment team. If the evaluation was conducted by an assistance team or an assessment team, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating certified employees~~

~~and developing effective action plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of action plans or professional development plans for employees who do not require action plans under this section.~~

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

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

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that: (i) the employee receive a mandatory improvement plan designed to improve the employee's performance; or (ii) the superintendent recommend to the local board that the employee be dismissed or demoted. If the individual or team that conducted the evaluation elects not to make either of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

(c) ~~Reevaluation.~~ Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan~~Upon completion of an action plan~~ under subdivision ~~(1) of subsection (b)~~(2a) of this section, the superintendent, the superintendent's designee, or the ~~assessment~~ assistance team shall ~~evaluate~~ assess the

performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, ~~If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties,~~ the superintendent shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results of the second ~~evaluation~~ assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school for any reason except a reduction in force under ~~G.S. 115C-325(e)(1)l.~~ G.S. 115C-325(e)(1)l., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop ~~an action~~ a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the ~~action~~ mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, ~~an unsatisfactory or below standard rating on any function that is related to the employee's instructional duties,~~ the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's ~~certificate~~ license under G.S. 115C-296(d). If on ~~the~~ this next evaluation the employee receives at least a ~~satisfactory~~ proficient rating on all of the performance standards ~~functions~~ that were identified as areas of concern on the mandatory improvement plan, ~~related to the employee's instructional duties,~~ the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under G.S. 115C-325 except for a reduction in force.

..."

SECTION 3. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined

in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the school improvement teams in the school system. The school improvement teams shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible

for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) 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 of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement towards such standards, the superintendent may recommend that the teacher be dismissed or demoted under G.S. 115C-325. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of G.S. 115C-325. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for any reason except a reduction in force under G.S. 115C-325(e)(1)l., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under G.S. 115C-325 except for a reduction in force. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to proficient. If, by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

(g) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action

taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 4. G.S. 115C-276(s) reads as rewritten:

"(s) To Provide for Annual Evaluations and ~~Action~~ Mandatory Improvement Plans. – The superintendent shall provide for the annual evaluation of all ~~certified~~ licensed employees assigned to low-performing schools that did not receive an assistance team. The superintendent shall determine whether all principals and assistant principals who evaluate ~~certified~~ licensed employees are trained in the proper administration of the employee evaluations and the development of appropriate ~~action~~ mandatory improvement plans. The superintendent also shall arrange for principals and assistant principals who evaluate ~~certified~~ licensed employees to receive the appropriate training."

SECTION 5. G.S. 115C-288 reads as rewritten:

"**§ 115C-288. Powers and duties of principal.**

...

(i) To Evaluate ~~Certified~~ Licensed Employees and Develop ~~Action~~ Mandatory Improvement Plans. – Each school year, the principal assigned to a low-performing school that has not received an assistance team shall provide for the evaluation of all ~~certified~~ licensed employees assigned to the school. The principal also shall develop ~~action~~ mandatory improvement plans as provided under G.S. 115C-333(b) and G.S. 115C-333.1(b) and shall monitor an employee's progress under ~~an action~~ a mandatory improvement plan.

...."

SECTION 6. G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets ~~certification~~ licensure requirements; reports; lateral entry and mentor programs.**

...

(a) The State Board of Education shall have entire control of ~~certifying~~ licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all ~~certificates~~licenses and shall determine and fix the salary for each grade and type of ~~certificate~~license which it authorizes.

The State Board of Education may require an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. 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~~licensure exam sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach.

(a2) The State Board of Education shall impose the following schedule of fees for teacher ~~certification~~ licensure and administrative changes:

(1) Application for demographic or administrative changes to a ~~certificate,~~license, $30.00.

(2) Application for a duplicate ~~certificate~~ license or for copies of documents in the ~~certification~~ licensure files, $30.00.

(3) Application for a renewal, extension, addition, upgrade, and variation to a ~~certificate,~~license $55.00.
(4) Initial application for New, In-State Approved Program Graduate. $55.00.
(5) Initial application for Out-of-State ~~certificate,~~license $85.00.
(6) All other applications, $85.00.

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

(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~~ licensed 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~~ licensure 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~~licensure program shall provide for initial ~~certification~~ licensure after completion of preservice training, continuing ~~certification~~ licensure after three years of teaching experience, and ~~certificate~~ license renewal every five years thereafter, until the retirement of the teacher. The last ~~certificate~~ license renewal received prior to retirement shall remain in effect for five years after retirement. The ~~certification~~ licensure program shall also provide for lifetime ~~certification~~ licensure after 50 years of teaching.

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 local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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.~~licensure. The new requirements shall reflect more rigorous standards for continuing ~~certification~~ licensure 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.~~licenses. The State Board shall consider modifications in the ~~certificate~~ license 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~~ licenses by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with 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.

(b1) The State Board of Education shall develop a plan to provide a focused review of teacher education programs and the current process of accrediting these programs in order to ensure that the programs produce graduates that are well prepared to teach. The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina. The performance report shall include at least the following elements: (i) quality of students entering the schools of education, including the average grade point average and average score on preprofessional skills tests that assess reading, writing, math and other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average scores of graduates on professional and content area examination for the purpose of ~~certification;~~licensure; (v) percentage of graduates receiving initial ~~certification;~~licenses; (vi) percentage of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for four years; (viii) graduate satisfaction based on a common survey; and (ix) employer satisfaction based on a common survey. The performance reports shall follow a common format. The performance reports shall be submitted annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

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) 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, the 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. Skilled individuals who choose to enter the profession of teaching laterally may be granted a provisional teaching ~~certificate~~ license for no more than three years and shall be required to obtain ~~certification~~licensure before contracting for a fourth year of service with any local administrative unit in this State.

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching ~~certificate.~~license. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be

implemented within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education.

The State Board of Community Colleges and the State Board of Education shall jointly identify the community college courses and the teacher education program courses that are necessary and appropriate for inclusion in the community college program of study for lateral entry teachers. To the extent possible, any courses that must be completed through an approved teacher education program shall be taught on a community college campus or shall be available through distance learning.

In order to participate in the community college program of study for lateral entry teachers, an individual must hold at least a bachelors degree from a regionally accredited institution of higher education.

An individual who successfully completes this program of study and meets all other requirements of ~~certification~~ licensure set by the State Board of Education shall be recommended for a North Carolina teaching ~~certificate.~~license.

...

(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of ~~certificates.~~licenses. The State Board shall revoke the ~~certificate~~license 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~~ a rating on any standard that was identified as an area of concern on the mandatory improvement plan that was below proficient or otherwise represented unsatisfactory or below standard performance under G.S. ~~115C-333(d).~~115C-333(d) and G.S. 115C-333.1(f). In addition, the State Board may revoke or refuse to renew a teacher's ~~certificate~~license 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~~ license 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~~license 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~~ license 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~~ license 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~~license for one or more reasons established by the State Board in its rules for ~~certificate~~ license 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.~~licenses. 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~~ licensed persons.

(e) 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~~ licensed 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) 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~~ licensure known as the "Masters/Advanced Competencies" ~~certificate.~~license. To receive this ~~certificate,~~license, 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."

SECTION 7. G.S. 115C-334 reads as rewritten:

"**§ 115C-334. Assessment teams.**

The State Board shall develop guidelines for local boards to use to create assessment teams. A local board shall assign an assessment team to every low-performing school in the local school administrative unit that has not received an assistance team. Local boards shall ensure that assessment team members are trained in the proper administration of the employee evaluation used by the local school administrative unit. If service on an assessment team is an additional duty for an employee of a local board, the board may pay the employee for that additional work.

Assessment teams shall have the following duties:

(1) Conduct evaluations of ~~certified~~ licensed employees in low-performing schools;

(2) Provide technical assistance and training to principals, assistant principals, superintendents, and superintendents' designees who conduct evaluations of ~~certified~~ licensed employees;

(3) Develop ~~action~~ mandatory improvement plans for ~~certified~~ licensed employees; and

(4) Assist principals, assistant principals, superintendents, and superintendents' designees in the development and implementation of ~~action~~ mandatory improvement plans."

SECTION 8. G.S. 115C-335 reads as rewritten:

"**§ 115C-335. Development of performance standards and criteria for ~~certified~~licensed employees; training and remediation programs.**

...

(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate ~~action~~ professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under G.S. 115C-325. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for ~~certified~~ licensed public school employees that may be included in ~~an action~~ a mandatory improvement plan created under ~~G.S. 115C-333(b).~~G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 9. This act becomes effective July 1, 2011 and applies to persons recommended for dismissal or demotion on or after that date.

SENATE BILL 466:
Modify Teacher Career Status Law

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	April 13, 2011
Introduced by:	Sens. Hartsell, Tillman	**Prepared by:**	Drupti Chauhan and Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S466-CSRQ-11		

SUMMARY: ***Senate Bill 466 amends the law related to career status for public school teachers by amending the process for the dismissal hearings and replacing case managers with hearing officers. The bill amends the evaluation process of licensed employees and authorizes mandatory improvement plans to improve teacher performance in low-performing schools. In addition, it creates a new evaluation process for teacher in schools that are not identified as low-performing and requires local boards of education to notify the State Board of Education (SBE) for dismissals of teachers under any reason except for reduction in force.***

The Proposed Committee Substitute makes numerous technical and conforming changes as well as the following:

- ***For career teachers, performance ratings below proficient would be "inadequate performance" unless it is noted that the teacher is making adequate progress toward proficiency under the circumstances.***
- ***Provide the SBE with discretion to not remove a hearing officer from the master list of hearing officers due to failure to meet statutory requirements upon a showing of good cause.***
- ***Require local boards to use the standards set by the SBE in evaluating employees of low-performing schools and teachers in schools not identified as low-performing but the local boards may adopt additional evaluation criteria and standards.***
- ***Clarify that a principal may immediately institute a mandatory improvement plan regardless of ratings on past evaluations any time a teacher in a low-performing school engages in inappropriate conduct or performs inadequately to a degree that causes substantial harm to the educational environment.***

Section 1: Process for Dismissal or Demotion of Tenured Teachers

Current Law:

Overview and Notice Provisions of G.S. 115C-325: G.S. 115C-325 provides specific due process for career status teachers who are dismissed or demoted. A teacher has the right to have the superintendent's recommendation of dismissal or demotion reviewed by a case manager or have a hearing in front of the local board of education if either such request is made within 14 days of receiving notice. If the teacher makes no request for either hearing, then the superintendent can file the recommendation with the local board of education which can make a decision in the matter and the teacher may not ask for a court review of that decision. If a request for a review by a case manager is made, the superintendent may not file his recommendation for dismissal with the board until a report of the case manager is filed with the superintendent.

Bill Analysis:

Definition of "Inadequate Performance": One of the 15 grounds for dismissal or demotion is "inadequate performance". The bill would clarify that inadequate performance means the failure to perform at a proficient level on any standard of the evaluation instrument or otherwise perform in a manner that is below standard. For a probationary teacher, a performance rating below proficient may or may not be deemed adequate at that stage of development. For a career teacher, a performance rating below proficient would constitute inadequate performance unless the principal noted that the teacher is making adequate progress toward proficiency given the circumstances.

Overview and Notice Provisions: The bill keeps the notice provisions of G.S. 115C-325 substantially the same but would replace case managers with hearing officers. The bill would provide for the extension of the timelines

for various events such as selection of hearing officers, completion of the hearing, submission of reports, and a hearing before the local board of education. The superintendent and teacher would be required to serve each party with all documents including a signed certificate of service similar to that required in court pleadings.

Current Law:

Case Managers: The State Board of Education (SBE) maintains a list of 42 case managers that are certified mediators. If a teacher requests a hearing before a case manager, the teacher and superintendent may agree on a case manager who is then appointed by the State Superintendent of Public Instruction, otherwise, the teacher and superintendent may each eliminate up to 1/3 of the names on the SBE's case managers' list and then the State Superintendent makes the final selection. Current law provides that all of the work for the hearing must be completed within 15 days of the appointment unless the parties agree to an extension.

Bill Analysis:

The bill would require:

- Case managers to be replaced with hearing officers who must be members of the NC State Bar who have experience and expertise in relevant law areas within the last 5 years;
- The SBE, in selecting hearing officers for the master list of 15 (instead of 42), to give special consideration to lawyers endorsed by the largest of each statewide organization representing teachers, school administrators, and local boards of education;
- The hearing officers on the master list to complete training on the teacher evaluation instrument and performance standards;
- The Superintendent of Public Instruction to appoint the hearing officer who would be selected by the parties from a list of hearing officers trained and approved by the SBE; each party could eliminate 1/3 of the names on the list and the Superintendent of Public Instruction would select a hearing officer from those remaining; a person not on the list may also be selected if the person is willing to accept the terms of appointment required by the SBE;
- The SBE, except for a showing of good cause, to remove a hearing officer from the list if the officer has failed to conduct hearings or reports within the required timelines, if the officer failed to submit a supplemental report as required by the statutes, or if the officer failed to meet the terms and conditions of engagement. The SBE may remove a hearing officer from the list if the officer has not been appointed to a case within a 2 year period due to repeated strikes from the list by either party.

Current Law:

Report by Case Manager on Findings of Fact and Recommendations and Requests for Further Findings: For the final report, the case manager must make findings of fact based upon the preponderance of the evidence on all issues related to each ground for dismissal as to the question of whether the superintendent's recommendation is justified. In addition, the case manager must make a recommendation of whether the findings of fact substantiate the superintendent's grounds for dismissal. A supplemental report may be requested if either side contends that a critical factual issue was not addressed.

Bill Analysis:

The hearing officer would have 90 days to prepare the report with an extension only upon extraordinary cause and upon written agreement by both parties. Otherwise, the SBE must determine a reduction in compensation.

The hearing officer would be prohibited from making recommendations as to conclusions of law or the disposition of the case, and would be prohibited from taking more than 30 days to provide a supplemental report. If the officer fails to submit reports by required deadlines, the SBE must determine a reduction in compensation.

Current Law:

Hearings: The hearing must be conducted in accordance with the rules adopted by the SBE. Both the teacher and superintendent or the superintendent's designee have the right to be heard, represented by counsel and present

witnesses. The rules of evidence do not apply for the hearing and lists of witnesses must be provided by both sides prior to the hearing.

Bill Analysis:

The bill would require the hearing to be completed within 3 work days from its commencement unless extended by the hearing officer on a showing of extraordinary cause. Both parties would be limited to 8 hours to present their cases, not including cross-examination of witnesses, rebuttal evidence or arguments of counsel.

Section 2: Evaluations and Action Plans for Certified Employees at Low-Performing Schools

Current Law:

G.S. 115C-333 requires an annual evaluation of certified employees at low-performing schools in a timeframe that allows for the development and implementation of an action plan for employees who receive an unsatisfactory or below standard rating on a function related to instructional duties. All teachers who have not attained career status must be observed at least 3 times a year by the principal or the principal's designee and once a year by a teacher and evaluated once a year by a principal. Teachers employed at schools not designated as low-performing must be evaluated annually, unless the local board adopts other requirements.

If a certified employee in a low-performing school receives an unsatisfactory or below standard rating on a function related to instructional duties, the superintendent must recommend the employee either receive an action plan to improve performance or be dismissed or demoted. Action plans must be completed within 90 days or the beginning of the next school year. Upon the completion of the action plan, an employee is re-evaluated and if the employee receives one unsatisfactory or more than one below standard rating on any function related to instructional duties, the superintendent must recommend dismissal. The results of the second evaluation constitute substantial evidence of the employee's inadequate performance.

The SBE must be notified of a dismissal of an employee for any reason except for a reduction in force and it must provide those names to all local boards of education. If a local board hires ones of those individuals, the employee must be observed and given an action plan reviewed by the SBE. If the next evaluation of the employee results in a unsatisfactory or below standard rating on any function related to instructional duties, the SBE must revoke the employee's license. If a satisfactory rating is achieved, then the SBE shall be so notified and the SBE may not provide that person's name to local boards.

Bill Analysis:

The bill would change the term "certified" to "licensed" throughout G.S. 115C-333 and would change "action plans" to "mandatory improvement plans". Assistance teams could conduct evaluations of teachers in low-performing schools.

Mandatory improvement plans would be defined as an instrument designed to improve a teacher's performance or the performance of any certified or licensed employee in a low-performing school by providing notice of specific performance areas that have substantial deficiencies and set of strategies and specific support so that the employee can satisfactorily resolve the deficiencies.

Local boards would be required to use the standards set by the SBE but may adopt additional evaluation criteria and standards. The bill would provide that if a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or represents unsatisfactory or below standard performance, the evaluator must recommend to the superintendent that the employee receive a mandatory improvement plan or that the superintendent recommend dismissal. If the evaluator decides to not make either of those recommendations, the superintendent must be notified about that decision. A principal may immediately institute a mandatory improvement plan regardless of ratings on past evaluations any time a teacher engages in inappropriate conduct or performs inadequately to a degree that causes substantial harm to the educational environment. The exigent reason must be documented.

The remainder of the process would stay the same as it is under the current law with action plans. Local boards of education would have to adopt policies for the implementation of monitored and directed growth plans.

Revaluations after mandatory improvement plans would be termed "reassessments" and if it is determined that the employee has failed to become proficient in any of the performance standards set forth in the mandatory

improvement plan or failed to demonstrate sufficient improvement towards such standards, the superintendent must recommend dismissal with the results of the second assessment constituting substantial evidence of inadequate performance.

The same process would be followed if the employee of a low-performing school is dismissed and subsequently hired by another local board with the requirement that a mandatory improvement plan be developed and reviewed by the SBE. If the employee's next evaluation results in a rating on any standard in an area of concern on the mandatory improvement plan that is again below proficient or is otherwise unsatisfactory or below standard performance, the SBE must begin license revocation proceedings. If a proficient rating is achieved in all areas that were identified as concerns in the mandatory improvement plan, the SBE may not provide the person's name to local boards unless the person is subsequently dismissed for anything other than reduction in force.

Section 3: Evaluations and Mandatory Improvement Plans for Teachers

Bill Analysis:

The bill would add a new statute to govern the evaluations of teachers in schools not identified as low-performing and specify when mandatory improvement plans are to be implemented and the process of dismissal for these teachers.

Annual Evaluations:

- Teachers who have not attained career status must be observed 3 times per year by the principal or the principal's designee and at least once a year by a teacher. A principal must evaluate these teachers once per year.
- Teachers who have attained career status must be evaluated annually unless the local board rules provide otherwise.
- Local boards must use the SBE's performance standards and criteria but may adopt additional evaluation criteria and standards.

Mandatory Improvement Plans:

- A principal may place a teacher on a mandatory improvement plan if a teacher receives a below proficient rating or otherwise represents unsatisfactory or below standard performance on an expected standard during an observation or evaluation. The plan would only be utilized if the superintendent or the superintendent's designee determines that an individual, monitored or directed growth plan will not satisfactorily address the deficiencies.
- A principal may immediately institute a mandatory improvement plan regardless of ratings on past evaluations any time a teacher engages in inappropriate conduct or performs inadequately to a degree that causes substantial harm to the educational environment. The exigent reason must be documented.
- Teachers shall be consulted in the development of the mandatory improvement plans and may request modification before implementation and this must be considered by the principal before it is finalized. Teachers must be given 60 instructional days to complete the plan.

Observations by Qualified Observers:

- Qualified observer is defined as (i) an administrator or teacher licensed by the SBE and working in NC; (ii) any employee of DPI trained in evaluating licensed employees; (iii) any instructor or professor who teaches in an accredited NC school of education and holds an educator's license.
- Local boards of education must create a list of qualified observers employed by the board who can do observations of employees on mandatory improvement plans. The list must be limited to administrators and teachers selected by the school improvement teams in the school system.
- Teachers placed on mandatory improvement plans have the right to be observed by a qualified observer in the areas of concern identified in the plan. The teacher and principal must jointly choose the qualified instructor within 20 days of the implementation of the plan; if they cannot agree, they must each designate a person from the qualified observer list and these 2 persons must then choose the qualified observer.

- The qualified observer must draft a written report assessing the teacher in the areas of concern of the mandatory improvement plan and submit to the principal before the end of the plan period. If the observer is a teacher or administrator from the same school system, then the system must provide that person with the necessary time to do the observation and report. If the observer is not employed by the school system, then the teacher subject to the mandatory improvement plan would be responsible for any expenses related to the observation and report.
- Qualified observers who are employees of a local board of education may not be discharged, threatened or otherwise retaliated against by that local board or another employee because of service as a qualified observer unless the report contains material information that the observer knew to be false.

Reassessments and Dismissals:

- After the completion of the mandatory improvement plan, the principal must assess the teacher a second time and consider the report of the qualified observer. If the superintendent or the superintendent's designee then determines the teacher has failed to become proficient in any performance standard deemed to be deficient in the mandatory improvement plan or has not shown improvement, dismissal may be recommended. Results of the second assessment would constitute substantial evidence of inadequate performance.
- A superintendent may initiate a dismissal proceeding without a mandatory improvement plan having been implemented, however, substantial evidence of inadequate performance would not be a given.

SBE Notification:

- If a local board dismisses a teacher for any reason other than reduction in force, the SBE must be notified and the SBE must provide all local boards with the names of those teachers annually.
- If a local board hires one of those teachers, the superintendent or the designee must observe the teacher and develop a mandatory improvement plan and submit it to the SBE for review.
- At the next evaluation:
    - If the teacher receives a rating on any standard in an area of concern that is below proficient or a rating that represents unsatisfactory or below standard performance, the local board must notify the SBE which must initiate a license revocation proceeding.
    - If the teacher receives at least a proficient rating on all of the performance standards, the local board must notify the SBE that the teacher is in good standing. The SBE may not continue to provide the teacher's name to local boards unless the teacher is subsequently dismissed for a reason other than reduction in force.
    - If the teacher receives a "developing" rating on any performance standards, the teacher has one more year to bring the rating to proficient. If the teacher is not proficient by the end of the second year, then the local board must notify the SBE which must initiate a license revocation proceeding.

Civil Immunity:

- There would be no liability for negligence by the SBE, a local board of education or their employees for any action or omission under the section except to the extent of indemnification by insurance and the waiver of sovereign immunity.
- The immunity would not extend to gross negligence, wanton conduct, or intentional wrongdoing that would be otherwise actionable.

Sections 4-8 would make conforming changes.

EFFECTIVE DATE: The bill would become effective July 1, 2011 and apply to persons recommended for dismissal or demotion on or after that date.
S466-SMRQ-22(CSRQ-11) v3

SENATE BILL 479

Short Title:	Testing in the Public Schools.	(Public)
Sponsors:	Senators Tillman, Preston, Soucek; Blake, Brock, Brown, Daniel, Forrester, Gunn, Hise, Hunt, Jones, Meredith, Pate, Rabon, Rucho, Stein, and Stevens.	
Referred to:	Education/Higher Education.	

April 4, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ASSESSMENT OF CAREER AND COLLEGE READINESS WITH NATIONALLY AND INTERNATIONALLY BENCHMARKED TESTS; THE CONTINUATION OF NORTH CAROLINA'S PARTICIPATION IN THE DEVELOPMENT AND IMPLEMENTATION OF TESTS RELATED TO COMMON CORE STATE STANDARDS ADOPTED BY A MAJORITY OF STATES; A PILOT STUDY OF A NEW ASSESSMENT OF U.S. HISTORY BASED ON THE REVISED CURRICULUM AND THAT ASSESSES CRITICAL THINKING AND WRITING SKILLS; AND DIAGNOSTIC TOOLS TO ASSIST IN TEACHING AND STUDENT LEARNING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-174.11 reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving federal grants.

(b) Repealed by Session Laws 2009-451, s. 7.20(c), effective July 1, 2009.

(c) Annual Testing Program.

(1) The State Board of Education shall adopt the tests for grades three through 12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies for grades nine through 12. Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade.

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

(3) The State Board of Education shall continue to participate in the development of the Common Core State Standards in conjunction with the consortium of other states, review all national assessments developed by

both multistate consortia, and implement the assessments that the State Board deems most appropriate to assess student achievement on the Common Core State Standards.

(4) To the extent funds are made available, the State Board shall plan for and require the administration of the ACT test for all students in the eleventh grade unless the student has already taken a comparable test and scored at or above a level set by the State Board.

(d) Except as provided in ~~subdivision (2) of~~ subsection (c) of this section, the State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant."

SECTION 2. Article 10A of Chapter 115C of the General Statutes is amended by adding two new Parts to read:

"Part 4. Student Diagnostic Tests.

"**§ 115C-174.20. Tools for student learning.**

To the extent funds are made available for this purpose, the State Board shall plan for and require the administration of diagnostic tests in the eighth and tenth grades that align to the ACT test in order to help diagnose student learning and provide for students an indication of whether they are on track to be remediation-free at a community college or university.

"Part 5. Career Readiness.

"**§ 115C-174.25. WorkKeys.**

To the extent funds are made available for this purpose, the State Board shall plan for and require local school administrative units to make available the appropriate WorkKeys tests for all students who complete the second level of vocational/career courses."

SECTION 3. The State Board of Education shall pilot a United States History assessment during the 2011-2012 school year that incorporates writing, use of primary documents, and critical thinking skills. The State Board shall report to the Joint Legislative Education Oversight Committee by November 15, 2012, with results and recommendations from the pilot study.

SECTION 4. This act becomes effective July 1, 2011, and applies beginning with the 2011-2012 school year.

SENATE BILL 479:
Testing in the Public Schools

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 13, 2011
Introduced by:	Sens. Tillman, Preston, Soucek	**Prepared by:**	Patsy Pierce
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***Senate Bill 479 adds three new requirements to the State testing program:***
1. Assessment of college and career readiness using nationally and internationally benchmarked tests (ACT and WorkKeys), depending on funding availability.
2. North Carolina's continued participation in the standards development and review and implementation of tests related to the Common Core Standards.
3. Administration of diagnostic tests in 8th and 10th grades aligned to the ACT to help students know if they are on track to be remediation-free at a community college or university.
SB 479 would require the State Board of Education to pilot a new US History assessment during the 2011-12 school year and report results and recommendations of the pilot to the Joint Legislative Education Oversight Committee by November 15, 2012.

CURRENT LAW: G.S. 115C-174.11 provides that the State Board of Education (SBE) shall adopt and provide to local school systems developmentally appropriate, non-standardized assessments which are consistent with the Basic Education Program for the first and second grades. The SBE shall adopt tests for grades three through 12 designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies for grades nine through 12. The SBE cannot require the administration of standardized tests in grades 3-12, except for those which are required by the federal government, but shall adopt and provide to local school systems any federally required tests. According to S.L. 2011-8, the SBE will report to the House Education and Senate Education/Higher Education Committees by June 1, 2011 on alternative strategies to measure academic performance. S.L. 2011-8 also eliminates these end-of-course tests beginning with the 2011-12 school year: U.S. History, Civics and Economics, Algebra II, and Physical Science.

BILL ANALYSIS: SB 479 would add a requirement for the SBE to continue to participate in the development of the Common Core Standards, review all nationally-developed assessments related to the Common Core, and to implement the assessments that the SBE considers most appropriate. To the extent funds are available, the SBE would require administration of the ACT for 11th grade students unless a student has taken a comparable assessment and scored at or above a level set by the SBE. The bill would also require the SBE, to the extent funds are available, to administer diagnostic tests aligned to the ACT in the 8th and 10th grades to help diagnose student learning and help students to know if they are on track for remediation-free community college or university education. The bill would authorize the SBE, to the extent funds are available, to require local school systems to make appropriate WorkKeys tests available for student completing the second level of vocational and career coursework. A pilot of a new US History assessment that incorporates writing, use of primary documents, and critical thinking skills would be required during the 2011-12 school year. Results and recommendations from the pilot of this test would be reported to the Joint Legislative Education Oversight Committee by November 15, 2012.

EFFECTIVE DATE: The bill would become effective July 1, 2011 and would apply beginning with the 2011-12 school year.

BACKGROUND: North Carolina joined 44 other states to adopt the Common Core Standards in 2010. The Common Core Standards reflect 21st skills in English Language Arts and Mathematics necessary for career and college success. The ACT is a nationally benchmarked assessment of college readiness and provides students with career and educational planning information and aligns with the Common Core Standards. The WorkKeys tests measure current and needed general and specific skills for success in the workplace. *S479-SMTL-19(e1) v6*

SENATE BILL 498*

Short Title:	Modify Law Re: Corporal Punishment.	(Public)
Sponsors:	Senators Pate and Purcell.	
Referred to:	Education/Higher Education.	

April 4, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE INVOLVEMENT OF A PARENT OR GUARDIAN BEFORE SCHOOL OFFICIALS MAY ADMINISTER CORPORAL PUNISHMENT ON A STUDENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-391(a)(5) reads as rewritten:

"(5) ~~Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated in writing that corporal punishment shall not be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent or guardian has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent or guardian at the first individualized education program or section 504 plan meeting held during the school year.~~ Corporal punishment may be administered only on a student whose parent or guardian has stated in writing that corporal punishment may be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the school year."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

SENATE BILL 498:
Modify Law Re: Corporal Punishment

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	April 12, 2011
Introduced by:	Sens. Pate, Purcell	**Prepared by:**	Sara Kamprath
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 498 would expand the current ban on the use of corporal punishment on a student with disabilities if the student's parent or guardian has stated in writing that corporal punishment shall not be administered to all students.

[As introduced, this bill was identical to H579, as introduced by Reps. M. Alexander, Johnson, which is currently in Rules, Calendar, and Operations of the House.]

CURRENT LAW: State law does not prohibit corporal punishment in schools. However, G.S. 115C-391(a) requires a local board to adopt a policy governing student discipline. A school board is not required to adopt a discipline policy that allows corporal punishment. If a policy is adopted, however, the statute sets out the following minimum conditions that must be in the policy for the administration of corporal punishment:

- Corporal punishment cannot be administered in a classroom with other students present.
- The student body must know what types of misconduct may result in this punishment.
- Corporal punishment may be administered only by a teacher, substitute teacher, assistant principal, or principal and must be witnessed by one of those individuals, a teacher assistant, or a student teacher. Prior to the administration of the corporal punishment and in the student's presence, the witness must be informed of the reason for the punishment.
- An appropriate school official must notify the parent or guardian that this punishment was administered. If requested by the parent or guardian, the notice must be in writing and must include reasons for the corporal punishment and the name of the witness.
- Corporal punishment is prohibited on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under Section 504 of the federal Rehabilitation Act of 1973 if the parent or guardian of the student has stated in writing that corporal punishment may not be administered on that student. Parents and guardians are given a form to make such an election at the beginning of the school year, when the student first enters the school during the year, or at the first IEP or Section 504 plan meeting.

Discipline policies, including any policy on corporal punishment, must be published and made available to students and parents at the beginning of each school year.

Local boards of education are required to annually report to the State Board of Education on the number of times corporal punishment was administered. The report must be in compliance with the federal Family Educational Rights and Privacy Act to ensure that students are not personally identifiable, and must include the following information:

- The number of students who received corporal punishment and the reason for the administration of corporal punishment for each of those students
- The number of students who received corporal punishment who were also students with disabilities and eligible to receive special education and related services under IDEA
- The grade level of the students who received corporal punishment
- The race and ethnicity of the students who received corporal punishment

Even in school systems that do not adopt a policy to authorize corporal punishment, the law allows school personnel to use reasonable force, including corporal punishment, to control behavior or remove a person from a situation if necessary: (i) to stop a disturbance threatening injury to others; (ii) to obtain dangerous objects or weapons from a student; (iii) for self-defense; (iv) to protect persons or property; or (v) to maintain order.

BILL ANALYSIS: Senate Bill 498 would extend to all students the existing ban on administering corporal punishment to a student with disabilities if the student's parent or guardian has stated in writing that corporal punishment shall not be administered on the student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the school year.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply beginning with the 2011-2012 school year.

BACKGROUND: According to information from a recent survey conducted by Action for Children there were only 17 LEAs that still used corporal punishment as a form of discipline in the 2009-2010 school year. Those LEAs are: Robeson County, Burke County, Columbus County, Yadkin County, Graham County, Duplin County, Macon County, Bladen County, Gaston County, Caldwell County, Swain County, Davidson County, McDowell County, Haywood County, Alexander County, Onslow County, and Thomasville City. The number of times that corporal punishment has been administered has been on the decline: from 2,700 times in 2007 to less than 700 times last school year. In addition, 30 states have banned corporal punishment.

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, April 13,2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Meredith Swindell	The Policy Group
Mary Ellen Taft	NCSCA
Cheryl Posner-Cahill	NC School Psychology Assoc
M Gardner Culpepper	Visitor
Joanne Stevens	NCNA TA
Susan Moore	TA
Sarah Preston	ACLU-NC
Annaliese Dolph	DRNC
Jessica Ward	
DAVID RICE	MANNING FULTON
JOEL MAYNARD	GPM's ASSOC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, April 13,2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	Public School Forum
[signature]	Ed Consult.
[signature]	DPI
[signature]	NCDPI
[signature]	NCPTSC
[signature]	EGH
[signature]	NCSBA
[signature]	NCAE
Tom Stern	NCAE
Gene Causby	NCSCA
[signature]	NCASA

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, April 13,2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McMullen	MPAS
Erin Swanson	Teach For America

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, April 13,2011
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matt Harrell	NCSBA
Penny Griffin	School of Gov.
Jaime King	NCEC
MHill	NCSBE
Dawn Shepherd Pope	Office of the Governor
John Merritt	MWCLLC
~~Tom Vitagliano~~	~~ASC~~
Evelyn Hawthorne	PCNC; CCSNC
Doug Trantham	Appalachian Community Services
Sara Riggins	NCFPC
Christopher Hill	NC Justice Center

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education Wednesday, April 13,2011

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, April 27, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on April 27, 2011, in Room 544 of the Legislative Office Building. Twenty members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and introduced the Sergeant-at-Arms and the Pages.

Chairman Soucek then recognized Senator Bob Rucho to explain Senate Bill 569. After a brief explanation, Senator Rucho called on Mr. Kennon Briggs, North Carolina Community College System.

Mr. Briggs further explained that the bill would transfer the receipts from community college tuition and fees that are above the amount certified at the end of a fiscal year into the newly created Enrollment Growth Reserve to be used at colleges experiencing an enrollment increase of greater than 5% of budgeted enrollment levels.

Chairman Soucek asked for questions from the members and first recognized Senator Garrou for a question of Mr. Briggs. Senator Garrou asked Mr. Briggs about the need for equipment funding for the Community College system.

Chairman Soucek then recognized Senator Nesbitt questioned Mr. Briggs regarding how much money is represented by the 2% general fund appropriation referenced in Section B.

Chairman Soucek noted that the bill was going to be referred to Appropriations and would receive a fiscal note.

Senator Austin Allran moved for a favorable report. A vote was taken and the committee adopted a favorable report.

Chairman Soucek recognized Senator Fletcher Hartsell to explain Senate Bill 169. Senator Hartsell stated that this was nothing new and was a study bill. It was originally called the North Carolina Education Recovery Act.

Senator Robinson questioned whether giving money to children would actually enhance learning. Senator Hartsell responded that giving $1,000.00 annually is not the only answer but this committee will do the study. He said he wanted to tailor this to North Carolina and that "Learn to Earn" is a suggestion.

Senator Dannelly expressed concern over who keeps the money for the children over this twelve-year period. He expressed concern over the fact that those children that were already excelling would benefit and not the underachievers.

Chairman Soucek reminded the members that this would be a Study Commission and that the bill had a sequential referral to Appropriations.

Senator Dannelly moved for a favorable report. Vote was taken and the committee adopted a favorable report.

Senator Brown moved for a motion that the committee adopt a Proposed Committee Substitute to Senate Bill 576.

Chairman Soucek called on Senator Hartsell to explain the bill. Senator Hartsell deferred the explanation to Ann McColl, Legislative Director of the State Board of Education, who was recognized to speak regarding the changes to fees for teacher certification. She stated that there has not been an increase since 1998 and that these increases would improve efficiency and lower cost over time.

Senators Brown was recognized and inquired of Ms. McColl regarding the state of readiness for the new electronic system.

Senator Pate was recognized and inquired about the meaning of lines 24 – 26. Kara McCraw of the Research Division was recognized for an explanation.

Senator Garrou opined on the difficulty facing the State in getting teachers to come into the profession when they have not had a raise in three years and now are facing an increase in certification fees.

Senator Stein questioned Ms. McColl about the revised structure.

Chairman Soucek recognized Senator Tillman who mentioned that this bill had a sequential referral to Finance and moved for a favorable report. A vote was taken and the committee adopted an unfavorable report to the bill, but favorable to the committee substitute.

Due to a lack of time, Chairman Soucek announced that Senate Bill 575 would be held until the next committee meeting and then adjourned the meeting.

The meeting adjourned at 10:55AM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, April 27, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 169	Study Innovations/Incentives in Education.	Senator Hartsell
SB 569	Community College Efficiency Initiatives.	Senator Rucho
SB 575	Higher Education Efficiency and Flexibility.	Senator Tillman Senator Stevens
SB 576	Changes to Fees for Teacher Certification.	Senator Hartsell Senator Preston Senator Tillman

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, April 27, 2011

Senator SOUCEK,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **169** Study Innovations/Incentives in Education.
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None

S.B. **569** Community College Efficiency Initiatives.
Sequential Referral: None
Recommended Referral: Appropriations/Base Budget

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **576** Changes to Fees for Teacher Certification.
Draft Number: PCS15153
Sequential Referral: Finance
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comments:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 169

Short Title:	Study Innovations/Incentives in Education.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	Education/Higher Education.	

March 2, 2011

A BILL TO BE ENTITLED

AN ACT CREATING THE INNOVATIONS IN EDUCATION LEGISLATIVE STUDY COMMISSION TO STUDY THE FEASIBILITY OF OFFERING FINANCIAL INCENTIVES TO STUDENTS FOR QUALITY ACADEMIC PERFORMANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Findings. – The General Assembly finds that the State is fighting a war on high dropout rates, on achievement gaps, on growing discipline problems, and on a lack of parental involvement. The General Assembly finds that the active and innovative participation of parents, students, teachers, policymakers, and lawmakers will be required to win the battle for the best educational and occupational future for the children in this State. To that end, consideration of innovative incentives for educational achievement is in the best interests of the State.

SECTION 2.(a) Commission Created. – There is created the Innovations in Education Legislative Study Commission ("Commission"). The Commission shall consist of 12 voting members appointed as follows:

(1) Four members appointed by the Governor, to include:
  a. One person in the field of college loans and educational finance.
  b. One person in the field of banking.
  c. Two members of the general public.

(2) Four members appointed by the President Pro Tempore of the Senate, to include:
  a. Three members of the Senate.
  b. One member of the general public.

(3) Four members appointed by the Speaker of the House of Representatives, to include:
  a. Three members of the House of Representatives.
  b. One member of the general public.

SECTION 2.(b) The Commission shall:

(1) Study the feasibility of giving to every public school student in North Carolina an incentive of one thousand dollars ($1,000) per year beginning at grade one and extending to grade 12 if the student meets successfully specific academic, disciplinary, attendance, character, and parental involvement goals and benchmarks.

(2) Determine the amount of money needed to adequately fund the incentives program, including the costs of grants to students and the costs of staffing and tracking for accountability. In determining funding requirements, the

Commission shall review how prudent long-term investment strategies might yield income to offset the costs to the State of an incentives program.

(3) Study any other matters that the Commission deems relevant.

(4) Make an interim report to the General Assembly by the convening of the 2012 Regular Session.

(5) Make a final report to the 2013 General Assembly that includes findings, recommendations, and legislative proposals relating to the incentives program and related educational innovations.

SECTION 2.(c) The Commission shall terminate upon filing its final report.

SECTION 2.(d) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and the Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1. The appointing authority shall fill vacancies. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

SECTION 3. Appropriation. – There is appropriated from the General Fund to the General Assembly the sum of fifty thousand dollars ($50,000) for the 2011-2012 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2012-2013 fiscal year to fund the work of the Innovations in Education Legislative Study Commission created by this act.

SECTION 4. Effective Date. – This act becomes effective July 1, 2011.

SENATE BILL 169:
Study Innovations/Incentives in Education

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 27, 2011
Introduced by:	Sen. Hartsell	**Prepared by:**	Patsy Pierce Legislative Analyst
Analysis of:	First Edition		

SUMMARY: Senate Bill 169 would create the Innovations in Education Legislative Study Commission.

BILL ANALYSIS: SB 169 would establish a 12-member Innovations in Education Legislative Study Commission. The Commission Members would be as follows:

- Four members appointed by the Governor, to include:
  - One person in the field of college loans and educational finance.
  - One person in the field of banking.
  - Two members of the general public.
- Four members appointed by the President Pro Tempore of the Senate, to include:
  - Three Senators
  - One member of the general public.
- Four members appointed by the Speaker of the House of Representatives, to include:
  - Three Representatives
  - One member of the general public.

The Commission would study the feasibility of giving $1000.00 per year to each 1st-12th grader who successfully meets academic, disciplinary, attendance, character, and parental involvement goals.

The Commission would determine funding requirements for the incentives to students and for personnel to track accountability. The Commission would also review long-term investment strategies which might offset the costs of the incentive program. The Commission would study other matters as it deems necessary.

The Commission would make an interim report to the 2012 General Assembly, a final report that includes findings, recommendations, and legislative proposals relating to the incentives program to the 2013 General Assembly, and would terminate upon filing its final report.

The Speaker of the House and the President Pro Tempore of the Senate would each appoint a cochair for the Commission. The Commission may contract for consultant services and upon approval of the Legislative Services Commission. The Legislative Services Officer would assign clerical staff from the House and Senate to assist the Commission. The Commission could meet in the Legislative or Legislative Office Building. Members of the Commission would receive per diem, subsistence, and travel allowances at the rate established in G.S.120-3.1.

The appointing authority would fill vacancies. The Commission would discharge duties and exercise powers provided by G.S. 120-19 through G.S. 120-19.4. There would be an appropriation to the Commission from the General Fund for $100,000 over two years (2011-2013).

_FFECTIVE DATE: This act would become effective on July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 569

Short Title:	Community College Efficiency Initiatives.	(Public)
Sponsors:	Senator Rucho.	
Referred to:	Education/Higher Education.	

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO ENACT COMMUNITY COLLEGE EFFICIENCY INITIATIVES.

The General Assembly of North Carolina enacts:

USE OF OVERREALIZED RECEIPTS TO SUPPORT ENROLLMENT GROWTH RESERVE RATHER THAN EQUIPMENT RESERVE

SECTION 1. G.S. 115D-31(e) reads as rewritten:

"(e) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the ~~Equipment Reserve Fund.~~Enrollment Growth Reserve. Funds in the Enrollment Growth Reserve shall not revert to the General Fund and shall remain available to the State Board until expended. The State Board may allocate funds in this reserve to colleges experiencing an enrollment increase greater than five percent (5%) of budgeted enrollment levels."

TWO PERCENT (2%) OF BUDGET MAY BE CARRIED FORWARD

SECTION 2.(a) Each college may retain and carry forward into the next fiscal year up to two percent (2%) of its final fiscal year General Fund appropriations. Funds retained by the colleges shall be used for the purchase of equipment, initial program start-up costs including faculty salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.

SECTION 2.(b) G.S. 115D-31.3(i) does not apply to the provisions of this section.

EFFECTIVE DATE

SECTION 3. This act becomes effective July 1, 2011.

SENATE BILL 569:
Community College Efficiency Initiatives

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	April 26, 2011
Introduced by:	Sen. Rucho	**Prepared by:**	Sara Kamprath
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***Senate Bill 569 would transfer the receipts from community college tuition and fees that are above the amount certified at the end of a fiscal year into the newly created Enrollment Growth Reserve to be used at colleges experiencing an enrollment increase of greater than 5% of budgeted enrollment levels. The bill would also allow individual colleges to retain and carry forward into the next fiscal year up to 2% of its final fiscal year General Fund appropriations.***

CURRENT LAW: G.S. 115D-31(e) provides that the State Board of Community Colleges shall transfer the amount of tuition receipts and fees that exceed the amount certified in General Fund Codes at the end of a fiscal year into the Equipment Reserve Fund.

BILL ANALYSIS: **Section 1** of Senate Bill 569 would transfer the receipts from community college ıition and fees that are above the amount certified at the end of a fiscal year into the newly created Enrollment Growth Reserve instead of the Equipment Reserve Fund. These funds shall not revert but remain available to the State Board until they are expended. The State Board may allocate these funds to colleges that are experiencing an enrollment increase greater than 5% of budgeted enrollment levels.

Section 2 of the bill allows an individual college to carry forward into the next fiscal year up to 2% of its final fiscal year General Fund appropriations. These funds **may** be used for:

- Equipment purchases
- Initial program start-up costs, including faculty salaries for the initial year of a program
- One-time faculty and staff bonuses

These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward and **may not** be used for:

- Continuing salary increases
- Other obligations beyond the fiscal year into which they were carried forward

EFFECTIVE DATE: The bill becomes effective July 1, 2011.

S569-SMRJ-14(e1) v1

SENATE BILL 575

Short Title:	Higher Education Efficiency and Flexibility.	(Public)
Sponsors:	Senators Stevens and Tillman.	
Referred to:	Education/Higher Education.	

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EFFICIENCY AND FLEXIBILITY FOR THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM AND THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART 1. CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES

SECTION 1.1. G.S. 115D-9 reads as rewritten:

"**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other ~~State or non-State-funded~~ State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of ~~one million dollars ($1,000,000)~~ four million dollars ($4,000,000) or less:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under subsections (b) or (c) of this section.

(g) The State Board shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project funded with non-State funds if the State Board of Community Colleges determines that the college has the expertise necessary to manage the project unless the assistance of the Office of State Construction is requested."

SECTION 1.2. This Part is effective when it becomes law and applies to projects initiated on or after that date.

PART 2. CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD OF COMMUNITY COLLEGES

SECTION 2.1. G.S. 115D-15 reads as rewritten:

"**§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges. Personal property titled to the State Board of Community Colleges consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community college at no cost and without the approval of the State Board of Community Colleges or the Department of Administration, Division of Surplus Property.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section.

...."

SECTION 2.2. This Part becomes effective July 1, 2011.

PART 3. GRANTING COMMUNITY COLLEGES ADDITIONAL FLEXIBILITY WITH REGARD TO INVESTMENTS

SECTION 3.1. G.S. 115D-58.6 reads as rewritten:

"**§ 115D-58.6. Investment of idle cash.**

(a) Definitions. – As used in this section the following definitions apply:

(1) "Cash balance" means the amount equal to all moneys received into institutional fund accounts minus all expenses and withdrawals from those

accounts in an official depository of the institution as designated by the local board of trustees consistent with G.S. 115D-58.7.

(2) "Official depository" means one or more banks, savings and loan associations, or trust companies in North Carolina that a community college board of trustees has designated consistent with G.S. 115D-58.7.

(a1) Deposits. – The institution may deposit at interest ~~or invest~~ all or part of the cash balance of any fund in an official depository of the institution. ~~The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.~~ Moneys may be deposited at interest in any official depository of the institution in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

~~(b) Moneys may be deposited at interest in any bank, savings and loan association or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).~~

~~(c)~~(b) Investments. – The institution may invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(1) Moneys ~~may~~ shall only be invested in the form of investments pursuant to G.S. 159-30(c) to county governments ~~and no others.~~or in any form of investment established or managed by an investment advisor who is registered and in good standing with either the Securities and Exchange Commission or the North Carolina Secretary of State, Securities Division, and is a member of the Securities Investor Protection Corporation. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

~~(d) Investment~~

(2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

~~(e)~~(c) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

~~(f)~~(d) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of ~~trustees."~~trustees.

(e) The Board of Trustees shall appoint an Investment Committee which shall consist of a minimum of three people who have sufficient financial background to review and evaluate investment options. These individuals should have experience in institutional or retail investment management with knowledge of fixed income and public equities. This committee shall make recommendations to the Board on those investment options, as well as monitor the performance of investments once made.

(f) The Board of Trustees shall discharge their duties with respect to the management and investment of college funds as follows:

(1) Investment decisions shall be solely in the interest of the college, and the students, faculty, and staff of the college.

(2) The investments shall be for the exclusive purpose of providing an adequate return to the college.

(3) Investments shall be made with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.

(4) Investment decisions shall be made impartially, taking into account the best interest of the college, with special attention to conflicts of interest or potential conflicts of interest.

(5) Investments shall incur only costs that are appropriate and reasonable."

SECTION 3.2. G.S. 147-69.2 is amended by adding a new subdivision to read:

"(20) Institutional funds of the colleges of the North Carolina Community College System."

SECTION 3.3. This Part becomes effective July 1, 2011.

PART 4. INCREASE THE LIMIT ON CONSTRUCTION PROJECTS THAT THE UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY USE ITS EMPLOYEES TO COMPLETE

SECTION 4.1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000); provided that, for The University of North Carolina and its constituent institutions and for the North Carolina Community College System and its institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed ~~two hundred thousand dollars ($200,000)~~ five hundred thousand dollars ($500,000) or the total cost of labor on the project does not exceed ~~one hundred thousand dollars ($100,000).~~three hundred thousand dollars ($300,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work,

including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 4.2. This Part is effective when it becomes law.

PART 5. ALLOW THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO APPROVE THE PLANNING, AUTHORIZATION, AND FUNDING OF CAPITAL PROJECTS FROM NON-GENERAL FUND SOURCES

SECTION 5.1. G.S. 143C-8-12 reads as rewritten:

"**§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.**

Notwithstanding any other provision of this Chapter, ~~the Director of the Budget may, upon request of~~ the Board of Governors of The University of North Carolina ~~and after consultation with the Joint Legislative Commission on Governmental Operations,~~ may approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money. The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations."

SECTION 5.2. This Part is effective when it becomes law.

PART 6. AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO ALLOCATE OR REALLOCATE FUNDS TO REPAIRS AND RENOVATIONS PROJECTS; AND TO REQUIRE THAT ANY ALLOCATION OR REALLOCATION BE REPORTED TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WITHIN SIXTY DAYS

SECTION 6.1. G.S. 143C-4-3 is amended by adding a new subsection to read:

"(d) Board of Governors May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Board of Governors of The University of North Carolina may be allocated or reallocated by the Board for repairs and renovations projects so long as (i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection."

SECTION 6.2. This Part becomes effective July 1, 2011.

PART 7. WAIVE THE REQUIREMENT FOR A CAPITAL PROJECT FEASIBILITY DETERMINATION FOR CAPITAL PROJECTS OF THE UNIVERSITY OF NORTH CAROLINA FOR WHICH ADVANCE PLANNING HAS NOT BEEN UNDERTAKEN

SECTION 7.1. G.S. 143C-3-3 reads as rewritten:

"**§ 143C-3-3. Budget requests from State agencies in the executive branch.**

...

(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

(1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.

(2) An estimate of project costs approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the repair or renovation is to be financed.

(d) Capital Funds Request. – In addition to any other information requested by the Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing facility to accommodate new or expanded uses shall accompany that request with all of the following:

(1) An estimate of its space needs and other physical requirements, together with a review and evaluation of that estimate prepared by the Department of ~~Administration.~~Administration, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the estimate of space needs may be a preliminary estimate.

(2) An estimate of project costs and cash flow requirements approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the acquisition, construction, or rehabilitation is to be financed.

(5) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation.

(6) An estimate of revenues, if any, to be derived from the project, covering the first five years of operation.

This subsection does not apply to requests for State resources for railroad, highway, or bridge construction or renovation.

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities

for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General Assembly, the Administrative Office of the Courts, or The University of North Carolina."

SECTION 7.2. G.S. 143-341(3)b1. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(3) Architecture and Engineering:

...

b1. To certify that a statement of needs pursuant to ~~G.S. 143C-3-3~~ G.S. 143C-3-3, other than for a project of The University of North Carolina for which advance planning has not been completed, is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000)."

SECTION 7.3. This Part becomes effective July 1, 2011.

PART 8. ALLOW CHANCELLORS OF CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO APPROVE CERTAIN REPAIR AND MAINTENANCE PROJECTS AND TO FUND THOSE PROJECTS WITH AVAILABLE OPERATING FUNDS

SECTION 8.1. G.S. 116-13.1 reads as rewritten:

"**§ 116-13.1. Capital facilities; ~~reports.~~reports; chancellors may authorize certain repair and maintenance projects.**

(a) The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital

facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

(b) Equity in University Improvements. – The Board of Governors of The University of North Carolina shall continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist on North Carolina's Public Historically Black Colleges and Universities and North Carolina's Historically American Indian University, the University of North Carolina at Pembroke, beyond the funding of the projects provided for in this act, and shall report annually to the Joint Legislative Commission on Governmental Operations on any remaining inequities found, including recommendations as to how those inequities should be addressed.

(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project for repairs to institution facilities, maintenance of those facilities, and related equipment purchases. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects."

SECTION 8.2. This Part is effective when it becomes law.

PART 9. AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO PERMIT CONSTITUENT INSTITUTIONS OF THE UNIVERSITY TO SELF-PERFORM ENERGY CONSERVATION MEASURES; AND TO AUTHORIZE ENERGY SAVINGS TO BE USED AS SECURITY FOR AND A SOURCE OF REPAYMENT FOR DEBT ISSUED PURSUANT TO ARTICLE 3 OF CHAPTER 116D OF THE GENERAL STATUTES

SECTION 9.1. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17L. Board of Governors may authorize energy conservation measures at constituent institutions.**

(a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board of Governors of The University of North Carolina may authorize a constituent institution to implement an energy conservation measure without entering into a guaranteed energy savings contract if both of the following are true:

(1) The Board of Governors finds that the energy savings resulting from the implementation of the energy conservation measure will, according to the energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or exceed the total cost of implementing the measure. If the proposed implementation will be financed with debt, then the energy savings analysis must project sufficient energy savings to pay the debt service on any bonds to be issued. As used in this subdivision, the term 'total cost' shall have the same meaning as it does in G.S. 143-64.17B(d).

(2) The energy conservation measure is for an existing building or utility system.

(b) Scope of Authority. – In implementing an energy conservation measure pursuant to subsection (a) of this section, the Board of Governors may undertake or authorize a constituent institution to undertake any action that (i) could be required of a qualified provider under a guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

(c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of Governors may authorize the implementation of multiple energy conservation measures simultaneously as part of a single project. When doing so, the findings required by subsection (a) of this section may be made with respect to the project as a whole and need not be made with respect to individual energy conservation measures. Similarly, the analyses required by G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy conservation measures.

(d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a constituent institution implements an energy conservation measure through a guaranteed energy savings contract, that contract shall accord in all respects with the requirements of this Part.

SECTION 9.2. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17M. Energy savings analysis required prior to implementation; post-implementation analyses required.**

(a) Energy Savings Analysis Required Prior to Implementation. – Prior to implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings analysis shall be performed to validate the economic assumptions that purportedly support the implementation of the measure. This analysis shall be performed by a third party selected by the constituent institution and shall include an energy consumption analysis to develop a baseline of previous costs of all utilities' energy consumption for the institution on the assumption that the energy conservation measure was not undertaken. The completed analysis shall be submitted to The University of North Carolina General Administration and to the State Energy Office.

(b) Post-Implementation Analyses Required. – A constituent institution that implements an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to perform an annual measurement and verification of energy savings resulting from the energy conservation measure as compared to the baseline of previous costs set forth in the energy savings analysis required by subsection (a) of this section. The third party shall annually provide a reconciliation statement based upon the results of a preagreed upon measurement, monitoring, and verification protocol which shall disclose any shortfall or surplus between the estimated energy usage and operational savings set forth in the energy savings analysis required by subsection (a) of this section and actual, not stipulated, energy usage and operational savings incurred during a given year.

If a reconciliation statement reveals a shortfall in energy savings for a particular year, the constituent institution shall be responsible for and shall pay the shortfall. However, the institution shall not be held responsible for losses due to natural disasters or other emergencies. Any surplus shall be retained by the institution and may be used in the same manner as any other energy savings.

SECTION 9.3. G.S. 116-30.3B(b) reads as rewritten:

"(b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf of a constituent institution not be reduced as a result of the institution's realization of energy savings. Instead, the General Assembly intends that the amount of appropriations be determined as if no energy savings had been realized. The Director of the Budget shall not decrease the recommended continuation budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract."

SECTION 9.4. G.S. 143-64.17F(b) reads as rewritten:

"(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L."

SECTION 9.5. G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the ~~contract~~ contract or (ii) the implementation of the measure to the State Energy Office of the Department of Commerce within 30 days of the date the contract is entered ~~into.~~ into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

SECTION 9.6. G.S. 142-63 reads as rewritten:

"**§ 142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or ~~G.S. 143-64.17B or~~ G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time."

SECTION 9.7. G.S. 142-64(a) reads as rewritten:

"**§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit (i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, or (ii) has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures."

SECTION 9.8. G.S. 116D-22(3) reads as rewritten:

"(3) Obligated resources. – Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including "overhead costs reimbursement" under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

d. Funds appropriated from the General Fund to the Board of Governors on behalf of a constituent institution for utilities of the institution that constitute energy savings as that term is defined in G.S. 143-64.17.

~~Obligated~~ Except as provided in Sub-subdivision d. of this subdivision, obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students."

SECTION 9.9. This Part is effective when it becomes law.

PART 10. INSTITUTIONAL EXPENDITURE BENCHMARKS

SECTION 10.1.(a) G.S. 116-31.10 reads as rewritten:

"**§ 116-31.10. Powers of Board regarding certain purchasing contracts.**

(a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than five hundred thousand dollars ($500,000). The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark in accordance with this section, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

(b) Each institution with an expenditure benchmark greater than two hundred fifty thousand dollars ($250,000) shall comply with this subsection for any purchase greater than ~~two hundred fifty thousand dollars ($250,000)~~the institution's benchmark set by the Board but not greater than five hundred thousand dollars ($500,000). This institution shall submit to the Division of Purchase and Contract for that Division's approval or other action deemed necessary by the Division a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division."

SECTION 10.2.(b) This Part becomes effective October 1, 2011.

PART 11. IN THE PROCESS OF BIDDING COMMODITY CONTRACTS, ALLOW COMPETITORS TO BID OPTIONAL ONE-YEAR CONTRACT RENEWALS FOR UP TO TEN YEARS

SECTION 11.1.(a) G.S. 143-53(d) reads as rewritten:

"(d) Notwithstanding the provisions of this section or any rule adopted pursuant to this Article, The University of North Carolina may solicit bids for service contracts and commodity contracts with a term of 10 years or less, including extensions and renewals, without the prior approval of the State Purchasing Officer."

SECTION 11.2.(b) This Part is effective when it becomes law.

PART 12. ALLOW UNC TO ASSUME RESPONSIBILITY FOR THE QUALITY ACCEPTANCE INSPECTION PROCESS

SECTION 12.1.(a) G.S. 143-60 reads as rewritten:

"**§ 143-60. Rules covering certain purposes.**

The Secretary of Administration may adopt, modify, or abrogate rules covering the following purposes, in addition to those authorized elsewhere in this Article:

(1) Requiring reports by State departments, institutions, or agencies of stocks of supplies and materials and equipment on hand and prescribing the form of such reports.

(2) Prescribing the manner in which supplies, materials and equipment shall be delivered, stored and distributed.

(3) Prescribing the manner of inspecting deliveries of supplies, materials and equipment and making chemicals and/or physical tests of samples submitted with bids and samples of deliveries to determine whether deliveries have been made in compliance with specifications. However, the provisions of this subdivision shall not apply to the constituent institutions of The University of North Carolina. The President of The University of North Carolina shall issue regulations or guidelines for the conducting of quality inspections by constituent institutions to ensure that deliveries have been made in compliance with specifications.

(4) Prescribing the manner in which purchases shall be made in emergencies.

(5) Providing for such other matters as may be necessary to give effect to foregoing rules and provisions of this Article.

(6) Prescribing the manner in which passenger vehicles shall be purchased.

Further, the Secretary of Administration may prescribe appropriate procedures necessary to enable the State, its institutions and agencies, to obtain materials surplus or otherwise available from federal, State or local governments or their disposal agencies."

SECTION 12.2.(b) This Part becomes effective October 1, 2011.

PART 13. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO ESTABLISH BRAND NAME SPECIFICATIONS FOR BUILDING COMPONENTS TO BE USED IN UNIVERSITY WORKS UNDER CERTAIN CIRCUMSTANCES

SECTION 13.1. G.S. 133-3 reads as rewritten:

"**§ 133-3. Specifications to carry competitive items; substitution of materials.**

~~All~~ (a) Generally. – Except as provided in subsection (b) of this section, architects, engineers, designers, or draftsmen, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or draftsman may use a

brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.

(b) Notwithstanding subsection (a) of this section, a constituent institution of The University of North Carolina may establish brand-name specifications for building control systems, fire alarm systems, building security systems, elevators, and critical utility systems if it first does all of the following:

(1) Sets forth in writing and makes publicly available the performance and design characteristics required of the building component.

(2) Sets forth in writing and makes publicly available the manner in which adoption of the brand name specification will further efficiency in the operation, maintenance, or upkeep of buildings.

(3) Provides all interested suppliers an opportunity to propose one or more products which will meet the performance and design characteristics set forth. The constituent institution shall make its selection based on initial and life cycle costs as well as quality and suitability for the designated use.

(c) Once a constituent institution establishes a brand-name specification pursuant to subsection (b) of this section, the constituent institution may, without repeating the process set forth in that subsection, use the brand-name specification in construction bid documents when doing so will further efficiency in the operation, maintenance, or upkeep of buildings."

SECTION 13.2. This Part is effective when it becomes law.

PART 14. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO SELL OR TRANSFER SURPLUS PERSONAL PROPERTY OTHER THAN MOTOR VEHICLES

SECTION 14.1. The title of Part 3 of Article 3A of Chapter 143 of the General Statutes reads as rewritten:

"Part 3. ~~Public Agencies.~~Miscellaneous Provisions."

SECTION 14.2. Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-64.7. University of North Carolina exempted from application of Article.

(a) Authority. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina may transfer or sell all supplies, materials, and equipment of the constituent institution that are surplus, obsolete, or unused. The Board of Governors of The University of North Carolina may adopt rules to implement this authority.

(b) No Service Charge. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina shall not be charged any service charge or surcharge for any transfer or sale pursuant to this section.

(c) Use of Receipts. – All receipts from transfers or sales under this section of supplies, materials, or equipment that were acquired with, or supported by, General Fund appropriations shall, minus the actual costs of the sale, be remitted to the State Treasurer and credited to the General Fund as nontax revenue.

(d) Exception. – This section does not apply to the sale or transfer of surplus motor vehicles."

SECTION 14.3. This Part is effective when it becomes law.

PART 15. ALLOW NORTH CAROLINA STATE UNIVERSITY TO SELL TIMBER

SECTION 15.1. Part 1 of Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-64.06. North Carolina State University may sell timber.

Notwithstanding any provision of this Part or Chapter 146 of the General Statutes to the contrary, North Carolina State University is authorized and empowered to sell or transfer timber without involvement by the State Surplus Property Agency and without being required to pay any service charge or surcharge to the State Surplus Property Agency. The proceeds of any sales or transfers under this section shall be used to support the management of, and programming costs associated with, forest properties owned, allocated, or managed by North Carolina State University."

SECTION 15.2. This Part is effective when it becomes law.

PART 16. ALLOW UNC CAMPUSES TO PURCHASE MOTOR VEHICLES INDEPENDENT OF MOTOR FLEET MANAGEMENT

SECTION 16.1. G.S. 143-341(8)i. is amended by adding a new sub-sub-subdivision to read:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

12. Notwithstanding the provisions of this subdivision, or any rules adopted pursuant to this subdivision or Chapter, the constituent institutions of The University of North Carolina may, without the prior approval of the Department of Administration, purchase motor vehicles to be used by campus safety officers. The purchase of campus safety vehicles shall be in accordance with regulations or guidelines issued by the President of The University of North Carolina."

SECTION 16.2. This Part becomes effective December 1, 2011.

PART 17. RELATING TO INSTITUTIONAL TRUST FUNDS OF THE UNIVERSITY OF NORTH CAROLINA AND FUNDS OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

SECTION 17.1. G.S. 116-36.1 reads as rewritten:

"**§ 116-36.1. Regulation of institutional trust funds.**

(a) The Board is responsible for the custody and management of the trust funds of the University of North Carolina and of each institution. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the president, to the respective chancellors of the institutions when such delegation is necessary or prudent to enable the institution to function in a proper and expeditious manner.

(b) Trust funds ~~shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of the University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For purposes of distribution of investment earnings, all trust funds of an institution shall be deemed a single account.~~

~~(c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to this section,~~ and investment earnings thereon, are available for expenditure by each institution without further authorization from the General Assembly.

(d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget Act except for capital improvements projects which shall be authorized and executed in accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the ~~Director of the Budget.~~ Board.

(f) Trust funds or the investment income therefrom shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes is appropriated and shall be used to supplement State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(g) As used in this section, "trust funds" means:

(1) Moneys, or the proceeds of other forms of property, received by an institution as gifts, devises, or bequests that are neither presumed nor designated to be gifts, devises, or bequests to the endowment fund of the institution;

(2) Moneys received by an institution pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof;

(3) Moneys received by an institution pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;

(4) Moneys collected by an institution to support extracurricular activities of students of the institution;

(5) Moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;

(6) Moneys received from or for the operation by an institution of any of its self-supporting auxiliary enterprises, including institutional student auxiliary

enterprise funds for the operation of housing, food, health, and laundry services;

(7) Moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider;

(8) The net proceeds from the disposition effected pursuant to Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection ~~(g)~~ as "trust funds," except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of moneys received as a grant from a State agency;

(9) Moneys received from the operation and maintenance of institutional forests and forest farmlands, provided, that such moneys shall be used, when used, by the institution for support of forest-related research, teaching, and public service programs;

(10) Moneys received from an activity authorized by G.S. 66-58(b)(8)m., n., and o.;

(11) Moneys deposited to the State Education Assistance Authority Fund pursuant to G.S. 116-209.3.

(h) ~~Notwithstanding the provisions of subsection (b) of this section, the Board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as is prescribed by the State Treasurer for the security of public deposits generally. The available cash balance of funds deposited pursuant to this subsection shall be invested in interest-bearing deposits and investments so that the rate of return equals that realized from the investment of State funds generally.~~ The Board may authorize, through the President, that the chancellors may deposit or invest each institution's available trust fund cash balances in interest-bearing accounts and other investments as may be authorized by the Board in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(i) The cash balances on hand as of June 30, 1978, and all future receipts accruing thereafter, of funds identified in this section are hereby appropriated to the use of the University of North Carolina and its constituent institutions."

SECTION 17.2. G.S. 116-37(e) reads as rewritten:

"(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to ~~G.S. 147-69.2(b3).~~ G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose,

"Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts."

SECTION 17.3. G.S. 116-37.2 reads as rewritten:

"**§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill Funds.**

(a) As used in this section, "funds" means:

(1) Moneys, or the proceeds of other forms of property, received by the University of North Carolina Hospitals at Chapel Hill as gifts, devises, or bequests.

(2) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof.

(3) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the University of North Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training, or public service programs.

(4) Moneys received from or for the operation by the University of North Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary enterprises, including the Liability Insurance Trust Fund.

(5) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to fees and other payments for services it renders in its hospital and/or clinical operations.

(5a) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to borrowings for capital equipment or construction projects to further services it renders in either or both of its hospital or clinical operations.

(6) The net proceeds from the disposition effected pursuant to Article 7 of Chapter 146 of the General Statutes of any interest in real property owned by or under the supervision and control of the University of North Carolina Hospitals at Chapel Hill if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection, except the net proceeds from the disposition of an interest in real property first acquired by the University of North Hospitals at Chapel Hill through expenditure of moneys received as a grant from a State agency.

(b) The Board of Directors of the University of North Carolina Health Care System, as established in G.S. 116-37(b), is responsible for the custody and management of the funds of the University of North Carolina Hospitals at Chapel Hill. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds, which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the Chief Executive Officer of the University of North Carolina Health Care System to the President of the University of North Carolina Hospitals at Chapel Hill, when such delegation is necessary or prudent to enable the University of North Carolina Hospitals at Chapel Hill to function in a proper and expeditious manner.

(c) Funds under this section ~~shall be deposited with the State Treasurer who shall hold them in trust in the name of the University of North Carolina Hospitals at Chapel Hill.~~

~~(d) Funds deposited with the State Treasurer in an account pursuant to this section,~~ and investment earnings ~~thereon,~~ thereon are available for expenditure by the University of North Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

(e) Funds under this section are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the ~~Executive~~ State Budget Act except for capital improvements projects, which shall be authorized and executed in accordance with ~~G.S. 143-18.1.~~ G.S. 143C-8-8 and G.S. 143C-8-9.

(f) The University of North Carolina Hospitals at Chapel Hill shall submit such reports or other information concerning its fund accounts under this section as may be required by the ~~Director of the Budget.~~ Board of Directors of the University of North Carolina Health Care System.

(g) Funds under this section, or the investment income therefrom, shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes shall be used to supplement State appropriations to the end that the University of North Carolina Hospitals at Chapel Hill may improve and increase their functions, may enlarge their areas of service, and may become more useful to a greater number of people.

(h) ~~Notwithstanding the provisions of subsection (c) of this section, the Board may designate as the official depository of the funds identified in subdivisions (a)(4), (a)(5), and (a)(6) of this section one or more banks or trust companies in this State for any investments authorized by G.S. 147-69.2(b3).~~ The Board of Directors of the University of North Carolina Health Care System may deposit or invest the funds under this section in interest-bearing accounts and other investments in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries."

SECTION 17.4. This Part becomes effective July 1, 2011.

PART 18. ALL EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA ARE EXEMPT FROM THE STATE PERSONNEL ACT AND SUBJECT TO THE DIRECT AUTHORITY OF THE BOARD OF GOVERNORS

SECTION 18.1. G.S. 116-11(5) and (5b) read as rewritten:

"**§ 116-11. Powers and duties generally.**

The powers and duties of the Board of Governors shall include the following:

...

(5) The Board of Governors shall adopt policies concerning the terms and conditions of employment of employees of The University of North Carolina, including employee compensation, benefits, work and office hours, holidays, leave, disability benefits, temporary and supplemental pay for injured employees, position classification, appraisals, service and incentive awards, grievances, discipline, and any other human resources policy the Board deems appropriate to promote the recruitment and retention of capable, diligent, and effective employees. Employees of The University of North Carolina are deemed State employees who are exempt from the State Personnel Act, but subject to the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes.

~~The Board of Governors shall, on recommendation of the President and of the appropriate institutional chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers and persons having permanent tenure.~~

...

~~(5b) The Board of Governors may by resolution provide that, until July 1, 1998, every president, vice-president, and other administrative officer of the~~

~~University whom it elects and who is not subject to Chapter 126 of the General Statutes, and every chancellor, vice-chancellor, senior academic officer, senior administrative officer, and faculty member who serves a constituent institution or agency of the University and who is not subject to Chapter 126 of the General Statutes, shall retire on July 1 coincident with or next following his seventieth birthday, unless continued in service on a year-to-year basis in accordance with regulations adopted by the Board of Governors.~~

...."

SECTION 18.2. G.S. 116-14 reads as rewritten:

"**§ 116-14. President and staff.**

(a) The Board shall elect a President of the University of North Carolina. The President shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice-president and such other vice-presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. ~~In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the provisions of Chapter 126 of the General Statutes.~~ The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. Subject to approval by the Board, the President may establish and abolish employment positions within the staff complement authorized by this subsection in the manner of and under the conditions prescribed by G.S. 116-30.4 for special responsibility constituent institutions.

(b1) The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from Budget Code 16010, and the capital improvement projects may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9.

(b2) The President, in consultation with the State ~~Auditor and the Director of the Office of State Personnel,~~ Auditor, shall ascertain that the management staff and internal financial controls are in place and continue in place to successfully administer the additional authority authorized under G.S. 116-14(b1) and G.S. 116-30.3(e). All actions taken by the President pursuant to G.S. 116-14(b1) and G.S. 116-30.3(e) are subject to audit by the State Auditor.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable."

SECTION 18.3. G.S. 116-30.1 reads as rewritten:

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

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where significant findings are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that the institution must make satisfactory progress in resolving the findings, as determined by the President of The University, after consultation with the State Auditor, within a three-month period commencing with the date of receipt of the published financial audit report, any other audit report, or management letter. If satisfactory progress is not made within a three-month period, the President of The University shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the President of The University of North Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

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

SECTION 18.4. G.S. 116-30.4 reads as rewritten:

"**§ 116-30.4. Position management.**

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with policies adopted by the Board of Governors. ~~with:~~

~~(1) State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or~~

~~(2) Policies and procedures of the Board of Governors if these positions are exempt from the State Personnel Act.~~

~~The results achieved by establishing and abolishing positions pursuant to the conditions set forth in subdivision (1) of this section shall be subject to postauditing by the Office of State Personnel.~~ Implementation of personnel actions shall be subject to the availability of funds within the institution's current budget to fund the full annualized costs of these actions."

SECTION 18.5. G.S. 126-5(c1)(9) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(9) Employees whose ~~salaries~~ terms and conditions of employment are ~~fixed~~ under the authority vested in the Board of Governors of The University of North Carolina ~~by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.~~ under Chapter 116 of the General Statutes."

SECTION 18.6. G.S. 126-19 reads as rewritten:

"**§ 126-19. Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.**

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial ~~branch and~~ branch, by the Legislative Services Office on behalf of the legislative ~~branch~~ branch, and by the Board of Governors on behalf of The University of North Carolina, shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the State Personnel Director for review and approval on or before March 1, of each year.

(b) The State Personnel Commission shall submit a report to the General Assembly concerning the status of Equal Employment Opportunity plans and programs for all State ~~departments, agencies, universities,~~ departments and agencies which are required by this Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the report shall contain reasons for disapproval. The status report submitted to the General Assembly by the State Personnel Director and the plans submitted to the General Assembly by the judicial branch and the Legislative Services Office on behalf of the legislative branch shall contain the total number of persons employed in each job category, the race, sex, salary, and other demographics relative to persons hired and promoted during the reporting period, analysis of the data, and an indication as to which goals were achieved.

(c) The State Personnel Director shall at least maintain current services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force at all occupational levels reflect North Carolina's population. To the extent reasonably possible, these services shall be provided by qualified personnel who have continuous experience in the field of Equal Employment Opportunity and affirmative action and who are sensitive to circumstances and experiences of individuals from diverse backgrounds and cultures, and recognize that efficient and effective government requires the talents, skills, and abilities of all available human resources."

SECTION 18.7. This Part becomes effective January 1, 2012.

PART 19. PERMANENTLY EXEMPT PARTICIPANTS IN THE UNIVERSITY OF NORTH CAROLINA PHASED RETIREMENT PROGRAM FROM THE RESTRICTIONS ON RETURNING TO WORK

SECTION 19.1. Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21 of S.L. 2006-66 and by Section 26.22 of S.L. 2009-451, reads as rewritten:

"**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement ~~Program until the earlier of August 31, 2013, or 12 months after the issuance of final phased retirement regulations by the Internal Revenue Service.~~ Program. The remainder of this section becomes effective June 30, 2005."

SECTION 19.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" ~~means~~ means, for members who are not participants in The University of North Carolina Phased Retirement Program, the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service. Notwithstanding the foregoing, for members who are participants in The University of North Carolina Phased Retirement Program, "retirement" means entry into the Phased Retirement Program with a retirement allowance granted under this Chapter."

SECTION 19.3. This Part becomes effective July 1, 2011.

PART 20. REDUCE THE REQUIRED BREAK IN SERVICE FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO WORK WITHOUT LOSING RETIREMENT BENEFITS

SECTION 20.1. G.S. 135-1 is amended by adding a new subdivision to read:

"(18a) "Qualifying period" means three months as to members who retire with their last 12 months of service as employees of The University of North Carolina or any of its constituent institutions and return to service as employees of The University of North Carolina or any of its constituent institutions, and means six months as to any other member."

SECTION 20.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the ~~six months~~ qualifying period immediately following the effective date of retirement. For purposes of his subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service."

SECTION 20.3. G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for

service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision who retired on or before June 1, 2009, regardless of age or years of creditable service, or who retires on or after July 1, 2009, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired ~~at least six months~~ for at least as long as the qualifying period as defined by G.S. 135-1(18a) and has not been employed in any capacity with a State-supported community college or a State-supported university ~~for at least six months~~ during the qualifying period as defined by G.S. 135-1(18a) immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek as a nursing instructor in a certified nursing program for a maximum period of three years.

In order for a retired nursing instructor to be rehired, the community college or university must certify to the Teachers' and State Employees' Retirement System that it has a shortage of qualified nursing instructors, and must:

1. Make a good faith effort to fill positions with qualified nursing instructors who are not retirees;
2. Post the vacancy or vacancies for at least two months;
3. Solicit applications through local newspapers, other media, and nursing education programs; and
4. Determine that there is an insufficient number of eligible applicants for the advertised position or positions.

The North Carolina Community College System and The University of North Carolina shall certify to the Retirement System that a beneficiary is employed to teach as a nursing instructor with a State-supported community college or a State-supported university under the provisions of this sub-subdivision."

SECTION 20.4. This Part becomes effective July 1, 2011.

PART 21. PROVIDE FOR VESTING RECIPROCITY BETWEEN THE STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEMS AND THE OPTIONAL RETIREMENT PROGRAM FOR STATE INSTITUTIONS OF HIGHER LEARNING

SECTION 21.1. G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years ~~coverage under the Optional Retirement Program~~ of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund."

SECTION 21.2. This Part becomes effective July 1, 2011.

PART 22. ENABLE THE UNC HEALTH CARE SYSTEM TO OFFER THE OPTIONAL RETIREMENT PROGRAM (ORP) AS A RETIREMENT OPTION

SECTION 22.1. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

...

(5) Employees of the University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document."

SECTION 22.2. This Part becomes effective July 1, 2011.

SECTION 23. This act is effective as provided herein.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

D

SENATE BILL 575
PROPOSED COMMITTEE SUBSTITUTE S575-CSRQ-14 [v.4]

4/26/2011 3:50:46 PM

Short Title: Higher Education Efficiency and Flexibility. (Public)

Sponsors:

Referred to:

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EFFICIENCY AND FLEXIBILITY FOR THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM AND THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART 1. CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES

SECTION 1.1. G.S. 115D-9 reads as rewritten:

"**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other ~~State or non-State-funded~~ State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of ~~one million dollars ($1,000,000)~~ four million dollars ($4,000,000) or less:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under subsections (b) or (c) of this section.

(g) The State Board shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project funded with non-State funds if the State Board of Community Colleges determines that the college has the expertise necessary to manage the project unless the assistance of the Office of State Construction is requested."

SECTION 1.2. This Part is effective when it becomes law and applies to projects initiated on or after that date.

PART 2. CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD OF COMMUNITY COLLEGES

SECTION 2.1. G.S. 115D-15 reads as rewritten:

"**§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges. Personal property titled to the State Board of Community Colleges consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community college at no cost and without the approval of the State Board of Community Colleges or the Department of Administration, Division of Surplus Property.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section.

...."

SECTION 2.2. This Part becomes effective July 1, 2011.

PART 3. GRANTING COMMUNITY COLLEGES ADDITIONAL FLEXIBILITY WITH REGARD TO INVESTMENTS

SECTION 3.1. G.S. 115D-58.6 reads as rewritten:

"**§ 115D-58.6. Investment of idle cash.**

(a) Definitions. – As used in this section the following definitions apply:

(1) "Cash balance" means the amount equal to all moneys received into institutional fund accounts minus all expenses and withdrawals from those accounts in an official depository of the institution as designated by the local board of trustees consistent with G.S. 115D-58.7.

(2) "Official depository" means one or more banks, savings and loan associations, or trust companies in North Carolina that a community college board of trustees has designated consistent with G.S. 115D-58.7.

(a1) Deposits. – The institution may deposit at interest ~~or invest~~ all or part of the cash balance of any fund in an official depository of the institution. ~~The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.~~ Moneys may be deposited at interest in any official depository of the institution in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

~~(b) Moneys may be deposited at interest in any bank, savings and loan association or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).~~

~~(c) Moneys may be invested in the form of investments pursuant to G.S. 159-30(c) to county governments and no others. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.~~

~~(d) Investment securities may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.~~

(c1) Investments. – The institution may invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(1) Moneys shall only be invested in the form of investments pursuant to G.S. 159-30(c) to county governments or in any form of investment established or managed by an investment advisor who is registered and in good standing with either the Securities and Exchange Commission or the North Carolina Secretary of State, Securities Division, and is a member of the Securities Investor Protection Corporation. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

(2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of trustees.

(g) The board of trustees shall appoint an Investment Committee which shall consist of a minimum of three people who have sufficient financial background to review and evaluate investment options. These individuals should have experience in institutional or retail investment management with knowledge of fixed income and public equities. This committee shall make recommendations to the Board on those investment options, as well as monitor the performance of investments once made.

(h) The board of trustees shall discharge their duties with respect to the management and investment of college funds as follows:

(1) Investment decisions shall be solely in the interest of the college, and the students, faculty, and staff of the college.

(2) The investments shall be for the exclusive purpose of providing an adequate return to the college.

(3) Investments shall be made with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.

(4) Investment decisions shall be made impartially, taking into account the best interest of the college, with special attention to conflicts of interest or potential conflicts of interest.

(5) Investments shall incur only costs that are appropriate and reasonable."

SECTION 3.2. G.S. 115D-58.7 reads as rewritten:

"**§ 115D-58.7. Selection of depository; deposits to be secured.**

(a) Each board of trustees shall designate as the official depositories of the institution one or more banks, savings and loan associations or trust companies in this State. It shall be unlawful for any money belonging to an institution, other than moneys required to be deposited with the State Treasurer, to be deposited in any place, bank, savings and loan associations, or trust company other than an official depository except as permitted in ~~G.S. 115D-58.6(b).~~G.S. 115D-58.6(a1). However, public moneys may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts where permitted by applicable federal or State regulations.

(b) Money deposited in an official depository or deposited at interest pursuant to ~~G.S. 115D-58.6(b)~~ G.S. 115D-58.6(a1) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository."

SECTION 3.3. G.S. 147-69.2 is amended by adding a new subdivision to read:

"(20) Institutional funds of the colleges of the North Carolina Community College System."

SECTION 3.4. This Part becomes effective July 1, 2011.

PART 4. INCREASE THE LIMIT ON CONSTRUCTION PROJECTS THAT THE UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY USE ITS EMPLOYEES TO COMPLETE

SECTION 4.1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000); provided that, for The University of North Carolina and its constituent institutions and for the North Carolina Community College System and its institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed ~~two hundred thousand dollars ($200,000)~~ five hundred thousand dollars ($500,000) or the total cost of labor on the project does not exceed ~~one hundred thousand dollars ($100,000).~~three hundred thousand dollars ($300,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 4.2. This Part is effective when it becomes law.

PART 5. ALLOW THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO APPROVE THE PLANNING, AUTHORIZATION, AND FUNDING OF CAPITAL PROJECTS FROM NON-GENERAL FUND SOURCES

SECTION 5.1. G.S. 143C-8-12 reads as rewritten:

"**§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.**

Notwithstanding any other provision of this Chapter, ~~the Director of the Budget may, upon request of~~ the Board of Governors of The University of North Carolina ~~and after consultation with the Joint Legislative Commission on Governmental Operations,~~ may approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money.

The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations."

SECTION 5.2. This Part is effective when it becomes law.

PART 6. AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO ALLOCATE OR REALLOCATE FUNDS TO REPAIRS AND RENOVATIONS PROJECTS; AND TO REQUIRE THAT ANY ALLOCATION OR REALLOCATION BE REPORTED TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WITHIN SIXTY DAYS

SECTION 6.1. G.S. 143C-4-3 is amended by adding a new subsection to read:

"(d) Board of Governors May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Board of Governors of The University of North Carolina may be allocated or reallocated by the Board for repairs and renovations projects so long as (i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection."

SECTION 6.2. This Part becomes effective July 1, 2011.

PART 7. WAIVE THE REQUIREMENT FOR A CAPITAL PROJECT FEASIBILITY DETERMINATION FOR CAPITAL PROJECTS OF THE UNIVERSITY OF NORTH CAROLINA FOR WHICH ADVANCE PLANNING HAS NOT BEEN UNDERTAKEN

SECTION 7.1. G.S. 143C-3-3 reads as rewritten:

"§ 143C-3-3. Budget requests from State agencies in the executive branch.

...

(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

(1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.

(2) An estimate of project costs approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the repair or renovation is to be financed.

(d) Capital Funds Request. – In addition to any other information requested by the Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing facility to accommodate new or expanded uses shall accompany that request with all of the following:

(1) An estimate of its space needs and other physical requirements, together with a review and evaluation of that estimate prepared by the Department of

~~Administration.~~Administration, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the estimate of space needs may be a preliminary estimate.

(2) An estimate of project costs and cash flow requirements approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the acquisition, construction, or rehabilitation is to be financed.

(5) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation.

(6) An estimate of revenues, if any, to be derived from the project, covering the first five years of operation.

This subsection does not apply to requests for State resources for railroad, highway, or bridge construction or renovation.

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General Assembly, the Administrative Office of the Courts, or The University of North Carolina."

SECTION 7.2. G.S. 143-341(3)b1. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(3) Architecture and Engineering:

...

b1. To certify that a statement of needs pursuant to ~~G.S. 143C-3-3~~ G.S. 143C-3-3, other than for a project of The University of North Carolina for which advance planning has not been completed, is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds

requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000)."

SECTION 7.3. This Part becomes effective July 1, 2011.

PART 8. ALLOW CHANCELLORS OF CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO APPROVE CERTAIN REPAIR, RENOVATION, AND MAINTENANCE PROJECTS AND TO FUND THOSE PROJECTS WITH AVAILABLE OPERATING FUNDS

SECTION 8.1. G.S. 116-13.1 reads as rewritten:

"**§ 116-13.1. Capital facilities; ~~reports.~~reports; chancellors may authorize certain repair, renovation, and maintenance projects.**

(a) The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

(b) Equity in University Improvements. – The Board of Governors of The University of North Carolina shall continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist on North Carolina's Public Historically Black Colleges and Universities and North Carolina's Historically American Indian University, the University of North Carolina at Pembroke, beyond the funding of the projects provided for in this act, and shall report annually to the Joint Legislative Commission on Governmental Operations on any remaining inequities found, including recommendations as to how those inequities should be addressed.

(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project for repairs to institution facilities, renovations to institution facilities, maintenance of those facilities, and related equipment purchases. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the

completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects."

SECTION 8.2. This Part is effective when it becomes law.

PART 9. AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO PERMIT CONSTITUENT INSTITUTIONS OF THE UNIVERSITY TO SELF-PERFORM ENERGY CONSERVATION MEASURES; AND TO AUTHORIZE ENERGY SAVINGS TO BE USED AS SECURITY FOR AND A SOURCE OF REPAYMENT FOR DEBT ISSUED PURSUANT TO ARTICLE 3 OF CHAPTER 116D OF THE GENERAL STATUTES

SECTION 9.1. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17L. Board of Governors may authorize energy conservation measures at constituent institutions.**

(a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board of Governors of The University of North Carolina may authorize a constituent institution to implement an energy conservation measure without entering into a guaranteed energy savings contract if both of the following conditions are met:

(1) The Board of Governors finds that the energy savings resulting from the implementation of the energy conservation measure shall, according to the energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or exceed the total cost of implementing the measure. If the proposed implementation will be financed with debt, then the energy savings analysis must project sufficient energy savings to pay the debt service on any bonds to be issued. As used in this subdivision, the term 'total cost' shall have the same meaning as it does in G.S. 143-64.17B(d).

(2) The energy conservation measure is for an existing building or utility system.

(b) Scope of Authority. – In implementing an energy conservation measure pursuant to subsection (a) of this section, the Board of Governors may undertake or authorize a constituent institution to undertake any action that (i) could be required of a qualified provider under a guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

(c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of Governors may authorize the implementation of multiple energy conservation measures simultaneously as part of a single project. When doing so, the findings required by subsection (a) of this section may be made with respect to the project as a whole and need not be made with respect to individual energy conservation measures. Similarly, the analyses required by G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy conservation measures.

(d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a constituent institution implements an energy conservation measure through a guaranteed energy savings contract, that contract shall accord in all respects with the requirements of this Part.

SECTION 9.2. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17M. Energy savings analysis required prior to implementation; post-implementation analyses required.**

(a) Energy Savings Analysis Required Prior to Implementation. – Prior to implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings analysis shall be performed to validate the economic assumptions that purportedly support the implementation of the measure. This analysis shall be performed by a third party selected by the constituent institution and shall include an energy consumption analysis to develop a

baseline of previous costs of all utilities' energy consumption for the institution on the assumption that the energy conservation measure was not undertaken. The completed analysis shall be submitted to The University of North Carolina General Administration and to the State Energy Office.

(b) Post-Implementation Analyses Required. – A constituent institution that implements an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to perform an annual measurement and verification of energy savings resulting from the energy conservation measure as compared to the baseline of previous costs set forth in the energy savings analysis required by subsection (a) of this section. The third party shall annually provide a reconciliation statement based upon the results of a preagreed upon measurement, monitoring, and verification protocol which shall disclose any shortfall or surplus between the estimated energy usage and operational savings set forth in the energy savings analysis required by subsection (a) of this section and actual, not stipulated, energy usage and operational savings incurred during a given year.

If a reconciliation statement reveals a shortfall in energy savings for a particular year, the constituent institution shall be responsible for and shall pay the shortfall. However, the institution shall not be held responsible for losses due to natural disasters or other emergencies. Any surplus shall be retained by the institution and may be used in the same manner as any other energy savings.

SECTION 9.3. G.S. 116-30.3B(b) reads as rewritten:

"(b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf of a constituent institution not be reduced as a result of the institution's realization of energy savings. Instead, the General Assembly intends that the amount of appropriations be determined as if no energy savings had been realized. The Director of the Budget shall not decrease the recommended continuation budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract."

SECTION 9.4. G.S. 143-64.17F(b) reads as rewritten:

"(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L."

SECTION 9.5. G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the ~~contract~~ contract or (ii) the implementation of the measure to the State Energy Office of the Department of Commerce within 30 days of the date the contract is entered ~~into.~~ into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information,

the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

SECTION 9.6. G.S. 142-63 reads as rewritten:

"**§ 142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or ~~G.S. 143-64.17B or~~ G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time."

SECTION 9.7. G.S. 142-64(a) reads as rewritten:

"**§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit (i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, or (ii) has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures."

SECTION 9.8. G.S. 116D-22(3) reads as rewritten:

"(3) Obligated resources. – Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including "overhead costs reimbursement" under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

d. Funds appropriated from the General Fund to the Board of Governors on behalf of a constituent institution for utilities of the institution that constitute energy savings as that term is defined in G.S. 143-64.17.

~~Obligated~~ Except as provided in Sub-subdivision d. of this subdivision, obligated resources do not include funds appropriated to the Board of

Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students."

SECTION 9.9. This Part is effective when it becomes law.

PART 10. INSTITUTIONAL EXPENDITURE BENCHMARKS

SECTION 10.1.(a) G.S. 116-31.10 reads as rewritten:

"**§ 116-31.10. Powers of Board regarding certain purchasing contracts.**

(a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than five hundred thousand dollars ($500,000). The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark in accordance with this section, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

(b) Each institution with an expenditure benchmark greater than two hundred fifty thousand dollars ($250,000) shall comply with this subsection for any purchase greater than ~~two hundred fifty thousand dollars ($250,000)~~the institution's benchmark set by the Board but not greater than five hundred thousand dollars ($500,000). This institution shall submit to the Division of Purchase and Contract for that Division's approval or other action deemed necessary by the Division a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division."

SECTION 10.2.(b) This Part becomes effective October 1, 2011.

PART 11. IN THE PROCESS OF BIDDING COMMODITY CONTRACTS, ALLOW COMPETITORS TO BID OPTIONAL ONE-YEAR CONTRACT RENEWALS FOR UP TO TEN YEARS

SECTION 11.1.(a) G.S. 143-53(d) reads as rewritten:

"(d) Notwithstanding the provisions of this section or any rule adopted pursuant to this Article, The University of North Carolina may solicit bids for service contracts and commodity contracts with a term of 10 years or less, including extensions and renewals, without the prior approval of the State Purchasing Officer."

SECTION 11.2.(b) This Part is effective when it becomes law.

PART 12. ALLOW UNC TO ASSUME RESPONSIBILITY FOR THE QUALITY ACCEPTANCE INSPECTION PROCESS

SECTION 12.1.(a) G.S. 143-60 reads as rewritten:

"**§ 143-60. Rules covering certain purposes.**

The Secretary of Administration may adopt, modify, or abrogate rules covering the following purposes, in addition to those authorized elsewhere in this Article:

(1) Requiring reports by State departments, institutions, or agencies of stocks of supplies and materials and equipment on hand and prescribing the form of such reports.

(2) Prescribing the manner in which supplies, materials and equipment shall be delivered, stored and distributed.

(3) Prescribing the manner of inspecting deliveries of supplies, materials and equipment and making chemicals and/or physical tests of samples submitted with bids and samples of deliveries to determine whether deliveries have

been made in compliance with specifications. However, the provisions of this subdivision shall not apply to the constituent institutions of The University of North Carolina. The President of The University of North Carolina shall issue regulations or guidelines for the conducting of quality inspections by constituent institutions to ensure that deliveries have been made in compliance with specifications.

(4) Prescribing the manner in which purchases shall be made in emergencies.

(5) Providing for such other matters as may be necessary to give effect to foregoing rules and provisions of this Article.

(6) Prescribing the manner in which passenger vehicles shall be purchased.

Further, the Secretary of Administration may prescribe appropriate procedures necessary to enable the State, its institutions and agencies, to obtain materials surplus or otherwise available from federal, State or local governments or their disposal agencies."

SECTION 12.2.(b) This Part becomes effective October 1, 2011.

PART 13. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO SELL OR TRANSFER SURPLUS PERSONAL PROPERTY OTHER THAN MOTOR VEHICLES

SECTION 13.1. The title of Part 3 of Article 3A of Chapter 143 of the General Statutes reads as rewritten:

"Part 3. ~~Public Agencies.~~Miscellaneous Provisions."

SECTION 13.2. Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.7. University of North Carolina exempted from application of Article.**

(a) Authority. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina may transfer or sell all supplies, materials, and equipment of the constituent institution that are surplus, obsolete, or unused. The Board of Governors of The University of North Carolina may adopt rules to implement this authority.

(b) No Service Charge. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina shall not be charged any service charge or surcharge for any transfer or sale pursuant to this section.

(c) Use of Receipts. – All receipts from transfers or sales under this section of supplies, materials, or equipment that were acquired with, or supported by, General Fund appropriations shall, minus the actual costs of the sale, be remitted to the State Treasurer and credited to the General Fund as nontax revenue.

(d) Exception. – This section does not apply to the sale or transfer of surplus motor vehicles."

SECTION 13.3. This Part is effective when it becomes law.

PART 14. ALLOW NORTH CAROLINA STATE UNIVERSITY TO SELL TIMBER

SECTION 14.1. Part 1 of Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.06. North Carolina State University may sell timber.**

Notwithstanding any provision of this Part or Chapter 146 of the General Statutes to the contrary, North Carolina State University is authorized and empowered to sell or transfer timber without involvement by the State Surplus Property Agency and without being required to pay any service charge or surcharge to the State Surplus Property Agency. The proceeds of any sales or transfers under this section shall be used to support the management of, and programming costs associated with, forest properties owned, allocated, or managed by North Carolina State University."

SECTION 14.2. This Part is effective when it becomes law.

PART 15. ALLOW UNC CAMPUSES TO PURCHASE MOTOR VEHICLES INDEPENDENT OF MOTOR FLEET MANAGEMENT

SECTION 15.1. G.S. 143-341(8)i. is amended by adding a new sub-sub-subdivision to read:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

12. Notwithstanding the provisions of this subdivision, or any rules adopted pursuant to this subdivision or Chapter, the constituent institutions of The University of North Carolina may, without the prior approval of the Department of Administration, purchase motor vehicles to be used by campus safety officers. The purchase of campus safety vehicles shall be in accordance with regulations or guidelines issued by the President of The University of North Carolina."

SECTION 15.2. This Part becomes effective December 1, 2011.

PART 16. INSTITUTIONAL TRUST FUNDS OF THE UNIVERSITY OF NORTH CAROLINA AND FUNDS OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

SECTION 16.1. G.S. 116-36.1 reads as rewritten:

"**§ 116-36.1. Regulation of institutional trust funds.**

(a) The Board is responsible for the custody and management of the trust funds of the University of North Carolina and of each institution. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the president, to the respective chancellors of the institutions when such delegation is necessary or prudent to enable the institution to function in a proper and expeditious manner.

(b) Trust funds ~~shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of the University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For purposes of distribution of investment earnings, all trust funds of an institution shall be deemed a single account.~~

~~(c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to this section,~~ and investment earnings thereon, are available for expenditure by each institution without further authorization from the General Assembly.

(d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget Act except for capital improvements projects which shall be authorized and executed in accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the ~~Director of the Budget.~~ Board.

(f) Trust funds or the investment income therefrom shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes is appropriated and shall be used to supplement State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(g) As used in this section, "trust funds" means:

(1) Moneys, or the proceeds of other forms of property, received by an institution as gifts, devises, or bequests that are neither presumed nor designated to be gifts, devises, or bequests to the endowment fund of the institution;

(2) Moneys received by an institution pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof;

(3) Moneys received by an institution pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;

(4) Moneys collected by an institution to support extracurricular activities of students of the institution;

(5) Moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;

(6) Moneys received from or for the operation by an institution of any of its self-supporting auxiliary enterprises, including institutional student auxiliary enterprise funds for the operation of housing, food, health, and laundry services;

(7) Moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider;

(8) The net proceeds from the disposition effected pursuant to Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection ~~(g)~~ as "trust funds," except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of moneys received as a grant from a State agency;

(9) Moneys received from the operation and maintenance of institutional forests and forest farmlands, provided, that such moneys shall be used, when used, by the institution for support of forest-related research, teaching, and public service programs;

(10) Moneys received from an activity authorized by G.S. 66-58(b)(8)m., n., and o.;

(11) Moneys deposited to the State Education Assistance Authority Fund pursuant to G.S. 116-209.3.

(h) ~~Notwithstanding the provisions of subsection (b) of this section, the Board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as is prescribed by the State~~

~~Treasurer for the security of public deposits generally. The available cash balance of funds deposited pursuant to this subsection shall be invested in interest bearing deposits and investments so that the rate of return equals that realized from the investment of State funds generally.~~ The Board may authorize, through the President, that the chancellors may deposit or invest each institution's available trust fund cash balances in interest-bearing accounts and other investments as may be authorized by the Board in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(i) The cash balances on hand as of June 30, 1978, and all future receipts accruing thereafter, of funds identified in this section are hereby appropriated to the use of the University of North Carolina and its constituent institutions."

SECTION 16.2. G.S. 116-37(e) reads as rewritten:

"(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to ~~G.S. 147-69.2(b3).~~ G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts."

SECTION 16.3. G.S. 116-37.2 reads as rewritten:

"**§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill Funds.**

(a) As used in this section, "funds" means:

(1) Moneys, or the proceeds of other forms of property, received by the University of North Carolina Hospitals at Chapel Hill as gifts, devises, or bequests.

(2) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof.

(3) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the University of North Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training, or public service programs.

(4) Moneys received from or for the operation by the University of North Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary enterprises, including the Liability Insurance Trust Fund.

(5) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to fees and other payments for services it renders in its hospital and/or clinical operations.

(5a) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to borrowings for capital equipment or construction projects

to further services it renders in either or both of its hospital or clinical operations.

(6) The net proceeds from the disposition effected pursuant to Article 7 of Chapter 146 of the General Statutes of any interest in real property owned by or under the supervision and control of the University of North Carolina Hospitals at Chapel Hill if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection, except the net proceeds from the disposition of an interest in real property first acquired by the University of North Hospitals at Chapel Hill through expenditure of moneys received as a grant from a State agency.

(b) The Board of Directors of the University of North Carolina Health Care System, as established in G.S. 116-37(b), is responsible for the custody and management of the funds of the University of North Carolina Hospitals at Chapel Hill. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds, which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the Chief Executive Officer of the University of North Carolina Health Care System to the President of the University of North Carolina Hospitals at Chapel Hill, when such delegation is necessary or prudent to enable the University of North Carolina Hospitals at Chapel Hill to function in a proper and expeditious manner.

(c) Funds under this section ~~shall be deposited with the State Treasurer who shall hold them in trust in the name of the University of North Carolina Hospitals at Chapel Hill.~~

~~(d) Funds deposited with the State Treasurer in an account pursuant to this section,~~ and investment earnings ~~thereon,~~ thereon are available for expenditure by the University of North Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

(e) Funds under this section are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the ~~Executive~~ State Budget Act except for capital improvements projects, which shall be authorized and executed in accordance with ~~G.S. 143-18.1.~~ G.S. 143C-8-8 and G.S. 143C-8-9.

(f) The University of North Carolina Hospitals at Chapel Hill shall submit such reports or other information concerning its fund accounts under this section as may be required by the ~~Director of the Budget.~~ Board of Directors of the University of North Carolina Health Care System.

(g) Funds under this section, or the investment income therefrom, shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes shall be used to supplement State appropriations to the end that the University of North Carolina Hospitals at Chapel Hill may improve and increase their functions, may enlarge their areas of service, and may become more useful to a greater number of people.

(h) ~~Notwithstanding the provisions of subsection (c) of this section, the Board may designate as the official depository of the funds identified in subdivisions (a)(4), (a)(5), and (a)(6) of this section one or more banks or trust companies in this State for any investments authorized by G.S. 147-69.2(b3).~~ The Board of Directors of the University of North Carolina Health Care System may deposit or invest the funds under this section in interest-bearing accounts and other investments in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries."

SECTION 16.4. This Part becomes effective July 1, 2011.

PART 17. ALL EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA ARE EXEMPT FROM THE STATE PERSONNEL ACT AND SUBJECT TO THE DIRECT AUTHORITY OF THE BOARD OF GOVERNORS

SECTION 17.1. G.S. 116-11(5) and (5b) read as rewritten:

"**§ 116-11. Powers and duties generally.**

The powers and duties of the Board of Governors shall include the following:

...

(5) The Board of Governors shall adopt policies concerning the terms and conditions of employment of employees of The University of North Carolina, including employee compensation, benefits, work and office hours, holidays, leave, disability benefits, temporary and supplemental pay for injured employees, position classification, appraisals, service and incentive awards, grievances, discipline, and any other human resources policy the Board deems appropriate to promote the recruitment and retention of capable, diligent, and effective employees. Employees of The University of North Carolina are deemed State employees who are exempt from the State Personnel Act, but subject to the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes.

~~The Board of Governors shall, on recommendation of the President and of the appropriate institutional chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers and persons having permanent tenure.~~

...

~~(5b) The Board of Governors may by resolution provide that, until July 1, 1998, every president, vice-president, and other administrative officer of the University whom it elects and who is not subject to Chapter 126 of the General Statutes, and every chancellor, vice-chancellor, senior academic officer, senior administrative officer, and faculty member who serves a constituent institution or agency of the University and who is not subject to Chapter 126 of the General Statutes, shall retire on July 1 coincident with or next following his seventieth birthday, unless continued in service on a year to year basis in accordance with regulations adopted by the Board of Governors.~~

...."

SECTION 17.2. G.S. 116-14 reads as rewritten:

"**§ 116-14. President and staff.**

(a) The Board shall elect a President of the University of North Carolina. The President shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice-president and such other vice-presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. ~~In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the provisions of Chapter 126 of the General Statutes.~~ The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned

and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. Subject to approval by the Board, the President may establish and abolish employment positions within the staff complement authorized by this subsection in the manner of and under the conditions prescribed by G.S. 116-30.4 for special responsibility constituent institutions.

(b1) The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from Budget Code 16010, and the capital improvement projects may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9.

(b2) The President, in consultation with the State ~~Auditor and the Director of the Office of State Personnel,~~ Auditor, shall ascertain that the management staff and internal financial controls are in place and continue in place to successfully administer the additional authority authorized under G.S. 116-14(b1) and G.S. 116-30.3(e). All actions taken by the President pursuant to G.S. 116-14(b1) and G.S. 116-30.3(e) are subject to audit by the State Auditor.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable."

SECTION 17.3. G.S. 116-30.1 reads as rewritten:

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

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where significant findings are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that the institution must make satisfactory progress in resolving the findings, as determined by the President of The University, after consultation with the State Auditor, within a three-month period commencing with the date of receipt of the published financial audit report, any other audit report, or management letter. If satisfactory progress is not made within a three-month period, the President of The University shall recommend to the

Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the President of The University of North Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

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

SECTION 17.4. G.S. 116-30.4 reads as rewritten:

"**§ 116-30.4. Position management.**

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with policies adopted by the Board of Governors. ~~with:~~

~~(1) State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or~~

~~(2) Policies and procedures of the Board of Governors if these positions are exempt from the State Personnel Act.~~

~~The results achieved by establishing and abolishing positions pursuant to the conditions set forth in subdivision (1) of this section shall be subject to postauditing by the Office of State Personnel.~~ Implementation of personnel actions shall be subject to the availability of funds within the institution's current budget to fund the full annualized costs of these actions."

SECTION 17.5. G.S. 126-5(c1)(9) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(9) Employees whose ~~salaries~~ terms and conditions of employment are ~~fixed~~ under the authority vested in the Board of Governors of The University of North Carolina ~~by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.~~ under Chapter 116 of the General Statutes."

SECTION 17.6. G.S. 126-19 reads as rewritten:

"**§ 126-19. Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.**

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial ~~branch and~~ branch, by the Legislative Services Office on behalf of the legislative ~~branch~~ branch, and by the Board of Governors on behalf of The University of North Carolina, shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the State Personnel Director for review and approval on or before March 1, of each year.

(b) The State Personnel Commission shall submit a report to the General Assembly concerning the status of Equal Employment Opportunity plans and programs for all State ~~departments, agencies, universities,~~ departments and agencies which are required by this Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the report shall contain reasons for disapproval. The status report submitted to the General Assembly by the State Personnel Director and the plans submitted to the General Assembly by the judicial branch and the Legislative Services Office on behalf of the legislative branch shall contain the total number of persons employed in each job category, the race, sex, salary, and other demographics relative to persons hired and promoted during the reporting period, analysis of the data, and an indication as to which goals were achieved.

(c) The State Personnel Director shall at least maintain current services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force at all occupational levels reflect North Carolina's population. To the extent reasonably possible, these services shall be provided by qualified personnel who have continuous experience in the field of Equal Employment Opportunity and affirmative action and who are sensitive to circumstances and experiences of individuals from diverse backgrounds and cultures, and recognize that efficient and effective government requires the talents, skills, and abilities of all available human resources."

SECTION 17.7. This Part becomes effective January 1, 2012.

PART 18. PERMANENTLY EXEMPT PARTICIPANTS IN THE UNIVERSITY OF NORTH CAROLINA PHASED RETIREMENT PROGRAM FROM THE RESTRICTIONS ON RETURNING TO WORK

SECTION 18.1. Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21 of S.L. 2006-66 and by Section 26.22 of S.L. 2009-451, reads as rewritten:

"**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement ~~Program until the earlier of August 31, 2013, or 12 months after the issuance of final phased retirement regulations by the Internal Revenue Service.~~ Program. The remainder of this section becomes effective June 30, 2005."

SECTION 18.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" ~~means~~ means, for members who are not participants in The University of North Carolina Phased Retirement Program, the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service. Notwithstanding the foregoing, for members who are participants in The University of North Carolina Phased Retirement Program, "retirement" means entry into the Phased Retirement Program with a retirement allowance granted under this Chapter."

SECTION 18.3. This Part becomes effective July 1, 2011.

PART 19. REDUCE THE REQUIRED BREAK IN SERVICE FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO WORK WITHOUT LOSING RETIREMENT BENEFITS

SECTION 19.1. G.S. 135-1 is amended by adding a new subdivision to read:

"(18a) "Qualifying period" means three months as to members who retire with their last 12 months of service as employees of The University of North Carolina or any of its constituent institutions and return to service as employees of The University of North Carolina or any of its constituent institutions, and means six months as to any other member."

SECTION 19.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the ~~six months~~ qualifying period immediately following the effective date of retirement. For purposes of his subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service."

SECTION 19.3. G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision who retired on or before June 1, 2009, regardless of age or years of creditable service, or who retires on or after July 1, 2009, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired ~~at least six months~~ for at least as long as the qualifying period as defined by G.S. 135-1(18a) and has not been employed in any

capacity with a State-supported community college or a State-supported university ~~for at least six months~~ during the qualifying period as defined by G.S. 135-1(18a) immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek as a nursing instructor in a certified nursing program for a maximum period of three years.

In order for a retired nursing instructor to be rehired, the community college or university must certify to the Teachers' and State Employees' Retirement System that it has a shortage of qualified nursing instructors, and must:

1. Make a good faith effort to fill positions with qualified nursing instructors who are not retirees;
2. Post the vacancy or vacancies for at least two months;
3. Solicit applications through local newspapers, other media, and nursing education programs; and
4. Determine that there is an insufficient number of eligible applicants for the advertised position or positions.

The North Carolina Community College System and The University of North Carolina shall certify to the Retirement System that a beneficiary is employed to teach as a nursing instructor with a State-supported community college or a State-supported university under the provisions of this sub-subdivision."

SECTION 19.4. This Part becomes effective July 1, 2011.

PART 20. PROVIDE FOR VESTING RECIPROCITY BETWEEN THE STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEMS AND THE OPTIONAL RETIREMENT PROGRAM FOR STATE INSTITUTIONS OF HIGHER LEARNING

SECTION 20.1. G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years ~~coverage under the Optional Retirement Program~~ of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund."

SECTION 20.2. This Part becomes effective July 1, 2011.

PART 21. ENABLE THE UNC HEALTH CARE SYSTEM TO OFFER THE OPTIONAL RETIREMENT PROGRAM (ORP) AS A RETIREMENT OPTION

SECTION 21.1. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

...

(5) Employees of the University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document."

SECTION 21.2. This Part becomes effective July 1, 2011.

SECTION 22. This act is effective as provided herein.

SENATE BILL 575:
Higher Education Efficiency and Flexibility

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	**Date:**	April 26, 2011
Introduced by:	Sens. Stevens, Tillman	**Prepared by:**	Drupti Chauhan Committee Counsel
Analysis of:	PCS to First Edition S575-CSRQ-14		

SUMMARY: ***Senate Bill 575 makes numerous changes to the laws regarding capital improvements, investments, and human resources for community colleges and The University of North Carolina. The Proposed Committee Substitute does the following: (i) gives authority to chancellors to approve certain renovation projects in addition to the authority to approve certain repair and maintenance projects; (ii) removes Part 13 of the original bill which would have allowed campuses to establish brand name specifications under certain situations; and (iii) makes technical changes.***

BILL ANALYSIS:

Part 1. Capital Improvements at Community Colleges

Current Law: For the design, construction, repair or renovations of buildings, utilities, and other State or non-State funded property developments of the NC Community College System that requires the estimated expenditure of public funds of one million dollars or less, the State Board of Community Colleges (State Board) may conduct fee negotiations for design contracts; develop procedures governing the responsibility of the NC Community College System to perform the duties of the Department of Administration (DOA) and the Office of State Construction; and use existing plans and specifications for construction projects. The State Board can delegate this authority to a qualified community college. For amounts over one million dollars, the DOA retains authority.

Bill Analysis: The bill would allow the State Board to continue to have these powers for State funded property developments up to $4,000,000. The bill would also exempt all capital improvement projects for non-State funded capital improvement projects from the authority of the DOA if the State Board determines that the community college has the expertise to manage the project.

This Part would become effective when it becomes law and applies to projects initiated on or after that date.

Part 2. Equipment Titled to State Board of Community Colleges

Current Law: The board of trustees at a community college may dispose of personal property owned or held by the board of trustees without the approval of the State Board. Equipment must be titled to the State Board if it was derived from State or federal funds.

Bill Analysis: The bill would provide that personal property titled to the State Board may be transferred to another community college at no cost and without the approval of the State Board or the DOA.

This Part would become effective July 1, 2011.

Part 3. Community College Investment Flexibility

Current Law: Community colleges may invest cash balances of funds in official depositories, with investments being managed subject to restrictions imposed by the board of trustees. The colleges also have the power to purchase, sell, and exchange securities on behalf of the board of trustees. Monies may be deposited as certificates of deposit and investments must be secured with deposit insurance, surety bonds, or letters of credit. Investment securities may be bought, sold, and traded by private negotiation. Interest earned on deposits and investments must be credited to the fund whose cash is deposited or invested.

Bill Analysis: The bill would add a definition for cash balance to mean the amount equal to monies received into the institutional fund accounts minus expenses and withdrawals from those accounts. It would also add a definition for "official depository" to mean one or more banks, savings and loan associations, or trust companies in NC designated by a community college board of trustees. Monies could be managed by an investment advisor

registered and in good standing with the Securities and Exchange Commission, or the Securities Division of the NC Secretary of State. The community college's board of trustees must appoint an "Investment Committee" which is made up of at least three people with financial backgrounds and experience with institutional or retail investment management and knowledge of fixed income and public equities. This committee would make recommendations to the board of trustees regarding investments and would monitor the performance of investments once made. The boards of trustees of the community colleges must consider the following in managing and investing the college funds: the interest of the college, students, faculty, and staff; an adequate return to the college; impartiality and paying attention to conflicts of interest; appropriate and reasonable investment costs; and the care, skill and caution that prudent persons would use if acting in a like capacity and manner.

This Part would become effective July 1, 2011.

Part 4. Force Account Limits

Current Law: Formal bidding requirements do not apply to construction or repair work undertaken by The University of North Carolina (UNC) and its campuses when the work is performed by force account qualified labor on the permanent payroll of the agency concerned and when either (i) the total cost of the project does not exceed $200,000, or (ii) the total cost of labor on the project does not exceed $100,000. Force account work is subject to the approval of the Director of the Budget.

Bill Analysis: The bill would provide that UNC and its constituent institutions and the North Carolina Community College System could use force account qualified labor when either (i) the total cost of the project does not exceed $500,000 or (ii) the total cost of labor does not exceed $300,000.

This Part would become effective when it becomes law.

Part 5. Planning, Authorization, and Funding of Capital Projects From Non-General Fund Sources

Current Law: On the request of the UNC Board of Governors (BOG) and after consultation with the Joint Legislative Commission on Governmental Operations, the Director of the Budget must (i) approve funds to plan capital improvement projects of UNC the planning for which is to be funded entirely with non-General Fund money; (ii) approve funds if the project is to be funded entirely with non-General fund money or (iii) the change in scope of a previously approved capital improvement project if the project and change in scope are funded entirely with non-General fund money.

Bill Analysis: The bill would allow the BOG (instead of the Director of the Budget) the ability to approve funds in the above situation except that in order to approve funds for a capital improvement project, the project must be funded and operated entirely with non-General fund money. The BOG would be required to report any expenditures made under this authority to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations.

This Part would become effective when it becomes law.

Part 6. Allocation of Funds to Repairs and Renovations

Bill Analysis: The bill would allow the BOG to allocate or reallocate any funds in the Reserve for Repairs and Renovations designated for the BOG as long as the project meets specific requirements as to the type of project unless the BOG determines that sufficient funds are not available from other sources and the conditions require General Fund assistance and the allocation or reallocation is in accordance with guidelines in the UNC BOG Funding Allocation Model for Reserve for Repairs and Renovations. The BOG must report to the Joint Legislative Commission on Governmental Operations with 60 days of any allocation or reallocation of funds.

This Part would become effective July 1, 2011.

Part 7. Capital Project Feasibility Determination Waivers

Current Law: State agencies that are proposing to repair or renovate an existing facility must include a number of items with the request including a description of current deficiencies and proposed corrections with a review and evaluation by the DOA; an estimate of project costs approved by the DOA; a certification of project feasibility; and the method of financing. Agencies that have capital funds requests such as acquiring real property and construction of a new facility must submit a number of items with the request including an estimate of space needs reviewed and evaluated by DOA; an estimate of costs and cash flow approved by the DOA; certification of

project feasibility; method of financing; an estimate of maintenance and operating costs; and estimate of revenues for first 5 years, if any.

Bill Analysis: The bill would allow UNC to submit a repair and renovation fund request without a certification of project feasibility for a project for which advance planning has not been completed. For capital funds requests, UNC would be able to able to submit a preliminary estimate of space needs for a project for which advance planning has not been completed and would not have to have the certification of project feasibility attached.

This Part would become effective July 1, 2011.

Part 8. Chancellor Approval of Certain Repair, Renovation, and Maintenance Projects

Bill Analysis: The bill would allow chancellors of constituent institutions to approve the expenditures of available operating funds in an amount less than $1,000,000 per project for repairs, renovations, and maintenance of institution facilities and related equipment purchases. Funds contractually obligated to an approved project would not revert at the end of the fiscal year and would remain available to fund the completion of the project.

This Part would become effective when it becomes law.

Part 9. Energy Conservation Measures and Authorize Energy Savings for a Source of Repayment for Issued Debt

Current Law: State agencies have the authority to enter into financing contracts to finance the cost of energy conservation measures. An energy conservation measure is a facility or meter alteration, training, or services that will provide anticipated energy savings with respect to a facility. The financing contracts are known as guaranteed energy savings contracts. Under the contract to implement energy conservation measures, all payments, except obligations on early termination, are to be made over time, and energy cost savings are guaranteed to exceed the cost of the contract.

The law provides that a guaranteed energy savings contract is not a pledge of the government's taxing power. The debt is secured by a lien on, or a security interest in, any part of the property with respect to which an energy conservation measure is undertaken and/or the land upon which the property is or will be located. It is anticipated that the energy savings will generate enough money to pay the debt service on the contract. This is a method of funding repair and renovation projects without impacting the State's debt capacity.

Bill Analysis: The bill would allow the BOG to authorize a campus to implement an energy conservation measure without entering a guaranteed energy savings contract if the BOG finds that:

- The energy savings resulting from the implementation of the conservation measures will equal or exceed the total cost of implementing the measure. If the implementation will be financed with debt, the energy savings analysis must project enough saving to pay the debt service on any bonds to be issued.
- The energy conservation measure is for an existing building or utility system.

The BOG would be allowed to authorize the implementation of multiple energy conservation measures simultaneously as part of a single project and the findings would be with respect to the project as a whole and not to the individual energy conservation measures.

Energy Savings Analysis: The energy savings analysis must be performed to validate the economic assumptions that support the implementation of the energy conservation measure and must be done by a third party selected by the campus. The analysis must include a baseline of previous costs of energy consumption for the campus on the assumption that the energy conservation measure was not undertaken and must be submitted to The University of North Carolina General Administration and the State Energy Office.

***Annual Measurements*:** Any campus that implements an energy conservation measure must have a third party perform an annual measurement and verification of energy saving resulting from the conservation measure as compared to the baseline of the previous energy savings analysis. The third party must provide a yearly reconciliation statement based on a pre-agreed measurement, monitoring, and verification protocol that shows any shortfall or surplus between the estimated energy usage and operational savings from the energy savings analysis and the actual energy usage and operational savings incurred. If the reconciliation statement shows a shortfall in energy saving, the campus must pay for the shortfall but it is not responsible for losses from natural disasters or other emergencies. Surpluses would remain with the campus and could be used as other energy savings.

Effect on Appropriations: Language would be added that stated that it would be the intent of the General Assembly that appropriations to the BOG on behalf of a campus would not be reduced because of the campus' realization of energy savings under the energy conservation measures and the amount of appropriations would be determined as if no energy savings had been realized.

This Part would become effective when it becomes law.

Part 10. Institutional Expenditure Benchmarks

Current Law: The BOG has the authority to set individual expenditure benchmarks for each special responsibility constituent institution as long as it is not greater than $500,000. These benchmarks are with regard to competitive bid procedures. If an institution has an expenditure benchmark of greater than $250,000, it must submit a copy of all offers received and the institution's recommendation of award or other action to the Division of Purchase and Contract (Division) in the Department of Administration. The Division notifies the institution of its decision and then the institution proceeds with the award of contract or other action recommended by the Division.

Bill Analysis: The bill would provide that an institution with a benchmark greater than $250,000 would only have to submit the offers to the Division for purchases greater than the institution's benchmark set by the BOG, which cannot exceed $500,000.

This Part would become effective October 1, 2011.

Part 11. Optional One-Year Contract Renewals for Commodity Contracts

Current Law: UNC has the authority to solicit bids for service contracts with a term of 10 years or less, including extensions and renewals, without the prior approval of the State Purchasing Officer.

Bill Analysis: The bill would allow UNC to also solicit commodity contracts with terms of 10 years or less, including extensions and renewals, without the prior approval of the State Purchasing Officer.

This Part would become effective when it becomes law.

Part 12. Quality Acceptance Inspection Process

Current Law: The Secretary of the DOA has the authority to adopt rules on the manner of inspecting deliveries of supplies, materials, and equipment to ensure that deliveries are made in compliance with specifications.

Bill Analysis: The bill would exempt the constituent institutions and allow the President of UNC to issue regulations or guidelines for conducting quality inspections to ensure that deliveries have been made in compliance with specifications.

This Part would become effective October 1, 2011.

Part 13. Allow Campuses to Sell or Transfer Surplus Personal Property Other than Motor Vehicles

Bill Analysis: The bill would allow constituent institutions of UNC to transfer or sell all supplies, materials, and equipment that are surplus, obsolete or unused rather than sending it to the State Surplus Property Agency. No campus would be charged a service charge or surcharge from any transfer or sale. Receipts from transfers or sales for supplies, materials, or equipment that were acquired with or supported by General Fund appropriations (minus the actual costs of the sale) must be remitted to the State Treasurer and credited to the General Fund as nontax revenue.

This Part would become effective when it becomes law.

Part 14. Allow NC State University to Sell Timber

Bill Analysis: The bill would allow NC State University to sell or transfer timber without the involvement of the State Surplus Agency or pay any service charge or surcharge to that Agency. Proceeds from sales or transfers would be used to support the management and costs associated with forest properties owned, allocated, or managed by NC State.

This Part would become effective when it becomes law.

Part 15. Purchase of Motor Vehicles Independent of Motor Fleet Management

Bill Analysis: The bill would allow campuses to purchase motor vehicles for campus safety officers without the prior approval of the DOA. The purchases would be in accordance with regulations or guidelines issued by the President of UNC.

This Part would become effective December 1, 2011.

Part 16. Institutional Trust Funds of UNC and of UNC Health Care System

Current Law: The BOG is responsible for the custody and management of the trust funds of UNC and each campus. They must be deposited with the State Treasurer who holds them in separate accounts. Monies received by a campus for fees for services rendered by health care professionals under an organized practice plan or contractual agreement between the institution and hospital may be deposited in a bank or trust company in the State. Funds of the UNC Health Care System must also be deposited with the State Treasurer.

Bill Analysis: The bill would allow the BOG to authorize the chancellors to deposit each institution's available trust fund cash balances in interest-bearing accounts and other investments authorized by the BOG without regard to any statute or rule of law relating to the investment of funds by fiduciaries. The Board of Directors of UNC Health Care System would be allowed to do the same with their funds.

This Part would become effective July 1, 2011.

Part 17. Exemption of All Employees of UNC From the State Personnel Act and Placing Them Under the Direct Authority of the BOG

Current Law: The BOG has the authority to manage its faculty and other employees exempt from the State Personnel Act (EPA employees) but all other UNC employees are SPA employees and are subject to the State Personnel Act.

Bill Analysis: The bill would exempt all UNC employees from the State Personnel Act and place them under the direct authority of the BOG. The bill would direct the BOG to adopt policies concerning the terms and conditions of employment of the employees of UNC including compensation, benefits, work hours, holidays, leave, disability benefits, temporary and supplemental pay for injured employees, position classification, appraisals, ervice and incentive awards, grievances, discipline, and any other human resource policy deemed appropriate by .he BOG. The employees would still be subject to the provisions of Articles 6 and 7 of Chapter 126 (State Personnel System) which cover equal opportunity for employment and compensation and the privacy of State employee personnel records.

This Part would become effective January 1, 2012.

Part 18. UNC Phased Retirement Program

Current Law: G.S. 135-1(20) defines retirement as the "termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service." For a retirement to become effective, the person can render no service at any time during the six months immediately following the effective date of retirement. Participants in UNC's Phased Retirement Program have been exempt from this statute until August 13, 2013 or 12 months after the issuance of final regulations by the Internal Revenue Service. According to UNC, the IRS has not yet issued regulations about phased retirement.

Bill Analysis: The bill would lift the time limit on the exemption and allow persons to enter into the Phased Retirement Program with a retirement allowance.

This Part would become effective July 1, 2011.

Part 19. Reduce Required Break in Service for UNC Employees

Current Law: G.S. 135-1(20) requires a six month break in service before a member of the Retirement System can return to work after retirement.

Bill Analysis: The bill would shorten the break in service to three months for members of the Retirement System who retire with their last 12 months of service as employees of UNC or any campus and return to work as employees of UNC or any campus. The break in service would remain six months for all other members.

This Part would become effective July 1, 2011.

'art 20. Vesting Reciprocity Between the State Retirement System and the Optional Retirement Program

Current Law: If a participant has less than five years of coverage under the Optional Retirement Program and leaves the employ of UNC and retires or begins work with an employer who does not have a retirement program with the same company underwriting the participant's annuity contract, then the participant's interest in the Optional Retirement Program that is attributable to contributions by UNC are forfeited and are refunded to UNC

to pay to the Retirement System and credited to the pension accumulation fund or paid to the Retirement System and credited to the pension accumulation fund.

Bill Analysis: The bill would provide that if any participant in the Optional Retirement Program who has less than five years of total membership service under any combination of the State Retirement System, the Local Government Retirement System, the Consolidated Judicial Retirement System or the Optional Retirement Program leaves the employ of UNC and retires or begins work with an employer who does not have a retirement program with the same company underwriting the participant's annuity contract, then the participant's interest in the Optional Retirement Program that is attributable to contributions by UNC are forfeited and are refunded to UNC to pay to the Retirement System and credited to the pension accumulation fund or paid to the Retirement System and credited to the pension accumulation fund.

This Part would become effective July 1, 2011.

Part 21. Allow UNC Healthcare to Offer the Optional Retirement Program

Current Law: UNC Healthcare is only authorized to offer employees benefits under the State Retirement System.

Bill Analysis: The bill would allow employees of UNC Healthcare to be eligible to participate in the Optional Retirement Program.

This Part would become effective July 1, 2011.

S575-SMRQ-25(CSRQ-14) v8

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 576

Short Title:	Changes to Fees for Teacher Certification.	(Public)
Sponsors:	Senators Hartsell, Tillman, and Preston.	
Referred to:	Education/Higher Education.	

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE FEES FOR TEACHER CERTIFICATION AND ADMINISTRATIVE CHANGES TO CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(a2) reads as rewritten:

"(a2) The State Board of Education shall ~~impose the following schedule of~~ adopt fees for teacher certification and administrative ~~changes:~~changes in accordance with the following schedule:

(1) Application for demographic or administrative changes to a certificate, ~~$30.00.~~up to $45.00.

(2) Application for a duplicate certificate or for copies of documents in the certification files, ~~$30.00.~~up to $45.00.

(3) Application for a renewal, extension, addition, upgrade, and variation to a certificate, ~~$55.00.~~up to $80.00.

(4) Initial application for New, In-State Approved Program Graduate, ~~$55.00.~~up to $80.00.

(5) Initial application for Out-of-State certificate, ~~$85.00.~~up to $125.00.

(6) In-State certificate review, up to $80.00.

(7) Verification of North Carolina certificate for another state, up to $80.00.

~~(6)~~(8) All other applications, $85.00.

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

The State Board shall implement an online licensure management system to permit persons to submit teacher certification and administration change applications electronically. If the Department of Public Instruction is able to process online applications at less cost, the State Board shall adopt lower fees for online applications."

SECTION 2. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 576
PROPOSED COMMITTEE SUBSTITUTE S576-CSTC-11 [v.1]

4/21/2011 4:27:59 PM

Short Title: Changes to Fees for Teacher Certification. (Public)

Sponsors:

Referred to:

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE FEES FOR TEACHER CERTIFICATION AND ADMINISTRATIVE CHANGES TO CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(a2) reads as rewritten:

"(a2) The State Board of Education shall ~~impose the following schedule of~~ adopt fees for teacher certification and administrative ~~changes:~~changes in a rule following the procedures established by the Administrative Procedure Act in accordance with the following schedule:

(1) Application for demographic or administrative changes to a certificate, ~~$30.00.~~up to $45.00.

(2) Application for a duplicate certificate or for copies of documents in the certification files, ~~$30.00.~~up to $45.00.

(3) Application for a renewal, extension, addition, upgrade, and variation to a certificate, ~~$55.00.~~up to $80.00.

(4) Initial application for New, In-State Approved Program Graduate, ~~$55.00.~~up to $80.00.

(5) Initial application for Out-of-State certificate, ~~$85.00.~~up to $125.00.

(5a) In-State certificate review, up to $80.00.

(5b) Verification of North Carolina certificate for another state, up to $80.00.

(6) All other applications, $85.00.

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

The State Board shall implement an online licensure management system to permit persons to submit teacher certification and administration change applications electronically. If the Department of Public Instruction is able to process online applications at less cost, the State Board shall adopt lower fees for online applications."

SECTION 2. This act becomes effective July 1, 2011.

SENATE BILL 576:
Changes to Fees for Teacher Certification

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	**Date:**	April 27, 2011
Introduced by:	Sens. Hartsell, Tillman, Preston	**Prepared by:**	Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S576-CSTC-11		

SUMMARY: SB 576 would permit the State Board of Education to set higher fees for teacher certification and administration changes, would make the fees nonrefundable, and would require the implementation of an online licensure management system.

The PCS clarifies that the fees must be adopted by rule as established by the Administrative Procedures Act, and makes technical changes.

CURRENT LAW: G.S. 115C-296 places the State Board of Education (State Board) in control of teacher certification. The State Board is authorized to charge fees for teacher certification and administrative changes as follows:

Application	Fee
Demographic or administrative changes to a certificate.	$30
Duplicate certificate or copies of documents in certification files.	$30
Renewal, extension, additional, upgrade, and variation to a certificate.	$55
Initial application for new, in-State approved program graduate.	$55
Initial application for out-of-state certificate.	$85
All other applications.	$85

BILL ANALYSIS: The PCS for SB 576 would allow the State Board to adopt fees up to a certain amount for teacher certification and administrative changes based on the following schedule, and would create 2 new fees.

Application	Fee
Demographic or administrative changes to a certificate.	Up to $45
Duplicate certificate or copies of documents in certification files.	Up to $45
Renewal, extension, additional, upgrade, and variation to a certificate.	Up to $80
Initial application for new, in-State approved program graduate.	Up to $80
Initial application for out-of-state certificate.	Up to $125
In-State certificate review.	Up to $80
Verification of NC certificate for another state.	Up to $80
All other applications.	Up to $85

The fees would be adopted by rule following the process established in the Administrative Procedures Act. Fees would be nonrefundable.

The State Board would be required to implement an online licensure management system to permit electronic submissions for teacher certification and administration changes. If online applications are able to be processed at less cost, the State Board must adopt lower fees for online applications.

EFFECTIVE DATE: SB 576 would become effective July 1, 2011.

S576-SMTC-18(CSTC-11) v3

PAGES ATTENDING

COMMITTEE: Education **ROOM:** 544

DATE: 4-27 **TIME:** 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

	Page Name	Hometown	Sponsoring Senator
	Bailey Sherrill	Hiddenite	Soucek
2	Blake Scruggs	Chapel Hill	Atwater
3	Marques McPhail	Goldsboro	Pate
4	[illegible]		
5	Burrell Brown	Greensboro	Robinson
6	Zachary Johnson	Silver City	Atwater
7	PRATHNA [illegible]	[illegible]	
8	Prathna Raval	Fayetteville	Mansfield
9	Nora Standish	concord	Hartsell
	Heather Green	Rutherfordton	Clary

MARCUS

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Do not add names below the grid.

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LAURA LUGER	UNC
Anita Watkins	UNC GA
Betty Dasta	UNC C
Dave Simpson	AGC
[illegible]	NCCCS
Susan Ruiz	DPI
Stan Elliott	LC
Keeji Kuka	NCLM
Will Morgan	Sierra
Tina Gordon	NCNA
Leanne Winner	NCSBA

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

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Scott Scherer	SELF
Alan Braun	UNC-TV
Andrew Bell	NCGA
Michael T. James	NCGA
Gar Deiva	DOA
Jeremy Teachey	UNC
Kevin MacNaughton	NC State Univ.
Anne Bander	DOA
Sonya Pfeiffer	DOJ
David Crawford	AIA NC
Lynn Gray	UNC GA

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Mickey E Sams	DOA
Robert Riddle	DOA
Joyce Peters	JP Assoc
Sam Bryant	DOA
[illegible]	SEANC
Tony Bux	SEANC
Lynn Cote	SEANC
Kevin LeCount	SEANC
Suzanne Beasley	SEANC
Steve Hunter	SEANC
Jonathan Stephenson	SEANC
Angela Wyatt	SEANC / UNC-CH

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rischa Fortson	SEANC
Flint Benson	SEANC
Pamela Fox	SEANC
Tom Harris	"
Chris Agner	DOA
W. Gardner Pugh	DLC & Assoc
Andrea Watts	SEANC
Wanda Lemmons	NCSU
Mary O'Neill	NCSU
Barry Lindsay	NCSU
Kathleen Snyder	NCSU
Art Anthony	NCSU

Name	Firm / Agency
[signature]	TA, NCNA
Rob Hines	NCOPI
Ann McCoy	SBE
Linda Davis	NCAE
Solari	DST
[illegible]	[illegible]
Mary Penn	NC OB/Gyn Society
DAVID BARNES	[illegible]
Ralph Thompson	Holocene
[signature]	NCSU
[signature]	ACC
MACARY MARCINIAK	UNC
MORGAN NORRIS	NCAP

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Henry M Lancaster III	LCA
Carl Dean	OST
Vance Holloman	DST
Pam Motton	CenturyLink
[illegible]	DST
Jason Smithwick	DST
Elizabeth Brownstein	OSBM
Chuck Perusse	UNC-GA
Jay Davies	UNC
William A. Flanagan	UNC GA HR
Tom Shanahan	UNC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, April 27, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Betsy Vetter	Amer Heart Assn

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, May 4, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on May 4, 2011, in Room 544 of the Legislative Office Building. Seventeen members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and announced that Senate Bill 575 had been removed from the calendar and would be heard at a date to be determined. He then introduced the Sergeant-at-Arms and the Pages.

Chairman Tillman then recognized Senator Hartsell to explain Senate Bill 553.

Senator Hartsell explained that the bill would reestablish the Progress Board, which compared the State's education progress relative to the rest of the Southeast.

Following his explanation, Senator Garrou moved for a favorable report and Senator Stevens recommended that it be sent to Appropriations.

Senator Robinson was recognized and questioned how this new board would interact with existing boards that deal with similar issues.

Senator Stein was then recognized and expressed his gratitude to Senator Hartsell for bringing the bill forward and stated that he appreciated the work that had been done by the previous Progress Board and supported the bill.

Chairman Tillman called for a vote and the committee adopted a favorable recommendation and referred Senate Bill 553 to Appropriations.

Chairman Tillman recognized Senator Pate to explain Senate Bill 498.

Senator Pate explained that the bill had been given a favorable recommendation out of this committee earlier in the session, but due to viewpoints that he earlier had not considered, was returned to the Education Committee for a further hearing. He stated that interested parties had come together to find a bill that they could all support.

Chairman Tillman announced that he would be offering an amendment and turned the meeting over to Senator Soucek. The text of the amendment is attached.

Chairman Soucek recognized Senator Tillman to explain his amendment.

Senator Tillman explained that the amendment would require parents to opt-out of the administration of corporal punishment rather than opting-in.

Chairman Soucek recognized Senators Brock, who asked about whether there was support on the amended bill from the counties that were affected. Senator Pate deferred the question to Leanne Winner, North Carolina School Boards Association, who mentioned that only one county wanted to leave the law as it had been.

Chairman Soucek then recognized Senator Garrou, who questioned the rationale behind switching from an opt-in to an opt-out form for parents to submit. Ms. Winner responded that corporal punishment is a cultural issue in the counties that still practice it, but suggested that it is becoming increasingly common for LEAs to do away with it. Senator Garrou then expressed her dissatisfaction with the local decisions that she considers sad and pathetic and suggested that corporal punishment may be causing school dropouts.

Chairman Soucek recognized Senator Dannelly, who noted that it was not a new issue that most problem children had non-participatory parents and suggested that corporal punishment should not be administered without expressed written consent of the parents. He also suggested that there could be liability problems for the schools involved. Further, he echoed Senator Garrou's concerns that corporal punishment would lead to increased dropout rates and suggested that the General Assembly needed to find a way to improve society in order to eliminate corporal punishment.

Chairman Soucek recognized Senator Robinson who stated that the combined issues of corporal punishment and parent non-involvement would be abusive to the child and that corporal punishment may lead to increased violence among students to whom it is applied and could lead to more suicides.

Senator Tillman responded that the option would be to pull the amendment, which would effectively stop the bill from progressing, thus leading to a system that exists now, in which corporal punishment can be applied to all students. He said that he wanted to be sure that the General Assembly made at least this first step.

Senator Dannelly suggested that in cases where the parent has not responded, more effort should be undertaken by the schools to contact parents before applying corporal punishment.

Senator Garrou moved for a favorable report on the Amendment.

Chairman Soucek called for a vote and the committee adopted the amendment. After announcing that the bill as amended stood before the committee, Chairman Soucek relinquished the chair back to Senator Tillman.

Senator Garrou moved for a favorable recommendation and Chairman Tillman clarified that the motion would be for a favorable report to the bill as amended, rolled into a committee substitute, with a favorable report to the committee substitute and an unfavorable report to the original bill. A vote was taken and the motion was adopted.

Senator Brown moved that the committee adopt the Proposed Committee Substitute to Senate Bill 648.

Chairman Tillman called on Senator Preston to explain the bill.

Senator Preston stated that the bill removes existing statutes and replaces them with a new system for school discipline. She added that the PCS makes technical and conforming changes to the bill.

Senator Stevens moved for a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. He also noted that clarification on this bill would be required in light of the changes that would be made due to Senate Bill 498.

Chairman Tillman recognized Senator Garrou, who asked for an example of a statute change in the bill. Senator Preston deferred the question to Kara McCraw, Research Division, who noted that mostly the bill simply recodifies existing procedures, but suggested that eliminations exist in the bill relative to the suspension requirements for specific offenses.

Chairman Tillman recognized Senator Brock, who questioned the mention of stun guns. Ms. McCraw and Ms. Winner offered clarification on the inclusion of the term stun gun as it relates to the federal requirement of mandatory 365-day suspension for possession of a firearm.

Senator Allran was recognized for a question about the bill's use of age fourteen as the first time that a student could be expelled. Chairman Tillman explained that this was long-standing policy issued by previous General Assemblies.

Chairman Tillman recognized Senator Robinson who asked if school boards would be required to make these disciplinary rules available to parents and students so that they are aware of their rights. Senator Preston responded in the affirmative and Chairman Tillman clarified that school boards were already doing this.

Senator Dannelly was then recognized and asked for the definition of "reasonable force" and asked if both the number of occurrences and the number of students disciplined by corporal punishment were recorded. Chairman Tillman responded that they were both recorded at the end of each school year.

Chairman Tillman recognized Senator Robinson for another question about whether friends or "parent advocates" would be permitted to serve in place of attorneys that the bill states will be allowed to be retained by parents during hearings. Senator Preston responded that the bill maintains local school boards' ability to include "advocates" as they so choose.

Chairman Tillman recognized Senator Brock, who commented on Senator Dannelly's observation about reporting and opined that the General Assembly should require those reports from principals and teachers.

Chairman Tillman called for a vote on Senator Steven's motion for a favorable report on the Proposed Committee Substitute but an unfavorable report to the original bill. By way of a vote, the committee adopted the motion.

Senator Brown moved that the committee adopt the Proposed Committee Substitute to Senate Bill 724.

Chairman Tillman then recognized Senator Stein to explain the bill.

Senator Stein stated that the bill is intended to improve the quality of education without increasing costs. He explained that the six sections of the bill improve teacher training, mandate

the use of EVAS to help determine math placement, work on preschool programs for "at-risk" children, work on transition teams for "at-risk children, study extension of the school day and the school year and request that the State Board of Education re-examine the graduation requirements for students not continuing to college.

Chairman Tillman called on Senator Preston who added her support for the bill specifically regarding the extension of school days and school years and noted that the cost has always been the prohibiting factor.

Senator Dannelly was recognized for a comment and suggested to Senator Preston "you get what you pay for" and urged the committee to keep that in mind. He then motioned for a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill.

Chairman Tillman accepted the motion, and held it to call on Senator Robinson who thanked Senator Stein and Chairman Tillman for the bill and expressed her hope that funding would be available soon.

Senator Brock was recognized and mentioned that the difficulty with extending the school day is that if students have not had the appropriate level of breaks during the day that teaching and learning tend to become more difficult at the end of the day. Senators Stein and Garrou were recognized and expressed agreement with Senator Brock's thoughts.

Chairman Tillman called for a vote and the motion was adopted.

The meeting adjourned at 10:55AM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, May 4, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 575	Higher Education Efficiency and Flexibility.	Senator Tillman Senator Stevens
SB 498	Modify Law Re: Corporal Punishment.	Senator Pate Senator Purcell
SB 553	Reestablish Progress Board.	Senator Hartsell
SB 648	Amend Law Re: School Discipline.	Senator Hartsell Senator Preston Senator Tillman
SB 724	An Act to Improve Public Education.	Senator Tillman Senator Stein

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Thursday, May 05, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **553** Reestablish Progress Board.
Sequential Referral: None
Recommended Referral: Appropriations/Base Budget

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **498** Modify Law Re: Corporal Punishment.
Draft Number: PCS55296
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **648** Amend Law Re: School Discipline.
Draft Number: PCS55295
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **724** An Act to Improve Public Education.
Draft Number: PCS55294
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:

SENATE BILL 575

Short Title:	Higher Education Efficiency and Flexibility.	(Public)
Sponsors:	Senators Stevens and Tillman.	
Referred to:	Education/Higher Education.	

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EFFICIENCY AND FLEXIBILITY FOR THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM AND THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART 1. CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES

SECTION 1.1. G.S. 115D-9 reads as rewritten:

"**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other ~~State or non-State funded~~ State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of ~~one million dollars ($1,000,000)~~ four million dollars ($4,000,000) or less:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under subsections (b) or (c) of this section.

(g) The State Board shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project funded with non-State funds if the State Board of Community Colleges determines that the college has the expertise necessary to manage the project unless the assistance of the Office of State Construction is requested."

SECTION 1.2. This Part is effective when it becomes law and applies to projects initiated on or after that date.

PART 2. CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD OF COMMUNITY COLLEGES

SECTION 2.1. G.S. 115D-15 reads as rewritten:

"**§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges. Personal property titled to the State Board of Community Colleges consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community college at no cost and without the approval of the State Board of Community Colleges or the Department of Administration, Division of Surplus Property.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section.

...."

SECTION 2.2. This Part becomes effective July 1, 2011.

PART 3. GRANTING COMMUNITY COLLEGES ADDITIONAL FLEXIBILITY WITH REGARD TO INVESTMENTS

SECTION 3.1. G.S. 115D-58.6 reads as rewritten:

"**§ 115D-58.6. Investment of idle cash.**

(a) Definitions. – As used in this section the following definitions apply:

(1) "Cash balance" means the amount equal to all moneys received into institutional fund accounts minus all expenses and withdrawals from those

accounts in an official depository of the institution as designated by the local board of trustees consistent with G.S. 115D-58.7.

(2) "Official depository" means one or more banks, savings and loan associations, or trust companies in North Carolina that a community college board of trustees has designated consistent with G.S. 115D-58.7.

(a1) Deposits. – The institution may deposit at interest ~~or invest~~ all or part of the cash balance of any fund in an official depository of the institution. ~~The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.~~ Moneys may be deposited at interest in any official depository of the institution in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

~~(b) Moneys may be deposited at interest in any bank, savings and loan association or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).~~

~~(c)~~(b) Investments. – The institution may invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(1) Moneys ~~may~~ shall only be invested in the form of investments pursuant to G.S. 159-30(c) to county governments ~~and no others.~~ or in any form of investment established or managed by an investment advisor who is registered and in good standing with either the Securities and Exchange Commission or the North Carolina Secretary of State, Securities Division, and is a member of the Securities Investor Protection Corporation. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

~~(d) Investment~~

(2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

~~(e)~~(c) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

~~(f)~~(d) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of ~~trustees."~~trustees.

(e) The Board of Trustees shall appoint an Investment Committee which shall consist of a minimum of three people who have sufficient financial background to review and evaluate investment options. These individuals should have experience in institutional or retail investment management with knowledge of fixed income and public equities. This committee shall make recommendations to the Board on those investment options, as well as monitor the performance of investments once made.

(f) The Board of Trustees shall discharge their duties with respect to the management and investment of college funds as follows:

(1) Investment decisions shall be solely in the interest of the college, and the students, faculty, and staff of the college.

(2) The investments shall be for the exclusive purpose of providing an adequate return to the college.

(3) Investments shall be made with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.

(4) Investment decisions shall be made impartially, taking into account the best interest of the college, with special attention to conflicts of interest or potential conflicts of interest.

(5) Investments shall incur only costs that are appropriate and reasonable."

SECTION 3.2. G.S. 147-69.2 is amended by adding a new subdivision to read:

"(20) Institutional funds of the colleges of the North Carolina Community College System."

SECTION 3.3. This Part becomes effective July 1, 2011.

PART 4. INCREASE THE LIMIT ON CONSTRUCTION PROJECTS THAT THE UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY USE ITS EMPLOYEES TO COMPLETE

SECTION 4.1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000); provided that, for The University of North Carolina and its constituent institutions and for the North Carolina Community College System and its institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed ~~two hundred thousand dollars ($200,000)~~ five hundred thousand dollars ($500,000) or the total cost of labor on the project does not exceed ~~one hundred thousand dollars ($100,000).~~three hundred thousand dollars ($300,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work,

including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 4.2. This Part is effective when it becomes law.

PART 5. ALLOW THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO APPROVE THE PLANNING, AUTHORIZATION, AND FUNDING OF CAPITAL PROJECTS FROM NON-GENERAL FUND SOURCES

SECTION 5.1. G.S. 143C-8-12 reads as rewritten:

"**§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.**

Notwithstanding any other provision of this Chapter, ~~the Director of the Budget may, upon request of~~ the Board of Governors of The University of North Carolina ~~and after consultation with the Joint Legislative Commission on Governmental Operations,~~ may approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money. The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations."

SECTION 5.2. This Part is effective when it becomes law.

PART 6. AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO ALLOCATE OR REALLOCATE FUNDS TO REPAIRS AND RENOVATIONS PROJECTS; AND TO REQUIRE THAT ANY ALLOCATION OR REALLOCATION BE REPORTED TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WITHIN SIXTY DAYS

SECTION 6.1. G.S. 143C-4-3 is amended by adding a new subsection to read:

"(d) Board of Governors May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Board of Governors of The University of North Carolina may be allocated or reallocated by the Board for repairs and renovations projects so long as (i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection."

SECTION 6.2. This Part becomes effective July 1, 2011.

PART 7. WAIVE THE REQUIREMENT FOR A CAPITAL PROJECT FEASIBILITY DETERMINATION FOR CAPITAL PROJECTS OF THE UNIVERSITY OF NORTH CAROLINA FOR WHICH ADVANCE PLANNING HAS NOT BEEN UNDERTAKEN

SECTION 7.1. G.S. 143C-3-3 reads as rewritten:

"**§ 143C-3-3. Budget requests from State agencies in the executive branch.**

...

(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

(1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.

(2) An estimate of project costs approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the repair or renovation is to be financed.

(d) Capital Funds Request. – In addition to any other information requested by the Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing facility to accommodate new or expanded uses shall accompany that request with all of the following:

(1) An estimate of its space needs and other physical requirements, together with a review and evaluation of that estimate prepared by the Department of ~~Administration.~~Administration, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the estimate of space needs may be a preliminary estimate.

(2) An estimate of project costs and cash flow requirements approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the acquisition, construction, or rehabilitation is to be financed.

(5) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation.

(6) An estimate of revenues, if any, to be derived from the project, covering the first five years of operation.

This subsection does not apply to requests for State resources for railroad, highway, or bridge construction or renovation.

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities

for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General Assembly, the Administrative Office of the Courts, or The University of North Carolina."

SECTION 7.2. G.S. 143-341(3)b1. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(3) Architecture and Engineering:

...

b1. To certify that a statement of needs pursuant to ~~G.S. 143C-3-3~~ G.S. 143C-3-3, other than for a project of The University of North Carolina for which advance planning has not been completed, is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000)."

SECTION 7.3. This Part becomes effective July 1, 2011.

PART 8. ALLOW CHANCELLORS OF CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO APPROVE CERTAIN REPAIR AND MAINTENANCE PROJECTS AND TO FUND THOSE PROJECTS WITH AVAILABLE OPERATING FUNDS

SECTION 8.1. G.S. 116-13.1 reads as rewritten:

"**§ 116-13.1. Capital facilities; ~~reports.~~reports; chancellors may authorize certain repair and maintenance projects.**

(a) The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital

facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

(b) Equity in University Improvements. – The Board of Governors of The University of North Carolina shall continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist on North Carolina's Public Historically Black Colleges and Universities and North Carolina's Historically American Indian University, the University of North Carolina at Pembroke, beyond the funding of the projects provided for in this act, and shall report annually to the Joint Legislative Commission on Governmental Operations on any remaining inequities found, including recommendations as to how those inequities should be addressed.

(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project for repairs to institution facilities, maintenance of those facilities, and related equipment purchases. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects."

SECTION 8.2. This Part is effective when it becomes law.

PART 9. AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO PERMIT CONSTITUENT INSTITUTIONS OF THE UNIVERSITY TO SELF-PERFORM ENERGY CONSERVATION MEASURES; AND TO AUTHORIZE ENERGY SAVINGS TO BE USED AS SECURITY FOR AND A SOURCE OF REPAYMENT FOR DEBT ISSUED PURSUANT TO ARTICLE 3 OF CHAPTER 116D OF THE GENERAL STATUTES

SECTION 9.1. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17L. Board of Governors may authorize energy conservation measures at constituent institutions.**

(a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board of Governors of The University of North Carolina may authorize a constituent institution to implement an energy conservation measure without entering into a guaranteed energy savings contract if both of the following are true:

(1) The Board of Governors finds that the energy savings resulting from the implementation of the energy conservation measure will, according to the energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or exceed the total cost of implementing the measure. If the proposed implementation will be financed with debt, then the energy savings analysis must project sufficient energy savings to pay the debt service on any bonds to be issued. As used in this subdivision, the term 'total cost' shall have the same meaning as it does in G.S. 143-64.17B(d).

(2) The energy conservation measure is for an existing building or utility system.

(b) Scope of Authority. – In implementing an energy conservation measure pursuant to subsection (a) of this section, the Board of Governors may undertake or authorize a constituent institution to undertake any action that (i) could be required of a qualified provider under a guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

(c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of Governors may authorize the implementation of multiple energy conservation measures simultaneously as part of a single project. When doing so, the findings required by subsection (a) of this section may be made with respect to the project as a whole and need not be made with respect to individual energy conservation measures. Similarly, the analyses required by G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy conservation measures.

(d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a constituent institution implements an energy conservation measure through a guaranteed energy savings contract, that contract shall accord in all respects with the requirements of this Part.

SECTION 9.2. Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17M. Energy savings analysis required prior to implementation; post-implementation analyses required.**

(a) Energy Savings Analysis Required Prior to Implementation. – Prior to implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings analysis shall be performed to validate the economic assumptions that purportedly support the implementation of the measure. This analysis shall be performed by a third party selected by the constituent institution and shall include an energy consumption analysis to develop a baseline of previous costs of all utilities' energy consumption for the institution on the assumption that the energy conservation measure was not undertaken. The completed analysis shall be submitted to The University of North Carolina General Administration and to the State Energy Office.

(b) Post-Implementation Analyses Required. – A constituent institution that implements an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to perform an annual measurement and verification of energy savings resulting from the energy conservation measure as compared to the baseline of previous costs set forth in the energy savings analysis required by subsection (a) of this section. The third party shall annually provide a reconciliation statement based upon the results of a preagreed upon measurement, monitoring, and verification protocol which shall disclose any shortfall or surplus between the estimated energy usage and operational savings set forth in the energy savings analysis required by subsection (a) of this section and actual, not stipulated, energy usage and operational savings incurred during a given year.

If a reconciliation statement reveals a shortfall in energy savings for a particular year, the constituent institution shall be responsible for and shall pay the shortfall. However, the institution shall not be held responsible for losses due to natural disasters or other emergencies. Any surplus shall be retained by the institution and may be used in the same manner as any other energy savings.

SECTION 9.3. G.S. 116-30.3B(b) reads as rewritten:

"(b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf of a constituent institution not be reduced as a result of the institution's realization of energy savings. Instead, the General Assembly intends that the amount of appropriations be determined as if no energy savings had been realized. The Director of the Budget shall not decrease the recommended continuation budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract."

SECTION 9.4. G.S. 143-64.17F(b) reads as rewritten:

"(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L."

SECTION 9.5. G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the ~~contract~~ contract or (ii) the implementation of the measure to the State Energy Office of the Department of Commerce within 30 days of the date the contract is entered ~~into.~~ into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

SECTION 9.6. G.S. 142-63 reads as rewritten:

"**§ 142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or ~~G.S. 143-64.17B or~~ G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time."

SECTION 9.7. G.S. 142-64(a) reads as rewritten:

"**§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit (i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, or (ii) has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures."

SECTION 9.8. G.S. 116D-22(3) reads as rewritten:

"(3) Obligated resources. – Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including "overhead costs reimbursement" under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

d. Funds appropriated from the General Fund to the Board of Governors on behalf of a constituent institution for utilities of the institution that constitute energy savings as that term is defined in G.S. 143-64.17.

~~Obligated~~ Except as provided in Sub-subdivision d. of this subdivision, obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students."

SECTION 9.9. This Part is effective when it becomes law.

PART 10. INSTITUTIONAL EXPENDITURE BENCHMARKS

SECTION 10.1.(a) G.S. 116-31.10 reads as rewritten:

"**§ 116-31.10. Powers of Board regarding certain purchasing contracts.**

(a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than five hundred thousand dollars ($500,000). The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark in accordance with this section, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

(b) Each institution with an expenditure benchmark greater than two hundred fifty thousand dollars ($250,000) shall comply with this subsection for any purchase greater than ~~two hundred fifty thousand dollars ($250,000)~~the institution's benchmark set by the Board but not greater than five hundred thousand dollars ($500,000). This institution shall submit to the Division of Purchase and Contract for that Division's approval or other action deemed necessary by the Division a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division."

SECTION 10.2.(b) This Part becomes effective October 1, 2011.

PART 11. IN THE PROCESS OF BIDDING COMMODITY CONTRACTS, ALLOW COMPETITORS TO BID OPTIONAL ONE-YEAR CONTRACT RENEWALS FOR UP TO TEN YEARS

SECTION 11.1.(a) G.S. 143-53(d) reads as rewritten:

"(d) Notwithstanding the provisions of this section or any rule adopted pursuant to this Article, The University of North Carolina may solicit bids for service contracts and commodity contracts with a term of 10 years or less, including extensions and renewals, without the prior approval of the State Purchasing Officer."

SECTION 11.2.(b) This Part is effective when it becomes law.

PART 12. ALLOW UNC TO ASSUME RESPONSIBILITY FOR THE QUALITY ACCEPTANCE INSPECTION PROCESS

SECTION 12.1.(a) G.S. 143-60 reads as rewritten:

"**§ 143-60. Rules covering certain purposes.**

The Secretary of Administration may adopt, modify, or abrogate rules covering the following purposes, in addition to those authorized elsewhere in this Article:

(1) Requiring reports by State departments, institutions, or agencies of stocks of supplies and materials and equipment on hand and prescribing the form of such reports.

(2) Prescribing the manner in which supplies, materials and equipment shall be delivered, stored and distributed.

(3) Prescribing the manner of inspecting deliveries of supplies, materials and equipment and making chemicals and/or physical tests of samples submitted with bids and samples of deliveries to determine whether deliveries have been made in compliance with specifications. However, the provisions of this subdivision shall not apply to the constituent institutions of The University of North Carolina. The President of The University of North Carolina shall issue regulations or guidelines for the conducting of quality inspections by constituent institutions to ensure that deliveries have been made in compliance with specifications.

(4) Prescribing the manner in which purchases shall be made in emergencies.

(5) Providing for such other matters as may be necessary to give effect to foregoing rules and provisions of this Article.

(6) Prescribing the manner in which passenger vehicles shall be purchased.

Further, the Secretary of Administration may prescribe appropriate procedures necessary to enable the State, its institutions and agencies, to obtain materials surplus or otherwise available from federal, State or local governments or their disposal agencies."

SECTION 12.2.(b) This Part becomes effective October 1, 2011.

PART 13. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO ESTABLISH BRAND NAME SPECIFICATIONS FOR BUILDING COMPONENTS TO BE USED IN UNIVERSITY WORKS UNDER CERTAIN CIRCUMSTANCES

SECTION 13.1. G.S. 133-3 reads as rewritten:

"**§ 133-3. Specifications to carry competitive items; substitution of materials.**

~~All~~ (a) Generally. – Except as provided in subsection (b) of this section, architects, engineers, designers, or draftsmen, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or draftsman may use a

brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.

(b) Notwithstanding subsection (a) of this section, a constituent institution of The University of North Carolina may establish brand-name specifications for building control systems, fire alarm systems, building security systems, elevators, and critical utility systems if it first does all of the following:

(1) Sets forth in writing and makes publicly available the performance and design characteristics required of the building component.

(2) Sets forth in writing and makes publicly available the manner in which adoption of the brand name specification will further efficiency in the operation, maintenance, or upkeep of buildings.

(3) Provides all interested suppliers an opportunity to propose one or more products which will meet the performance and design characteristics set forth. The constituent institution shall make its selection based on initial and life cycle costs as well as quality and suitability for the designated use.

(c) Once a constituent institution establishes a brand-name specification pursuant to subsection (b) of this section, the constituent institution may, without repeating the process set forth in that subsection, use the brand-name specification in construction bid documents when doing so will further efficiency in the operation, maintenance, or upkeep of buildings."

SECTION 13.2. This Part is effective when it becomes law.

PART 14. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO SELL OR TRANSFER SURPLUS PERSONAL PROPERTY OTHER THAN MOTOR VEHICLES

SECTION 14.1. The title of Part 3 of Article 3A of Chapter 143 of the General Statutes reads as rewritten:

"Part 3. ~~Public Agencies.~~Miscellaneous Provisions."

SECTION 14.2. Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.7. University of North Carolina exempted from application of Article.**

(a) Authority. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina may transfer or sell all supplies, materials, and equipment of the constituent institution that are surplus, obsolete, or unused. The Board of Governors of The University of North Carolina may adopt rules to implement this authority.

(b) No Service Charge. – Notwithstanding any other provision of this Article, a constituent institution of The University of North Carolina shall not be charged any service charge or surcharge for any transfer or sale pursuant to this section.

(c) Use of Receipts. – All receipts from transfers or sales under this section of supplies, materials, or equipment that were acquired with, or supported by, General Fund appropriations shall, minus the actual costs of the sale, be remitted to the State Treasurer and credited to the General Fund as nontax revenue.

(d) Exception. – This section does not apply to the sale or transfer of surplus motor vehicles."

SECTION 14.3. This Part is effective when it becomes law.

PART 15. ALLOW NORTH CAROLINA STATE UNIVERSITY TO SELL TIMBER

SECTION 15.1. Part 1 of Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.06. North Carolina State University may sell timber.**

Notwithstanding any provision of this Part or Chapter 146 of the General Statutes to the contrary, North Carolina State University is authorized and empowered to sell or transfer timber without involvement by the State Surplus Property Agency and without being required to pay any service charge or surcharge to the State Surplus Property Agency. The proceeds of any sales or transfers under this section shall be used to support the management of, and programming costs associated with, forest properties owned, allocated, or managed by North Carolina State University."

SECTION 15.2. This Part is effective when it becomes law.

PART 16. ALLOW UNC CAMPUSES TO PURCHASE MOTOR VEHICLES INDEPENDENT OF MOTOR FLEET MANAGEMENT

SECTION 16.1. G.S. 143-341(8)i. is amended by adding a new sub-sub-subdivision to read:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

12. Notwithstanding the provisions of this subdivision, or any rules adopted pursuant to this subdivision or Chapter, the constituent institutions of The University of North Carolina may, without the prior approval of the Department of Administration, purchase motor vehicles to be used by campus safety officers. The purchase of campus safety vehicles shall be in accordance with regulations or guidelines issued by the President of The University of North Carolina."

SECTION 16.2. This Part becomes effective December 1, 2011.

PART 17. RELATING TO INSTITUTIONAL TRUST FUNDS OF THE UNIVERSITY OF NORTH CAROLINA AND FUNDS OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

SECTION 17.1. G.S. 116-36.1 reads as rewritten:

"**§ 116-36.1. Regulation of institutional trust funds.**

(a) The Board is responsible for the custody and management of the trust funds of the University of North Carolina and of each institution. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the president, to the respective chancellors of the institutions when such delegation is necessary or prudent to enable the institution to function in a proper and expeditious manner.

(b) Trust funds ~~shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of the University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For purposes of distribution of investment earnings, all trust funds of an institution shall be deemed a single account.~~

~~(c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to this section,~~ and investment earnings thereon, are available for expenditure by each institution without further authorization from the General Assembly.

(d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget Act except for capital improvements projects which shall be authorized and executed in accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the ~~Director of the Budget.~~ Board.

(f) Trust funds or the investment income therefrom shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes is appropriated and shall be used to supplement State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(g) As used in this section, "trust funds" means:

(1) Moneys, or the proceeds of other forms of property, received by an institution as gifts, devises, or bequests that are neither presumed nor designated to be gifts, devises, or bequests to the endowment fund of the institution;

(2) Moneys received by an institution pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof;

(3) Moneys received by an institution pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;

(4) Moneys collected by an institution to support extracurricular activities of students of the institution;

(5) Moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;

(6) Moneys received from or for the operation by an institution of any of its self-supporting auxiliary enterprises, including institutional student auxiliary

enterprise funds for the operation of housing, food, health, and laundry services;

(7) Moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider;

(8) The net proceeds from the disposition effected pursuant to Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection ~~(g)~~ as "trust funds," except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of moneys received as a grant from a State agency;

(9) Moneys received from the operation and maintenance of institutional forests and forest farmlands, provided, that such moneys shall be used, when used, by the institution for support of forest-related research, teaching, and public service programs;

(10) Moneys received from an activity authorized by G.S. 66-58(b)(8)m., n., and o.;

(11) Moneys deposited to the State Education Assistance Authority Fund pursuant to G.S. 116-209.3.

(h) ~~Notwithstanding the provisions of subsection (b) of this section, the Board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as is prescribed by the State Treasurer for the security of public deposits generally. The available cash balance of funds deposited pursuant to this subsection shall be invested in interest bearing deposits and investments so that the rate of return equals that realized from the investment of State funds generally.~~ The Board may authorize, through the President, that the chancellors may deposit or invest each institution's available trust fund cash balances in interest-bearing accounts and other investments as may be authorized by the Board in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(i) The cash balances on hand as of June 30, 1978, and all future receipts accruing thereafter, of funds identified in this section are hereby appropriated to the use of the University of North Carolina and its constituent institutions."

SECTION 17.2. G.S. 116-37(e) reads as rewritten:

"(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to ~~G.S. 147-69.2(b3).~~ G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose,

"Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts."

SECTION 17.3. G.S. 116-37.2 reads as rewritten:

"**§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill Funds.**

(a) As used in this section, "funds" means:

(1) Moneys, or the proceeds of other forms of property, received by the University of North Carolina Hospitals at Chapel Hill as gifts, devises, or bequests.

(2) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof.

(3) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the University of North Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training, or public service programs.

(4) Moneys received from or for the operation by the University of North Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary enterprises, including the Liability Insurance Trust Fund.

(5) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to fees and other payments for services it renders in its hospital and/or clinical operations.

(5a) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to borrowings for capital equipment or construction projects to further services it renders in either or both of its hospital or clinical operations.

(6) The net proceeds from the disposition effected pursuant to Article 7 of Chapter 146 of the General Statutes of any interest in real property owned by or under the supervision and control of the University of North Carolina Hospitals at Chapel Hill if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection, except the net proceeds from the disposition of an interest in real property first acquired by the University of North Hospitals at Chapel Hill through expenditure of moneys received as a grant from a State agency.

(b) The Board of Directors of the University of North Carolina Health Care System, as established in G.S. 116-37(b), is responsible for the custody and management of the funds of the University of North Carolina Hospitals at Chapel Hill. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds, which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the Chief Executive Officer of the University of North Carolina Health Care System to the President of the University of North Carolina Hospitals at Chapel Hill, when such delegation is necessary or prudent to enable the University of North Carolina Hospitals at Chapel Hill to function in a proper and expeditious manner.

(c) Funds under this section ~~shall be deposited with the State Treasurer who shall hold them in trust in the name of the University of North Carolina Hospitals at Chapel Hill.~~

~~(d) Funds deposited with the State Treasurer in an account pursuant to this section,~~ and investment earnings ~~thereon,~~ thereon are available for expenditure by the University of North Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

(e) Funds under this section are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the ~~Executive~~ State Budget Act except for capital improvements projects, which shall be authorized and executed in accordance with ~~G.S. 143-18.1.~~ G.S. 143C-8-8 and G.S. 143C-8-9.

(f) The University of North Carolina Hospitals at Chapel Hill shall submit such reports or other information concerning its fund accounts under this section as may be required by the ~~Director of the Budget.~~ Board of Directors of the University of North Carolina Health Care System.

(g) Funds under this section, or the investment income therefrom, shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes shall be used to supplement State appropriations to the end that the University of North Carolina Hospitals at Chapel Hill may improve and increase their functions, may enlarge their areas of service, and may become more useful to a greater number of people.

(h) ~~Notwithstanding the provisions of subsection (c) of this section, the Board may designate as the official depository of the funds identified in subdivisions (a)(4), (a)(5), and (a)(6) of this section one or more banks or trust companies in this State for any investments authorized by G.S. 147-69.2(b3).~~ The Board of Directors of the University of North Carolina Health Care System may deposit or invest the funds under this section in interest-bearing accounts and other investments in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries."

SECTION 17.4. This Part becomes effective July 1, 2011.

PART 18. ALL EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA ARE EXEMPT FROM THE STATE PERSONNEL ACT AND SUBJECT TO THE DIRECT AUTHORITY OF THE BOARD OF GOVERNORS

SECTION 18.1. G.S. 116-11(5) and (5b) read as rewritten:

"**§ 116-11. Powers and duties generally.**

The powers and duties of the Board of Governors shall include the following:

...

(5) The Board of Governors shall adopt policies concerning the terms and conditions of employment of employees of The University of North Carolina, including employee compensation, benefits, work and office hours, holidays, leave, disability benefits, temporary and supplemental pay for injured employees, position classification, appraisals, service and incentive awards, grievances, discipline, and any other human resources policy the Board deems appropriate to promote the recruitment and retention of capable, diligent, and effective employees. Employees of The University of North Carolina are deemed State employees who are exempt from the State Personnel Act, but subject to the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes.

~~The Board of Governors shall, on recommendation of the President and of the appropriate institutional chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers and persons having permanent tenure.~~

...

~~(5b) The Board of Governors may by resolution provide that, until July 1, 1998, every president, vice-president, and other administrative officer of the~~

~~University whom it elects and who is not subject to Chapter 126 of the General Statutes, and every chancellor, vice-chancellor, senior academic officer, senior administrative officer, and faculty member who serves a constituent institution or agency of the University and who is not subject to Chapter 126 of the General Statutes, shall retire on July 1 coincident with or next following his seventieth birthday, unless continued in service on a year-to-year basis in accordance with regulations adopted by the Board of Governors.~~

...."

SECTION 18.2. G.S. 116-14 reads as rewritten:

"**§ 116-14. President and staff.**

(a) The Board shall elect a President of the University of North Carolina. The President shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice-president and such other vice-presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. ~~In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the provisions of Chapter 126 of the General Statutes.~~ The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. Subject to approval by the Board, the President may establish and abolish employment positions within the staff complement authorized by this subsection in the manner of and under the conditions prescribed by G.S. 116-30.4 for special responsibility constituent institutions.

(b1) The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from Budget Code 16010, and the capital improvement projects may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9.

(b2) The President, in consultation with the State ~~Auditor and the Director of the Office of State Personnel,~~ Auditor, shall ascertain that the management staff and internal financial controls are in place and continue in place to successfully administer the additional authority authorized under G.S. 116-14(b1) and G.S. 116-30.3(e). All actions taken by the President pursuant to G.S. 116-14(b1) and G.S. 116-30.3(e) are subject to audit by the State Auditor.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable."

SECTION 18.3. G.S. 116-30.1 reads as rewritten:

"§ 116-30.1. Special responsibility constituent institutions.

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where significant findings are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that the institution must make satisfactory progress in resolving the findings, as determined by the President of The University, after consultation with the State Auditor, within a three-month period commencing with the date of receipt of the published financial audit report, any other audit report, or management letter. If satisfactory progress is not made within a three-month period, the President of The University shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the President of The University of North Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

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

SECTION 18.4. G.S. 116-30.4 reads as rewritten:

"§ 116-30.4. Position management.

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with policies adopted by the Board of Governors. ~~with:~~

~~(1) State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or~~

~~(2) Policies and procedures of the Board of Governors if these positions are exempt from the State Personnel Act.~~

~~The results achieved by establishing and abolishing positions pursuant to the conditions set forth in subdivision (1) of this section shall be subject to postauditing by the Office of State Personnel.~~ Implementation of personnel actions shall be subject to the availability of funds within the institution's current budget to fund the full annualized costs of these actions."

SECTION 18.5. G.S. 126-5(c1)(9) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(9) Employees whose ~~salaries~~ terms and conditions of employment are ~~fixed~~ under the authority vested in the Board of Governors of The University of North Carolina ~~by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.~~under Chapter 116 of the General Statutes."

SECTION 18.6. G.S. 126-19 reads as rewritten:

"**§ 126-19. Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.**

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial ~~branch and~~ branch, by the Legislative Services Office on behalf of the legislative ~~branch~~ branch, and by the Board of Governors on behalf of The University of North Carolina, shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the State Personnel Director for review and approval on or before March 1, of each year.

(b) The State Personnel Commission shall submit a report to the General Assembly concerning the status of Equal Employment Opportunity plans and programs for all State ~~departments, agencies, universities,~~ departments and agencies which are required by this Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the report shall contain reasons for disapproval. The status report submitted to the General Assembly by the State Personnel Director and the plans submitted to the General Assembly by the judicial branch and the Legislative Services Office on behalf of the legislative branch shall contain the total number of persons employed in each job category, the race, sex, salary, and other demographics relative to persons hired and promoted during the reporting period, analysis of the data, and an indication as to which goals were achieved.

(c) The State Personnel Director shall at least maintain current services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force at all occupational levels reflect North Carolina's population. To the extent reasonably possible, these services shall be provided by qualified personnel who have continuous experience in the field of Equal Employment Opportunity and affirmative action and who are sensitive to circumstances and experiences of individuals from diverse backgrounds and cultures, and recognize that efficient and effective government requires the talents, skills, and abilities of all available human resources."

SECTION 18.7. This Part becomes effective January 1, 2012.

PART 19. PERMANENTLY EXEMPT PARTICIPANTS IN THE UNIVERSITY OF NORTH CAROLINA PHASED RETIREMENT PROGRAM FROM THE RESTRICTIONS ON RETURNING TO WORK

SECTION 19.1. Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21 of S.L. 2006-66 and by Section 26.22 of S.L. 2009-451, reads as rewritten:

"**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement ~~Program until the earlier of August 31, 2013, or 12 months after the issuance of final phased retirement regulations by the Internal Revenue Service.~~ Program. The remainder of this section becomes effective June 30, 2005."

SECTION 19.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" ~~means~~ means, for members who are not participants in The University of North Carolina Phased Retirement Program, the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service. Notwithstanding the foregoing, for members who are participants in The University of North Carolina Phased Retirement Program, "retirement" means entry into the Phased Retirement Program with a retirement allowance granted under this Chapter."

SECTION 19.3. This Part becomes effective July 1, 2011.

PART 20. REDUCE THE REQUIRED BREAK IN SERVICE FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO WORK WITHOUT LOSING RETIREMENT BENEFITS

SECTION 20.1. G.S. 135-1 is amended by adding a new subdivision to read:

"(18a) "Qualifying period" means three months as to members who retire with their last 12 months of service as employees of The University of North Carolina or any of its constituent institutions and return to service as employees of The University of North Carolina or any of its constituent institutions, and means six months as to any other member."

SECTION 20.2. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the ~~six months~~ qualifying period immediately following the effective date of retirement. For purposes of his subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service."

SECTION 20.3. G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for

service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision who retired on or before June 1, 2009, regardless of age or years of creditable service, or who retires on or after July 1, 2009, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired ~~at least six months~~ for at least as long as the qualifying period as defined by G.S. 135-1(18a) and has not been employed in any capacity with a State-supported community college or a State-supported university ~~for at least six months~~ during the qualifying period as defined by G.S. 135-1(18a) immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek as a nursing instructor in a certified nursing program for a maximum period of three years.

In order for a retired nursing instructor to be rehired, the community college or university must certify to the Teachers' and State Employees' Retirement System that it has a shortage of qualified nursing instructors, and must:

1. Make a good faith effort to fill positions with qualified nursing instructors who are not retirees;
2. Post the vacancy or vacancies for at least two months;
3. Solicit applications through local newspapers, other media, and nursing education programs; and
4. Determine that there is an insufficient number of eligible applicants for the advertised position or positions.

The North Carolina Community College System and The University of North Carolina shall certify to the Retirement System that a beneficiary is employed to teach as a nursing instructor with a State-supported community college or a State-supported university under the provisions of this sub-subdivision."

SECTION 20.4. This Part becomes effective July 1, 2011.

PART 21. PROVIDE FOR VESTING RECIPROCITY BETWEEN THE STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEMS AND THE OPTIONAL RETIREMENT PROGRAM FOR STATE INSTITUTIONS OF HIGHER LEARNING

SECTION 21.1. G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years ~~coverage under the Optional Retirement Program~~ of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund."

SECTION 21.2. This Part becomes effective July 1, 2011.

PART 22. ENABLE THE UNC HEALTH CARE SYSTEM TO OFFER THE OPTIONAL RETIREMENT PROGRAM (ORP) AS A RETIREMENT OPTION

SECTION 22.1. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

...

(5) Employees of the University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document."

SECTION 22.2. This Part becomes effective July 1, 2011.

SECTION 23. This act is effective as provided herein.

S 1

SENATE BILL 498*

Short Title:	Modify Law Re: Corporal Punishment.	(Public)
Sponsors:	Senators Pate and Purcell.	
Referred to:	Education/Higher Education.	

April 4, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE INVOLVEMENT OF A PARENT OR GUARDIAN BEFORE SCHOOL OFFICIALS MAY ADMINISTER CORPORAL PUNISHMENT ON A STUDENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-391(a)(5) reads as rewritten:

"(5) ~~Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated in writing that corporal punishment shall not be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent or guardian has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent or guardian at the first individualized education program or section 504 plan meeting held during the school year.~~ Corporal punishment may be administered only on a student whose parent or guardian has stated in writing that corporal punishment may be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the school year."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 498*
PROPOSED COMMITTEE SUBSTITUTE S498-PCS55296-RJ-4

Short Title: Modify Law Re: Corporal Punishment. (Public)

Sponsors:

Referred to:

April 4, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE INVOLVEMENT OF A PARENT OR GUARDIAN BEFORE SCHOOL OFFICIALS MAY ADMINISTER CORPORAL PUNISHMENT ON A STUDENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-391(a)(5) reads as rewritten:

"(5) ~~Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated in writing that corporal punishment shall not be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent or guardian has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent or guardian at the first individualized education program or section 504 plan meeting held during the school year.~~ Corporal punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If the parent or guardian does not return the form, corporal punishment may be administered on the student."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 498*

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

S498-ARJ-36 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2011

Senator Tillman

moves to amend the bill on page 1, lines 18-22, by rewriting the lines to read:
"punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If the parent or guardian does not return the form, corporal punishment may be administered on the student.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 498:
Modify Law Re: Corporal Punishment

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 3, 2011
Introduced by:	Sens. Pate, Purcell	**Prepared by:**	Sara Kamprath
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 498 would expand the current ban on the use of corporal punishment on a student with disabilities if the student's parent or guardian has stated in writing that corporal punishment shall not be administered to all students.

[As introduced, this bill was identical to H579, as introduced by Reps. M. Alexander, Johnson, which is currently in Rules, Calendar, and Operations of the House.]

[As introduced, this bill was identical to H579, as introduced by Reps. M. Alexander, Johnson, which is currently in Rules, Calendar, and Operations of the House.]

CURRENT LAW: State law does not prohibit corporal punishment in schools. However, G.S. 115C-391(a) requires a local board to adopt a policy governing student discipline. A school board is not required to adopt a discipline policy that allows corporal punishment. If a policy is adopted, however, the statute sets out the following minimum conditions that must be in the policy for the administration of corporal punishment:

- Corporal punishment cannot be administered in a classroom with other students present.
- The student body must know what types of misconduct may result in this punishment.
- Corporal punishment may be administered only by a teacher, substitute teacher, assistant principal, or principal and must be witnessed by one of those individuals, a teacher assistant, or a student teacher. Prior to the administration of the corporal punishment and in the student's presence, the witness must be informed of the reason for the punishment.
- An appropriate school official must notify the parent or guardian that this punishment was administered. If requested by the parent or guardian, the notice must be in writing and must include reasons for the corporal punishment and the name of the witness.
- Corporal punishment is prohibited on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under Section 504 of the federal Rehabilitation Act of 1973 if the parent or guardian of the student has stated in writing that corporal punishment may not be administered on that student. Parents and guardians are given a form to make such an election at the beginning of the school year, when the student first enters the school during the year, or at the first IEP or Section 504 plan meeting.

Discipline policies, including any policy on corporal punishment, must be published and made available to students and parents at the beginning of each school year.

Local boards of education are required to annually report to the State Board of Education on the number of times corporal punishment was administered. The report must be in compliance with the federal Family Educational Rights and Privacy Act to ensure that students are not personally identifiable, and must include the following information:

- The number of students who received corporal punishment and the reason for the administration of corporal punishment for each of those students
- The number of students who received corporal punishment who were also students with disabilities and eligible to receive special education and related services under IDEA
- The grade level of the students who received corporal punishment
- The race and ethnicity of the students who received corporal punishment

Even in school systems that do not adopt a policy to authorize corporal punishment, the law allows school personnel to use reasonable force, including corporal punishment, to control behavior or remove a person from a situation if necessary: (i) to stop a disturbance threatening injury to others; (ii) to obtain dangerous objects or weapons from a student; (iii) for self-defense; (iv) to protect persons or property; or (v) to maintain order.

BILL ANALYSIS: Senate Bill 498 would extend to all students the existing ban on administering corporal punishment to a student with disabilities if the student's parent or guardian has stated in writing that corporal punishment shall not be administered on the student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the school year.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply beginning with the 2011-2012 school year.

BACKGROUND: According to information from a recent survey conducted by Action for Children there were only 17 LEAs that still used corporal punishment as a form of discipline in the 2009-2010 school year. Those LEAs are: Robeson County, Burke County, Columbus County, Yadkin County, Graham County, Duplin County, Macon County, Bladen County, Gaston County, Caldwell County, Swain County, Davidson County, McDowell County, Haywood County, Alexander County, Onslow County, and Thomasville City. The number of times that corporal punishment has been administered has been on the decline: from 2,700 times in 2007 to less than 700 times last school year. In addition, 30 states have banned corporal punishment.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 553

Short Title:	Reestablish Progress Board.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	Education/Higher Education.	

April 12, 2011

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH THE NORTH CAROLINA PROGRESS BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 34.

"North Carolina Progress Board.

"**§ 116-281. North Carolina Progress Board.**

(a) The North Carolina Progress Board is established. The Board shall be located administratively in the Board of Governors of The University of North Carolina and is located at North Carolina State University, but shall exercise all its prescribed statutory powers independently of the Board of Governors.

(b) The North Carolina Progress Board shall consist of 14 members as follows:

(1) The Governor, ex officio;

(2) Seven persons appointed by the Governor, none of whom shall be State employees or officers;

(3) Three persons appointed by the Speaker of the House of Representatives; and

(4) Three persons appointed by the President Pro Tempore of the Senate.

(c) The Governor shall be chair of the North Carolina Progress Board. The Governor shall appoint a vice-chair from among the membership of the North Carolina Progress Board to serve at the pleasure of the Governor. The North Carolina Progress Board may elect such other officers as it sees fit.

(d) The North Carolina Progress Board shall meet at least twice annually on the call of the chair or as additionally provided by the North Carolina Progress Board. A quorum is eight members of the Board. Members may not send designees to Board meetings, nor may they vote by proxy.

(e) Initial appointments shall be for terms to begin July 1, 2011. Of the Governor's appointments, four shall be for two-year terms and three shall be for four-year terms. Of the appointments made by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, one shall be for a two-year term and two shall be for a four-year term. As terms expire, successors shall be appointed for four-year terms.

(f) No member may be appointed to more than two consecutive terms. A member of the House of Representatives appointed by the Speaker of the House vacates membership on the North Carolina Progress Board when that person is no longer a member of the House of Representatives, except that if that person is in office at the expiration of the term of office in the House of Representatives but has not been elected to the next term, that person shall

continue to serve until the convening of the regular session. A member of the Senate appointed by the President Pro Tempore of the Senate vacates membership on the North Carolina Progress Board when that person is no longer a member of the Senate, except that if that person is in office at the expiration of the term of office in the Senate but has not been elected to the next term, that person shall continue to serve until the convening of the regular session.

"**§ 116-282. Responsibilities.**

(a) The General Assembly notes that the Commission for a Competitive North Carolina developed goals in the following categories:

(1) Healthy Children and Families;
(2) Quality Education for All;
(3) A High Performance Workforce;
(4) A Prosperous Economy;
(5) A Sustainable Environment;
(6) Technology and Infrastructure Development;
(7) Safe and Vibrant Communities; and
(8) Active Citizenship/Accountable Government.

The Commission for a Competitive North Carolina adopted a report which established major goals and ways to measure progress toward these goals.

(a1) The General Assembly finds that the North Carolina Progress Board developed a report that focused on four of the Commission's recommended topics and issued 16 major targets for 2010. The objectives of the targets are to drive the State toward (i) a more expansive vision of education and environmental protection, (ii) strengthening families, and (iii) bringing more people into the economic mainstream.

(b) The General Assembly finds that:

(1) The North Carolina economy of the future can provide unparalleled opportunity while maintaining North Carolina's traditional values, if the State pursues the future with clarity of purpose and perseverance;
(2) The North Carolina economy is in the midst of a massive transition created by technological changes, global competition, and new production practices; and
(3) In order to maintain employment opportunities, increase income levels, reduce poverty, and generate the public revenues necessary to provide public services, North Carolina must increasingly rely on an economy which adds value to its natural and human resources and provides a diverse mix of products.

(c) The North Carolina Progress Board shall:

(1) Encourage the discussion and understanding of critical global and national social and economic trends that will affect North Carolina in the coming decades;
(2) Examine the report of the Commission for a Competitive North Carolina and the 1997 report of the North Carolina Progress Board to the General Assembly;
(3) Track the eight issue areas set out in subsection (a) of this section and the objectives set out in subsection (a1) of this section and other issues identified by the Progress Board. The Progress Board may, upon vote of the Board, add to those issues identified by its predecessor Commission and Board;
(4) Hold public hearings and other methods of public participation, including educational and outreach programs, to secure the views of citizens on priority goals for North Carolina and to disseminate findings and recommendations to policymakers;

(5) Formulate and submit to North Carolinians a report every five years, beginning 2012, that updates the 20- to 30-year vision for North Carolina and that describes and explains a vision for North Carolina's progress over the next 20 to 30 years;

(6) Submit a report to the General Assembly prior to its convening the regular session every odd-numbered year, which reports on social and economic trends and issues specific targets and milestones to accomplish its mission;

(7) Recommend how the targets and milestones can be applied to increase the accountability of government to the people of this State;

(8) Report periodically to the people of North Carolina on progress toward meeting goals, targets, and milestones;

(9) Undertake new and ongoing policy research and benchmarking studies;

(10) Publish and distribute periodic reports on policies, performance improvement, and best practices for meeting the long-term goals for the State; and

(d) The North Carolina Progress Board may apply for and accept gifts or grants.

(e) The 2011 and 2013 Regular Sessions of the General Assembly shall further define the mission of the North Carolina Progress Board in continuing its work.

(f) The General Assembly, after adopting the initial set of goals and measures as proposed or amended, may alter the goals and measures.

"**§ 116-283. Staff.**

(a) The Chancellor of North Carolina State University shall appoint an Executive Director who shall serve at the pleasure of the Chancellor. The Executive Director shall report to the North Carolina Progress Board and the Chancellor. The Executive Director shall hire or contract with support staff, who shall work at the pleasure of the Executive Director.

(b) The Office of State Budget and Management and other Executive Branch agencies shall also provide support, information, reports, and other assistance to the North Carolina Progress Board as requested."

SECTION 2. This act becomes effective July 1, 2011.

SENATE BILL 553:
Reestablish Progress Board

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 4, 2011
Introduced by:	Sen. Hartsell	**Prepared by:**	Patsy Pierce
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 553 would reestablish the North Carolina Progress Board (NCPB), composed of 14 members appointed by the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The NCPB would track critical State issues and make recommendations for progress over the next 20-30 years.

BILL ANALYSIS: Senate Bill 553 would reestablish the North Carolina Progress Board (NCPB), located administratively within, but functioning independently of, the UNC Board of Governors (BOG). The NCPB would be housed at NC State University (NCSU).

Membership. The NCPB would consist of fourteen members, initially appointed on July 1, 2011, including the Governor (ex officio and Chair); seven persons appointed by the Governor, none of whom could be State employees or officers, four with two-year terms, and three with four-year terms; three persons appointed by the Speaker of the House of Representatives, one for a two-year term and two with four-year terms; three persons appointed by the President Pro Tempore of the Senate, one for a two-year term and two with four-year terms. After initial appointments expire, successors would be appointed for four-year terms. The Governor would appoint the vice-chair from among the membership. Other officers would be elected by the NCPB as it sees fit. The NCPB would meet at least two times per year as determined by the Governor, or additionally as provided by the Board. Quorum would be set at eight members and members could not send designees or vote by proxy. No members could be appointed to more than two consecutive terms. House- and Senate-appointed members would vacate their membership on the NCPB when they are no longer members of the General Assembly, but would complete their term on the NCPB, even if not elected to another term in the General Assembly, until the convening of the regular session.

Responsibilities. The NCPB's responsibilities would include encouraging discussion and understanding about global and national social and economic issues to drive the State towards a more expansive vision of education and environmental protection, strengthening families, and bringing more people into the economic mainstream. The NCPB would secure citizenry views on NC's priority goals, disseminate recommendations to policy makers, and submit a report every five years, beginning in 2012 that describes an updated vision for progress over the next 20-30 years. The NCPB could obtain gifts and grants. The General Assembly would further define the NCPB's mission and goals.

Staff. The Chancellor of NCSU would appoint the Executive Director (ED) of the NCPB who would report both to the Chancellor and to the NCPB. The ED would hire or contract with other staff. The Office of State Budget and Management and other Executive Branch agencies would provide support to the NCPB as requested.

EFFECTIVE DATE: This act would become effective on July 1, 2011.

BACKGROUND: The original NCPB was established by the General Assembly in 1995 by S.L. 1995-117 and was located in the Department of Administration. The NCPB was repealed in 2007 by S.L. 2007-323.

SENATE BILL 648

Short Title:	Amend Law Re: School Discipline.	(Public)
Sponsors:	Senators Preston, Tillman, and Hartsell.	
Referred to:	Education/Higher Education.	

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING SCHOOL DISCIPLINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-390 and G.S. 115C-391 are repealed.

SECTION 2. Article 27 of the General Statutes is amended by adding the following new sections to read:

"**§ 115C-390.1. State policy and definitions.**

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school administrators and teachers need adequate tools to maintain good discipline in schools. However, the General Assembly also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

(b) The following definitions apply in this section:

(1) Alternative education services. – Part- or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education regulations.

(2) Corporal punishment. – The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(3) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property of a local school administrative unit under the control of any local board of education or charter school.

(4) Expulsion. – The indefinite exclusion of a student from school enrollment for disciplinary purposes.

(5) Firearm. – Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. This shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol. 18 U.S.C. § 921(a)3.

(6) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion may be no longer than the remainder of the current school year. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the current school year and the first semester of the following school year.

(7) Parent. – Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of this Chapter.

(8) Powerful explosive. – Any bomb, grenade, mine, dynamite cartridge, or other similar device with significant explosive or incendiary capacity.

(9) Principal. – Includes the principal and the principal's designee.

(10) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action.

(11) Substantial evidence – Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

(12) Superintendent – Includes the superintendent and the superintendent's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of Gun Free Schools Act, 20 U.S.C. § 7151, Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations.

"**§ 115C-390.2. Discipline policies.**

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies may not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and may not allow short-term suspension of more than two days for such offenses.

(e) Board policies may not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those offenses deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include

the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor offense as a serious violation.

(g) Board policies may not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their Safe Schools Plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School administrators are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

"**§ 115C-390.3. Reasonable force.**

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in the following situations when necessary:

(1) To correct students.

(2) To quell a disturbance threatening injury to others.

(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.

(4) For self-defense.

(5) For the protection of persons or property.

(6) To maintain order on school property, in the classroom, or at a school-related activity on or off school property.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

"**§ 115C-390.4. Corporal Punishment.**

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.

(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) An appropriate school official shall provide the student's parent with notification that corporal punishment has been administered, and the official who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second school official who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent has stated in writing that corporal punishment shall not be administered on that student. In school administrative units where corporal punishment is permitted, parents shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent at the first individualized education program or section 504 plan meeting held during the school year.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.

(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.

(3) The grade level of the students who received corporal punishment.

(4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

"**§ 115C-390.5. Short-term suspension.**

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable Safe Schools Plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

"**§ 115C-390.6. Short-term suspension procedures.**

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or the local board of education. Further, such a decision is not subject to judicial review.

"**§ 115C-390.7. Long-term suspension.**

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent may impose the suspension if is it consistent with board policies and appropriate under the circumstances, may impose another appropriate penalty authorized by board policy, or may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the Standard Course of Study as provided in G.S. 115C-81 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

"§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension.

(1) All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

a. The nature of the document, i.e., that it is a long-term suspension notice.

b. The process by which the parent may request a hearing to contest the long-term suspension.

c. The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(2) When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available.

(c) No long-term suspension may be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall

be scheduled but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent may appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board must adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a nonattorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review, before the hearing, any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the

board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of decision upholding a long-term suspension must be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

"**§ 115C-390.9. Alternative education services.**

(a) Students who are long-term suspended must be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.

(2) The student poses a threat to staff or other students.

(3) The student substantially disrupts the learning process.

(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.

(5) Educationally appropriate alternative education services are not available in the district due to limited resources.

(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

"**§ 115C-390.10. 365-day suspension for gun possession.**

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or powerful explosive on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or powerful explosive from another person at school or found the firearm or powerful explosive at school, provided that the student delivered or reported the firearm or powerful explosive as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or powerful explosive in a harmful or threatening way.

(b) The principal must report all incidents of firearms or powerful explosive on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto school property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this subsection, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

"**§ 115C-390.11. Expulsion.**

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board must conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student must be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1) through (8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student must be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this subsection, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

"**§ 115C-390.12. Request for readmission.**

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students. –

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection must be issued within 30 days of the petition.

(2) The process for expelled students. –

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this subsection must be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents."

SECTION 3. G.S. 115C-391.1(i) reads as rewritten:

"(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under ~~G.S. 115C-390~~ G.S. 115C-390.3 or modifies the rules and procedures governing discipline under ~~G.S. 115C-391(a).~~ G.S. 115C-390.1 through G.S. 115C-390.12."

SECTION 4. G.S. 115C-12(27) reads as rewritten:

"(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report ~~by March 15 of~~

~~each year~~annually to the Joint Legislative Education Oversight Committee and the Commission on Improving the Academic Achievement of Minority and At-Risk Students on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been ~~placed in an~~provided alternative ~~program.~~education services. The data shall be reported in a disaggregated manner ~~and~~ reflecting the school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion."

SECTION 5. G.S. 115C-45(c)(1) reads as rewritten:

"(1) The discipline of a student under ~~G.S. 115C-391(c), (d), (d1), (d2), (d3), or (d4);~~ G.S. 115C-390.1 through G.S. 115C-390.12;"

SECTION 6. G.S. 115C-105.47(b)(6) reads as rewritten:

"(6) Mechanisms for assessing the needs of disruptive and disorderly students and students who are at risk of academic failure, and providing them with services to assist them in achieving academically and in modifying their ~~behavior,~~ behavior, including any positive behavior management or positive behavior support programs that have been adopted, and removing them from the classroom when necessary."

SECTION 7. G.S. 115C-105.47(b)(13) reads as rewritten:

"(13) Direction to school improvement teams within the local school administrative unit to consider the special conditions at their schools and to incorporate into their school improvement plans the appropriate components of the local plan for:

a. maintaining safe and orderly schools; and

b. addressing the needs of students who are at risk of academic failure or who are disruptive or ~~both,~~ both and including the components of any positive behavior management or positive behavior support programs that have been adopted."

SECTION 8. G.S. 115C-238.29B(b)(11) reads as rewritten:

"(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

SECTION 9. G.S. 115C-238.29F(g)(7) reads as rewritten:

"(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

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

"(r) To Maintain Student Discipline. – The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 ~~days~~days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the

race, gender, age, grade level, ethnicity, and ~~age~~disability status of each student, the duration of suspension for each student, whether ~~an~~ alternative education ~~was considered or~~services were provided for each student, and whether a student had multiple ~~suspensions.~~suspensions in that academic year."

SECTION 11. G.S. 115C-288(e) reads as rewritten:

"(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. – The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education ~~as prescribed by G.S. 115C-391(a).~~ in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal ~~shall~~ may use reasonable force pursuant to ~~discipline students under G.S. 115C-390~~ G.S. 115C-390.5 and may suspend ~~or dismiss pupils under~~students ~~G.S. 115C-391.~~ pursuant to G.S. 115C -390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter."

SECTION 12. G.S. 115C-366 reads as rewritten:

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

...

(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~~ 115C-390.5 through G.S. 115C-390.10 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~~ 115C-390.11 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~~ staff as found by clear and convincing evidence 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).~~ 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities Education ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., (2004), is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

...

(h) The following definitions apply in this section:

...

(3) Educational decisions. – Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. ~~115C-391,~~ 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

...."

SECTION 13. G.S. 115C-402(b) reads as rewritten:

"(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension ~~for a period of more than 10 days~~ or ~~of any~~ expulsion ~~under~~ imposed pursuant to G.S. ~~115C-391~~ 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:
   a. The student's parent, legal guardian, or custodian.
   b. The student, if the student is at least 16 years old or is emancipated.
(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.
(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.
(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child."

SECTION 14. G.S. 14-208.18(f) reads as rewritten:

"(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. ~~115C-391(d)(2).~~ 115C-390.11(a)(2)."

SECTION 15. G.S. 20-11(n1)d.2. reads as rewritten:

"2. The bringing, possession, or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. ~~115C-391(d1)~~ 115C-390.10 or that could have resulted in that disciplinary action if the conduct had occurred in a public school."

SECTION 16. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 648
PROPOSED COMMITTEE SUBSTITUTE S648-CSTC-13 [v.5]

5/3/2011 4:11:27 PM

Short Title: Amend Law Re: School Discipline. (Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING SCHOOL DISCIPLINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-390 and G.S. 115C-391 are repealed.

SECTION 2. Article 27 of chapter 115C of the General Statutes is amended by adding the following new sections:

"**§ 115C-390.1. State policy and definitions.**

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school officials and teachers need adequate tools to maintain good discipline in schools. However, the General Assembly also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

(b) The following definitions apply in this Article:

(1) Alternative education services. – Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education policies.

(2) Corporal punishment. – The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(3) Destructive device. – An explosive, incendiary, or poison gas:

a. Bomb.

b. Grenade.

c. Rocket having a propellant charge of more than four ounces.

d. Missile having an explosive or incendiary charge of more than one-quarter ounce.

e. Mine.

f. Device similar to any of the devices listed in this subdivision.

(4) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any local board of education or charter school.

(5) Expulsion. – The indefinite exclusion of a student from school enrollment for disciplinary purposes.

(6) Firearm. – Any of the following:

a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.

b. The frame or receiver of any such weapon.

c. Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

(7) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

(8) Parent. – Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of this Chapter.

(9) Principal. – Includes the principal and the principal's designee.

(10) School official. - A superintendent or any other central office administrator to whom the superintendent has delegated duties under this Article and any principal or assistant principal.

(11) School personnel. - Any of the following:

a. An employee 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.

(12) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action.

(13) Substantial evidence. – Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

(14) Superintendent. – Includes the superintendent and the superintendent's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations.

"**§ 115C-390.2. Discipline policies.**

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

"**§ 115C-390.3. Reasonable force.**

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:

(1) To correct students.

(2) To quell a disturbance threatening injury to others.

(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.
(4) For self-defense.
(5) For the protection of persons or property.
(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

"**§ 115C-390.4. Corporal punishment.**

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.
(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.
(3) A school official shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.
(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.
(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.
(6) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 704, whose parent has stated in writing that corporal punishment shall not be administered on that student. In school administrative units where corporal punishment is permitted, parents shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent at the first individualized education program or section 504 plan meeting held during the school year.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.
(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.
(3) The grade level of the students who received corporal punishment.
(4) The race, gender, and ethnicity of the students who received corporal punishment.
(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

"**§ 115C-390.5. Short-term suspension.**

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:
(1) The opportunity to take textbooks home for the duration of the suspension.
(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.
(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

"**§ 115C-390.6. Short-term suspension procedures.**

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its

discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

"**§ 115C-390.7. Long-term suspension.**

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

"**§ 115C-390.8. Long-term suspension procedures.**

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of

the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

"**§ 115C-390.9. Alternative education services.**

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.

(2) The student poses a threat to staff or other students.

(3) The student substantially disrupts the learning process.

(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.

(5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.

(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's

review, a written explanation for the denial of services together with any documents or other information supporting the decision.

"**§ 115C-390.10. 365-day suspension for gun possession.**

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.SC. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school personnel and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal shall report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

"**§ 115C-390.11. Expulsion.**

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school personnel. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school personnel. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school personnel.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As

provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school personnel.

"**§ 115C-390.12. Request for readmission.**

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or school personnel.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or school personnel.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents."

SECTION 3. G.S. 115C-391.1(i) reads as rewritten:

"(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under ~~G.S. 115C-390~~ G.S. 115C-390.3 or modifies the rules and procedures governing discipline under ~~G.S. 115C-391(a).~~G.S. 115C-390.1 through G.S. 115C-390.12."

SECTION 4. G.S. 115C-12(27) reads as rewritten:

"(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been ~~placed in an~~provided alternative ~~program.~~education services. The data shall be reported in a disaggregated manner ~~and~~, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion."

SECTION 5. G.S. 115C-45(c)(1) reads as rewritten:

"(1) The discipline of a student under ~~G.S. 115C-391(e), (d), (d1), (d2), (d3), or (d4);~~ G.S. 115C-390.7, G.S. 115C-390.10, or G.S. 115C-390.11;".

SECTION 6. G.S. 115C-105.47(b)(6) reads as rewritten:

"(6) Mechanisms for assessing the needs of disruptive and disorderly students and students who are at risk of academic failure, and providing them with services to assist them in achieving academically and in modifying their ~~behavior,~~ behavior, including any positive behavior management or positive behavior support programs that have been adopted, and removing them from the classroom when necessary."

SECTION 7. G.S. 115C-105.47(b)(13)b. reads as rewritten:

"(13) Direction to school improvement teams within the local school administrative unit to consider the special conditions at their schools and to incorporate into their school improvement plans the appropriate components of the local plan for:

a. maintaining safe and orderly schools; and

b. addressing the needs of students who are at risk of academic failure or who are disruptive or ~~both,~~ both, and including the components of any positive behavior management or positive behavior support programs that have been adopted."

SECTION 8. G.S. 115C-238.29B(b)(11) reads as rewritten:

"(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

SECTION 9. G.S. 115C-238.29F(g)(7) reads as rewritten:

"(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

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

"(r) To Maintain Student Discipline. – The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 ~~days~~days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and ~~age~~disability status of each student, the duration of suspension for each student, whether ~~an~~ alternative education ~~was considered or~~services were provided for each student, and whether a student had multiple ~~suspensions.~~suspensions in that academic year."

SECTION 11. G.S. 115C-288(e) reads as rewritten:

"(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. – The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education ~~as prescribed by G.S. 115C-391(a).~~ in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal ~~shall~~ may use reasonable force ~~to discipline students under G.S. 115C-390~~ pursuant to G.S. 115C-390.3 and may suspend ~~or dismiss pupils under~~students ~~G.S. 115C-391.~~ pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter."

SECTION 12. G.S. 115C-366 reads as rewritten:

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

...

(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~~ 115C-390.5 through G.S. 115C-390.10 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~~ 115C-390.11 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~~ staff as found by clear and convincing evidence, 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).~~ 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities Education ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the

student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

...

(h) The following definitions apply in this section:

...

(3) Educational decisions. – Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. ~~115C-391,~~ 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

...."

SECTION 13. G.S. 115C-402(b) reads as rewritten:

"(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension ~~for a period of more than 10 days~~ or ~~of any~~ expulsion ~~under~~ imposed pursuant to G.S. ~~115C-391~~ 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:

a. The student's parent, legal guardian, or custodian.

b. The student, if the student is at least 16 years old or is emancipated.

(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.

(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.

(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child."

SECTION 14. G.S. 14-208.18(f) reads as rewritten:

"(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. ~~115C-391(d)(2).~~115C-390.11(a)(2)."

SECTION 15. G.S. 20-11(n1)d.2. reads as rewritten:

"2. The bringing, possession, or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. ~~115C-391(d1)~~ 115C-390.10 or that could have resulted in that disciplinary action if the conduct had occurred in a public school."

SECTION 16. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

SENATE BILL 648:
Amend Law Re: School Discipline

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 4, 2011
Introduced by:	Sens. Preston, Tillman, Hartsell	**Prepared by:**	Kara McCraw
Analysis of:	PCS to First Edition S648-CSTC-13		Committee Counsel

SUMMARY: ***HB 736 revises the current law regarding student discipline by repealing existing statutes and codifying a new statutory process.***

The PCS makes technical and conforming changes to the bill, adds definitions of destructive device, school official, and school personnel, and provides that local boards of education, in their discretion, may provide appeals of short-term suspensions.

CURRENT LAW: Article 27 of Chapter 115C provides for student discipline.

G.S. 115C-390 permits, except as restricted or prohibited by local board of education (local board) rules, the use of reasonable force to restrain or correct pupils and maintain order.

G.S. 115C-391 provides for the following:

Policies for Student Conduct: Local boards must adopt policies governing student conduct and establish procedures to be followed if the conduct could result in suspension, expulsion, or corporal punishment. Policies should include reasonable dress codes. Codes must be made available to students and parents at the beginning of each school year.

Corporal punishment: Policies for corporal punishment must include certain conditions restricting where the punishment can occur, prior notice of conduct that could result in corporal punishment, who may administer the punishment, a witness requirement, and notice to parents. Corporal punishment may not be administered on a child with a disability if the child's parent has stated that in writing. Local boards must report annually on incidents of corporal punishment to the State Board of Education.

Use of Reasonable Force: Regardless of policies, school personnel may use reasonable force to control behavior or remove a person from the scene under certain circumstances such as threat of injury to another, to obtain possession of a weapon, self-defense, protection of persons or property, and to maintain order at school-related events.

Short-term Suspensions: Principals, or their designees, are authorized to suspend students for 10 days or less for violation of student conduct policies. Notice must be given to parents, and the student must be given the opportunity to take home school books, inquire about homework, and take exams missed during the suspension.

Long-term Suspensions: For long-term suspensions (suspensions of more than 10 days, but not exceeding the time remaining in the school year), the superintendent may grant a school principal the authority to long-term suspend a student who violates the code of conduct.

Due Process for Long Term Suspensions

- **Notice:** The local board of education must give written notice of the student's rights to the student's parent in a way that will provide actual notice (certified mail, telephone, fax, e-mail, etc.) The notice must be written in the parent's first language when possible. The notice must include a description of the incident, the rule violated, the process to request a hearing, the hearing process, the right to retain an attorney or, if permitted by local policy, an advocate, and the right to review the student's educational records.

  Appeal: A decision by a principal or superintendent regarding long-term suspensions may be appealed to the local board. A decision of the local board, either to suspend or expel a student, or a determination in an appeal to the local board from a principal or superintendent's decision regarding long-term suspensions, is a final decision which is subject to judicial review in superior court of the county where the local board made its decision.

Suspension for Specific Offenses: A student must be long-term suspended from school for certain offenses. Discretion for modification of the mandatory long-term suspensions is given to local boards. For some offenses, prior to suspension, the local board is required to consider placement of the student in alternative education settings if available and appropriate.

Offenses with mandatory 365 day suspensions:

- Bringing or possessing a weapon on school property or at a school-sponsored event.
- Communicating false reports of a bomb on school property or at school related events.

Offenses where student is removed to alternative setting, if possible, and otherwise receives mandatory suspension of 300-365 days:

- Physical assault leading to serious injury of a teacher or school personnel, if the student is at least 13.

Offenses where student is removed to alternative setting, if possible, and otherwise may be suspended for up to 365 days:

- Any of the following occurring on school property or at a school-sponsored event:
- Physical assault of a teacher or other adult
- Physical assault of another student if witnessed by school personnel, or
- Physical assault and serious injury of another student

Offenses where student may be suspended for up to 365 days:

- Communicating false threats regarding devices on educational property that would harm people.
- Displaying items on educational property with the intent to perpetrate a hoax regarding devices to harm people.
- Threatening to commit an act of terror on educational property likely to cause a significant disruption to the school day.
- Making a false report regarding an act of terror on educational property likely to cause a significant disruption to the school day.
- Conspiring to commit any of these acts.

Expulsions: Students 14 or older whose behavior indicates that the student's continued presence is a clear threat to the safety of other students or employees may be expelled by the local board based on clear and convincing evidence. Prior to expulsion, the local board must consider whether any alternative programs may provide educational services instead. Expelled students may request reconsideration after 6 months and be readmitted if the local board finds the student is no longer a threat. Students convicted of certain sex offenses who are otherwise forbidden from being on school property may be expelled, or may be allowed to remain on campus if under the supervision of school personnel at all times.

No Civil Liability: Officers or employees of the State Board or local boards shall not be civilly liable for using reasonable force in conformity with State law, State or local rules, or State and local polices related to student discipline. The plaintiff bears the burden to show that the amount of force was unreasonable.

BILL ANALYSIS: The PCS for HB 736 would repeal G.S. 115-390 and G.S. 115C-391 and would add new sections to do the following:

G.S. 115C-390.1 - State Policy and Definition: Clarify the purpose of school discipline and defines terms for the Article on school discipline.

G.S. 115C-390.2 – Discipline policies: Require local boards to adopt a Code of Student Conduct of expected standards of behavior, conduct that would subject a student to discipline, and range of disciplinary measures. Policies should reflect the following:

- Permit suspension for conduct off of educational property only if the conduct would be expected to have a direct and immediate impact on school operation or safety.
- Prohibit long-term suspension and expulsion for truancy/tardiness, allow short-term suspension for those offenses of no more than 2 days.
- Prohibit mandatory long-term suspensions or expulsions for specific violations unless required by federal law.

- Minimize use of long-term suspensions and expulsions to serious violations that threaten safety or threaten to substantially disrupt the educational environment.
- Allow superintendents and principals to consider factors such as the student's intent, disciplinary and academic history, benefits of alternative to suspension, and other mitigating or aggravating factors when considering long-term suspension.
- Policies must be published and made available to parents and students.
- Local boards are encouraged to include behavior management programs in safe school plans, and school administrators are encouraged to use a range of responses that do not remove a student from the classroom or school building.

G.S. 115C-390.3 – Reasonable Force: School personnel may use reasonable force to control behavior or remove a person from the scene in order to correct students, quell disturbances threatening injury to others, obtain possession of a weapon from a student, for self-defense, to protect persons or property, and to maintain order on educational property, in the classroom, or at school-related activities. Current law limiting civil liability for school personnel is recodified in this section.

G.S. 115C-390.4 - Corporal Punishment: Local boards of education must determine if corporal punishment will be permitted. If permitted, the policy must include the following, recodifying much of the current law:

- The punishment must not be administered in a classroom with other students present.
- Only teachers, principals, and assistant principals may administer corporal punishment, and it must be witnessed by one of those individuals who has been informed of the reason for the punishment.
- Parents must be notified that corporal punishment has been administered, and a written explanation of the reasons provided to the parent.
- Records must be maintained of each administration and the reasons for that administration.
- Excessive force may not be used – force that results in medical attention beyond first aid.
- Corporal punishment may not be administered on a child with a disability whose parent has stated this in writing.

Reports on the number of times corporal punishment is administered must be made to the State Board of Education, including specific demographic and educational information.

G.S. 115C-390.5 – Short-Term Suspension: Principals may impose short-term suspensions (10 days or less) for violation of the student code. If a student's short-term suspension totals add to more than 10 days in a semester, the principal must apply procedures and mechanisms developed in the safe school plan for disruptive and disorderly students. Students must be provided with textbooks, missed assignments and materials, and the opportunity to take missed exams.

G.S. 115C-390.6 – Short-term Suspension Procedures:

- **Informal Hearing:** Prior to suspension, students must be given the opportunity for an informal hearing with the principal where the student is present, is informed of the charges and basis for accusation, and make statements in defense or mitigation. A suspension may be imposed prior to a hearing if the student's presence creates a direct and immediate threat to student or staff safety, or substantially disrupts or interferes with education or discipline of the school, but should be held as soon after as practicable.
- **Notice to Parents:** Notice must be given to parents, including the reason and description of the conduct for which the student was suspended. Notice must be given by the end of the workday if possible, but no later than 2 days after the suspension, and by a means reasonably designed to achieve actual notice. If English is the parent's second language, when foreign language resources are readily available the notice should be translated to the parent's first language.
- **No Appeal:** Short-term suspensions are not entitled to appeal to the superintendent, local board, or courts. Local boards of education may, in the board's discretion, provide the opportunity for review or appeal of a short-term suspension.

G.S. 115C-390.7 – Long-term suspension: A principal may recommend long-term suspension for violations of the student code to the superintendent. Only a superintendent may long-term suspend a student. Opportunity for a hearing must be provided before a long-term suspension. If the hearing is declined by the student, the

superintendent must review the circumstances and either 1) impose the suspension, 2) impose another penalty, or 3) decline to impose a penalty.

- Students who are long-term suspended or assigned to alternative education for assault on a teacher may not be returned to the teacher's classroom without the teacher's consent.
- Disciplinary reassignment of a student to a full-time educational program that meets the standard course of study requirements and allows progress towards grade completion and graduation is not a long-term suspension and does not require the long-term suspension procedures.

G.S. 115C-390.8 – Long-term Suspension Procedures:

- **Notice Requirements:** Written notice must be given to the student's parents upon recommendation for long-term suspension by the end of the workday or as soon as practicable. The written notice must contain a description of the incident, the student code provisions violated, the process to request a hearing, the hearing process, the right to retain an attorney for the hearing, if permitted by local policy the right to have an advocate for the hearing, the right to review and obtain the student's educational records, and the local board policy on expungment of discipline records. The written notice must be provided by a method reasonably designed to achieve actual notice, with translation into the parent's primary language, if not English, when foreign language resources are readily available. All notices must also contain the following information translated into the dominant non-English language used within the local school administrative unit (LEA): nature of the document, process to request a hearing, and contact for a school employee the parent can call to obtain assistance in understanding the information.
- **Formal hearing:** No long-term suspension may be imposed without an opportunity for a formal hearing.
  - If not requested, the superintendent may proceed with the review and decision as to long-term suspension.
  - If a postponement is requested or hearing requested beyond the time set, the hearing must be scheduled, but the student may not return to school.
  - If the student and parent do not appear for the scheduled hearing, the hearing right is deemed waived.

  The hearing may be conducted by the local board, the superintendent, or a hearing officer or hearing panel appointed by the superintendent or local board. The hearing officer or panel must determine relevant facts and credibility of the witnesses, and following the hearing, the superintendent or local board must make the final decision regarding the suspension. The hearing officer or panel's factual determinations are adopted unless not supported by substantial evidence.
- **Due Process Rights of Students:** Board policy for long-term suspension hearings must include the following structural due process rights for students:
  - Right to be represented by an attorney, or in the local board's discretion, a non-attorney advocate.
  - Right to be present and accompanied by parents.
  - Right to review any audio/video of incident, and information supporting the suspension that may be presented, including witness statements. School officials are not compelled to release information that could allow the student to identify witnesses if that identification creates a safety risk for the witness.
  - Right to question witnesses.
  - Right to present evidence, including written statements or oral testimony.
  - Right to have a record made of hearing.
  - Right to make own audio recording of hearing.
  - Right to a written decision based on substantial evidence presented at the hearing that upholds, modifies, or rejects the principal's recommendations. The decision must include the basis for the decision, notice of what will be included in the student record, and the student's right to appeal and procedures for appeal.
- **Appeal** – If not made by the local board, the student may appeal the decision to the local board. The appeal must be heard and a final written decision issued within 30 calendar days. A local board decision to uphold a long-term suspension is subject to judicial review.

G.S. 115C-390.9 – Alternative education services: Long-term suspended students must be offered alternative education services unless the superintendent provides a significant or compelling reason for declining those services. This could include that the student exhibits violent behavior, poses a threat to students and staff, substantially disrupts the learning process, has otherwise engaged in serious misconduct that makes alternative education not feasible, has failed to comply with reasonable conditions for admittance, or that the LEA lacks resources to provide educationally appropriate alternative education services.

Appeal: If the superintendent declines to provide services, the student may seek review by the local board. The superintendent must provide a written explanation of the denial and supporting documentation prior to the local board review.

G.S. 115C-390.10: 365-Day Suspension for Gun Possession: As required by the federal Gun Free Schools Act, students determined to have brought or been in possession of a firearm or destructive device on educational property or a school-sponsored event off educational property must be suspended for 365 calendar days.

- The superintendent may modify the required suspension in writing on a case-by-case basis.
- The 365-day suspension should not be imposed if the student took or received the weapon from another person, or found the weapon, delivered or reported the weapon as soon as practicable to the proper authority, and had no intent to use the weapon in a harmful or threatening way.
- The provision does not apply to firearms brought onto educational property for approved activities when appropriate safeguards have been adopted to protect student safety.
- A student suspended under this section must be notified of the right to petition for readmission, and the student is entitled to the hearing procedures for a long-term suspension. Students suspended under this section must be considered for alternative education services.

G.S. 115C-390.11 – Expulsion: Any student 14 or older whose continued presence constitutes a clear threat to tudent or staff safety may be expelled by the local board upon recommendation of the superintendent. Prior to expulsion, a hearing must be conducted, with the same notice as for a long-term suspension hearing. The long-term suspension hearing process applies, except that the decision to expel must be based on clear and convincing evidence. An expelled student must be provided notice of the right to petition for readmission.

- **Sex Offenders** – A student who is otherwise prohibited from being on school property by G.S. 14-208.18 (Sex offender unlawfully on premises) may be expelled. The local board must consider alternative education services that may be offered. If the local board determines the student should be provided educational services on school property, the student must be under the supervision of school personnel at all times.

G.S. 115C-390.12 – Requests for Readmission: Students suspended for 365 days or expelled may, after 180 calendar days, request readmission to the LEA in writing.

- **365-Day Suspension:** The process for 365-day suspended students must include the opportunity for an in-person meeting with the superintendent or local board, and the student must be readmitted if the student demonstrates that the student's presence is no longer a threat. A superintendent's decision to not readmit may be appealed to the local board. There is no right to judicial review of the board's decision. A readmission decision must be issued within 30 days of the petition.
- **Expelled Students:** The local board must consider an expelled student's petition for readmission, and shall allow the parties to be heard in the same manner as an appeal to the board. The student must be readmitted if the student demonstrates that the student's presence is no longer a threat. The decision to deny readmission is not subject to judicial review. Requests for readmission may be made not more often than once every 6 months. A readmission decision must be issued within 30 days of the petition.

Reasonable conditions may be placed on a readmitted student, and the student may be assigned to any program within the school system. A readmitted student who assaulted or injured a teacher may not be returned to the teacher's classroom without the teacher's consent.

Sections 3-15 make conforming changes to the statutes.

EFFECTIVE DATE: HB 736 would become effective when it becomes law and apply beginning with the 2011-2012 school year.

SENATE BILL 724

Short Title:	An Act to Improve Public Education.	(Public)
Sponsors:	Senators Stein, Tillman; Blake, Brock, Brown, Brunstetter, Daniel, Hartsell, Hise, Hunt, Purcell, Rucho, Soucek, and Stevens.	
Referred to:	Education/Higher Education.	

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT VARIOUS EDUCATION REFORMS.

The General Assembly of North Carolina enacts:

TEACHER PREPARATION

SECTION 1. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, 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 certification program shall also provide for lifetime certification after 50 years of teaching.

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.

To further ensure that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall (i) increase the credit requirements and number of years required to complete a teacher preparation program, (ii) require students preparing to teach in elementary schools to complete courses in the teaching of reading and mathematics that are aligned with the State Board's philosophy and approach for teaching these subjects, and (iii) require all students to receive training in technology available in North Carolina schools that measures and predicts expected student improvement, such as EVAAS, Graduation Resiliency Software, 3-D reading, and the Student Diagnostic Pilot Program.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the

academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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 include demonstrated competencies in (i) the identification and education of children with 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."

ENHANCE USE OF EVAAS

SECTION 2. G.S. 115C-205.27(a) reads as rewritten:

"(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 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. 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.

All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for ~~problems and~~ problems, to determine actions to address

~~them.~~them, and to appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards."

PRESCHOOL PROGRAMS FOR AT-RISK CHILDREN

SECTION 3. It is a goal of the General Assembly to provide preschool programs to all at-risk children.

TRANSITION TEAMS FOR AT-RISK CHILDREN

SECTION 4. G.S. 115C-105.41 reads as rewritten:

"**§ 115C-105.41. Students who have been placed at risk of academic failure; personal education ~~plans.~~plans; transition teams and transition plans.**

(a) Local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning no later than the fourth grade. Identification shall occur as early as can reasonably be done and can be based on grades, observations, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused intervention and accelerated activities should include research-based best practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section.

(b) Local boards of education shall adopt and implement plans for the creation of transition teams and transition plans for students at risk, as defined by the State Board of Education, to assist them in making a successful transition between the elementary school and middle school years and between the middle school and high school years."

LENGTHENING THE SCHOOL DAY AND SCHOOL YEAR IN CERTAIN SCHOOLS

SECTION 5.(a) It is the goal of the General Assembly, available funds permitting, to phase in longer school days and longer school years in the 25 high schools identified by the State Board of Education as having the highest dropout rates in North Carolina and in the elementary and middle schools whose students move into those high schools. In identifying those high schools, the State Board of Education shall not consider charter schools or alternative schools because students move into those schools from, at a minimum, an entire local school administrative unit.

SECTION 5.(b) For the 2013-2014 school year, it is the intent of the General Assembly to extend the length of school days in the 25 identified high schools and in the elementary and middle schools whose students move into those high schools.

SECTION 5.(c) For the 2014-2015 school year, it is the intent of the General Assembly to further extend the length of the school days in the 25 identified high schools and in the elementary and middle schools whose students move into those high schools and to add two instructional days to the school year in those schools.

SECTION 5.(d) The State Board of Education shall report to the General Assembly by January 1, 2012, on its recommendation on how long the school day and school year should be extended.

STUDY GRADUATION REQUIREMENTS FOR STUDENTS WHO DO NOT PLAN TO CONTINUE EDUCATION BEYOND HIGH SCHOOL

SECTION 6. The State Board of Education shall reconsider the high school graduation requirements for students who do not plan to continue education beyond high school. For some of these students, a five-year program might be needed in order for them to meet graduation requirements. For other students, a reassessment of existing requirements might be in order to determine what, at a minimum, is needed for a sound, basic education and whether the current graduation requirements are reasonable for students not planning to continue education beyond high school.

The State Board of Education shall report the results of this study to the Joint Legislative Education Oversight Committee by March 15, 2012.

EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 724
PROPOSED COMMITTEE SUBSTITUTE S724-CSTL-7 [v.3]

5/3/2011 5:48:06 PM

Short Title: An Act to Improve Public Education. (Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT VARIOUS EDUCATION REFORMS.

The General Assembly of North Carolina enacts:

TEACHER PREPARATION

SECTION 1. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, 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 certification program shall also provide for lifetime certification after 50 years of teaching.

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

To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education in consultation with the Board of Governors of the University of North Carolina, shall (i) ensure students preparing to teach in elementary schools have adequate coursework in the teaching of reading and mathematics and are assessed prior to certification to determine that they possess the requisite knowledge in scientifically-based reading and mathematics instruction that is aligned with the State Board's expectations, and (ii) ensure that all students continue to receive preparation in applying formative and summative assessments within the school and classroom

setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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 include demonstrated competencies in (i) the identification and education of children with 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."

ENHANCE USE OF EVAAS

SECTION 2. G.S. 115C-105.27(a) reads as rewritten:

"(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 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. 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.

All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for ~~problems and~~ problems, to determine actions to address ~~them.~~them, and to appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards."

PRESCHOOL PROGRAMS FOR AT-RISK CHILDREN

SECTION 3. It is a goal of the General Assembly to provide preschool programs to all at-risk children.

TRANSITION TEAMS FOR AT-RISK CHILDREN

SECTION 4. G.S. 115C-105.41 reads as rewritten:

"**§ 115C-105.41. Students who have been placed at risk of academic failure; personal education ~~plans.~~plans; transition teams and transition plans.**

(a) Local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning no later than the fourth grade. Identification shall occur as early as can reasonably be done and can be based on grades, observations, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused intervention and accelerated activities should include research-based best practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section.

(b) Local boards of education shall adopt and implement plans for the creation of transition teams and transition plans for students at risk, as defined by the State Board of Education, to assist them in making a successful transition between the elementary school and middle school years and between the middle school and high school years."

LENGTHENING THE SCHOOL DAY AND SCHOOL YEAR IN CERTAIN SCHOOLS

Whereas other nations demonstrating higher levels of student achievement have longer school days and years; Now, therefore,

SECTION 5.(a) It is the goal of the General Assembly, available funds permitting, to phase in longer school days and longer school years in the 25 high schools identified by the

State Board of Education as having the highest dropout rates in North Carolina and in the elementary and middle schools whose students move into those high schools. In identifying those high schools, the State Board of Education shall not consider charter schools or alternative schools because students move into those schools from, at a minimum, an entire local school administrative unit.

SECTION 5.(b) For the 2013-2014 school year, it is the intent of the General Assembly to extend the length of school days in the 25 identified high schools and in the elementary and middle schools whose students move into those high schools.

SECTION 5.(c) For the 2014-2015 school year, it is the intent of the General Assembly to further extend the length of the school days in the 25 identified high schools and in the elementary and middle schools whose students move into those high schools and to add two instructional days to the school year in those schools.

SECTION 5.(d) It is the goal of the General Assembly, available funds permitting, to have a school year of at least 190 days for all students.

SECTION 5.(e) The State Board of Education shall report to the General Assembly by January 1, 2012, on its recommendation on how long the school day and school year should be extended.

STUDY GRADUATION REQUIREMENTS FOR STUDENTS WHO DO NOT PLAN TO CONTINUE EDUCATION BEYOND HIGH SCHOOL

SECTION 6. The State Board of Education shall reconsider the high school graduation requirements for students who do not plan to continue education beyond high school. For some of these students, a five-year program might be needed in order for them to meet graduation requirements. For other students, a reassessment of existing requirements might be in order to determine what, at a minimum, is needed for a sound, basic education and whether the current graduation requirements are reasonable for students not planning to continue education beyond high school.

The State Board of Education shall report the results of this study to the Joint Legislative Education Oversight Committee by March 15, 2012.

EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.

SENATE BILL 724:
An Act to Improve Public Education

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 4, 2011
Introduced by:	Sens. Stein, Tillman	**Prepared by:**	Patsy Pierce
Analysis of:	PCS to First Edition S724-CSLE-10		Legislative Analyst

SUMMARY: Senate Bill 724:
(1) Increases academic requirements regarding reading, mathematics, and student assessments in teacher education programs;
(2) Requires student achievement data to be used to make course placement decisions;
(3) States that the General Assembly's goal is to provide preschool programs for all at-risk children;
(4) Requires local school boards to create transition teams and plans to help students at risk for academic failure;
(5) Phases in lengthened school day/year for students in high schools with highest dropout rates, and in their feeder elementary and middle schools, available funds permitting, and based on State Board of Education (SBE) recommendations; and,
(6) Requires the SBE to study graduation requirements for students not planning to go to college and report study results to the Joint Legislative Oversight Committee by March 15, 2012.

The Proposed Committee Substitute makes one technical correction (p. 2, line 32) and clarifying changes regarding (i) teacher preparation requirements in reading and mathematics instruction and student technology-based assessment; and, (ii) the General Assembly's intent to lengthen the school year.

CURRENT LAW/BILL ANALYSIS:

Section 1. Current Law: G.S. 115C-296(b) makes the State Board of Education (SBE) the lead agency to continuously improve teacher and school administrator preparation programs, including academic requirements and needed competencies. In consultation with the UNC Board of Governors (BOG), the State Board of Community Colleges, and other related public and private agencies, the SBE continually refines certification and certification renewal requirements and standards.

Bill Analysis: SB 724 would specify the North Carolina Independent Colleges and Universities as a collaborating agency to continue to raise teacher education program standards. The course of study in teacher education programs would align with State and national standards, ensure that elementary education students be prepared to provide scientifically-based reading and mathematics instruction aligned with SBE expectations, and continue to be prepared to use formative and summative technology-based assessment systems used in NC that measure and predict expected student improvement.

Section 2. Current Law: G.S. 115C-105.27 requires each school to develop a school improvement plan and indicates the components of the plan including the use of student achievement data derived from analytic programs such as EVAAS to determine causes of problems and actions to address those problems.

Bill Analysis: SB 724 would require school improvement teams to also use student data derived from systems such as EVAAS to make informed decisions on student course placement in classes such as Algebra I.

Section 3 of the bill states the goal of the General Assembly to provide preschool programs to all at-risk children.

Section 4. Current Law: G.S. 115C-105.41 requires local school administrative units to create a personal education plan (PEP) for students at-risk for academic failure, beginning no later than fourth grade. The PEP includes focused interventions and research-based activities that are provided free of charge to the at-risk student. The student's parents or guardians are included in the administration and review of the PEP.

Bill Analysis: Local boards of education would be required to create transition plans and transition teams to assist at-risk students to transition from elementary to middle school and from middle to high school.

Section 5. School days and years would be lengthened in the 25 high schools with the highest dropout rates, as determined by the SBE, and in the elementary and middle schools whose students move into those high schools. The SBE would not consider charter or alternative high schools because students moving into those schools come from, at a minimum, an entire local school administrative unit. School days would be lengthened during the 2013-14 and 2014-2015 school years and the school year would be lengthened by two days during the 2014-2015 school year. The General Assembly's goal would be to extend the school year to at least 190 days for all students. The SBE would make recommendations regarding extended length of school day and year in the 25 high schools to the General Assembly by January 1, 2012.

Section 6. The SBE would study graduation requirements for students not planning to continue education beyond high school. The SBE may consider a five–year program for some students to meet graduation requirements. The SBE may also consider changing existing graduation requirements in order to determine what is needed for a sound basic education and whether current requirements are reasonable for students not planning to go to college. The SBE would report study results to the Joint Legislative Education Oversight Committee by March 15, 2012.

EFFECTIVE DATE: The bill would become effective when it becomes law.

S724-SMTL-26(CSLE-10) v5

PAGES ATTENDING

COMMITTEE: Education **ROOM:** 544

DATE: 5-4 **TIME:** 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Morgan Brinson	Charlotte	Dannelly
2 [redacted] - Taai Bailey	Raleigh	Blue
3 Courtney Collier	Deep Run	Jackson
4 [redacted]		
5 [redacted]		
6 Sgt at Arms	Jim Blackburn	
7	Steve	Wilson
8	Stan	Johnson
9	Jon	Fitchett
10		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — May 4, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mitch Leonard	SEANC
Suzanne Beasley	SEANC
Solari	DST
Sara Riggins	NCFPC
Vance Holloman	NC Sloan Trees. Dept.
Emily Doyle	NCPAPA
Vann McDuffie	Appalachian State University
Elizabeth Swanstrom	OSBM
Joyce Waller	OSBM
Cheryl Posner Cahill	NC School Psych Assoc
W. Gordon Pulpus	DLC + Assoc

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — May 4, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carl Dean	OSP
Gene Causby	NCSCA
W.L. BUZZ CAYTON	BEAUFORT PATRIOT TEA PARTY WASHINGTON NC
Katie Bretz	The County Compass Pamlico County Bayboro, NC

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, May 11, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on May 11, 2011, in Room 544 of the Legislative Office Building. 10 members of the committee were present. Senator Jean Preston presided.

Chairman Preston called the meeting to order and introduced the Sergeants-at-Arms and the pages.

Chairman Preston announced that the committee would reverse the order of the two bills to accommodate Representative Cotham's schedule. She then recognized Rep. Cotham to explain House Bill 769.

Representative Cotham explained that the bill would encourage businesses and high schools to partner together to assist students wishing to learn a trade after leaving high school.

Chairman Preston recognized Senator Dannelly, who thanked Rep. Cotham for bringing the bill forward and moved for a favorable report.

Senator Tillman was then recognized and also thanked Rep. Cotham for the bill.

Chairman Preston called for a vote on Senator Dannelly's motion and the committee adopted a favorable report to House Bill 769.

Senator Dannelly was then recognized to move that the committee adopt the Proposed Committee Substitute to Senate Bill 685.

Chairman Preston then recognized Senator Apodaca to explain the bill. Senator Apodaca explained that it was an agency bill and was brought to him by the Community Colleges. He further explained that the bill would simply create a new board to oversee two-year proprietary schools. Senator Apodaca added that Senator Stein had a helpful amendment and asked the committee to support it.

Senator Stein was then recognized and offered his amendment. He explained that the amendment would place the President of the Community College system or his/her designee on the new board. He then moved for adoption of the amendment.

Chairman Preston called for a vote on the amendment and it was adopted.

Senator Dannelly was recognized for questions. He asked about the origin of the funding for the Commercial Education Fund. Senator Apodaca deferred the question to Mr. Kennon Briggs of the North Carolina Community College System.

Mr. Briggs responded that the funding comes from the proprietary schools' own license fees.

Senator Tillman was recognized and moved for a favorable report to the proposed committee substitute as amended, rolled into a new proposed committee substitute with a favorable report to the new committee substitute and an unfavorable report to the original bill with a serial referral of the bill to the Finance Committee.

Chairman Preston called for a vote and the motion was adopted.

Chairman Preston then adjourned the meeting.

The meeting adjourned at 10:15 AM.

Senator Jean Preston, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, May 11, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 685	Modify Regulation of Proprietary Schools.	Senator Apodaca
HB 769	High School to Work Partnership.	Representative Holloway Representative Lewis Representative Hall Representative Cotham

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, May 11, 2011

Senator PRESTON,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **769** High School to Work Partnership.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **685** Modify Regulation of Proprietary Schools.
Draft Number: PCS85197
Sequential Referral: None
Recommended Referral: Finance
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comments:

HB 769 - Senator Tillman

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SENATE BILL 685

Short Title:	Modify Regulation of Proprietary Schools.	(Public)
Sponsors:	Senator Apodaca.	
Referred to:	Education/Higher Education.	

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW RELATING TO THE REGULATION OF PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 115D of the General Statutes is amended by adding three new sections to read:

"**§ 115D-89.1. State Board of Private Sector Postsecondary Education.**

(a) Effective January 1, 2012, the State Board of Private Sector Postsecondary Education is established in the Community Colleges System Office.

(b) The State Board of Private Sector Postsecondary Education shall consist of seven members as follows:

(1) The person serving as President of the North Carolina Association of Career Colleges and Schools.

(2) Two members appointed by the Governor.

(3) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be the owner or director of a proprietary school licensed in the State with less than 100 total annual enrollment of students and one the owner or director of a proprietary school or group of proprietary schools licensed in the State with more than 750 total annual enrollment of students.

(4) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be the owner or director of a proprietary school licensed in the State with between 100 and 750 total annual enrollment of students and one the owner or director of a proprietary school licensed in the State.

The appointing authorities shall appoint members who have a demonstrated history of experience in proprietary or public postsecondary education, an understanding of standards of quality in postsecondary education, and leadership beyond a particular institution.

(c) No member of the General Assembly, spouse of a member of the General Assembly, or officer or employee of the State shall be eligible to serve on the State Board of Private Sector Postsecondary Education.

(d) Initial appointments shall begin July 1, 2011. In order for the terms of members to be staggered, one initial member appointed by each appointing authority shall be appointed for a term ending December 30, 2014; the other member shall be appointed for a term ending December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January 1. No person shall be appointed or elected to more than two consecutive six-year terms.

Vacancies in appointments made by the Governor shall be filled by the Governor. Vacancies in the appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) The State Board of Private Sector Postsecondary Education may declare vacant the office of an appointed or elected member who does not attend three consecutive scheduled meetings without justifiable excuse. The Chair of the State Board of Private Sector Postsecondary Education shall notify the appropriate appointing or electing authority of any such vacancy.

(f) The Governor shall convene the membership of the State Board on or before January 1, 2012. At that meeting, the State Board shall elect from its membership a chair and such other officers as it may deem necessary. Officers shall serve for a term of two years.

(g) The State Board of Private Sector Postsecondary Education shall meet at stated times established by the State Board of Private Sector Postsecondary Education but not less frequently than four times a year. Special meetings of the State Board of Private Sector Postsecondary Education may be set at any regular meeting or may be called by the chair. A majority of the qualified members of the State Board of Private Sector Postsecondary Education shall constitute a quorum for the transaction of business.

"**§ 115D-89.2. Office of Private Sector Postsecondary Education; staff.**

The Office of Private Sector Postsecondary Education shall be the principal administrative unit under the direction of the State Board of Private Sector Postsecondary Education. Unless specified in G.S. 115D-89.3, the State Board of Private Sector Postsecondary Education has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Private Sector Postsecondary Education.

The State Board of Private Sector Postsecondary Education shall hire an executive director of the Office of Private Sector Postsecondary Education, who shall serve as chief administrative officer of the Office of Private Sector Postsecondary Education, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Private Sector Postsecondary Education from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Private Sector Postsecondary Education may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Private Sector Postsecondary Education shall be fixed by the State Board upon recommendation of the Executive Director of the Office of Private Sector Postsecondary Education. The Executive Director shall provide an annual projected operating budget to the State Board of Private Sector Postsecondary Education at a time each year designated by the State Board of Private Sector Postsecondary Education. The budget will be approved by the State Board of Private Sector Postsecondary Education from funds provided by fees deposited in the Commercial Education Fund.

"**§ 115D-89.3. State Board of Private Sector Postsecondary Education and State Board of Community Colleges; licensing authority and coordination of responsibilities to administer Article.**

The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant and issue licenses to proprietary schools by and through the State Board of Private Sector Postsecondary Education, shall receive written recommendation from the State Board of Private Sector Postsecondary Education concerning applicants for licenses and annual renewal applications for licenses. The State Board of Private Sector Postsecondary Education shall prepare and have approved by the State Board of Community Colleges a certificate of license that reflects the recommendation of the State Board of Private Sector Postsecondary Education and approval by the State Board of Community Colleges. The State Board of Community Colleges shall also receive from the State Board of Private Sector Postsecondary Education and

have authority concerning proposed changes to G.S. 115D or 23 NCAC 3A. The State Board of Community Colleges shall receive a written report annually from the State Board of Private Sector Postsecondary Education to include the number of schools receiving initial licenses during the previous year, a list of currently licensed proprietary schools, school closures during the previous year, including a complete report of actions concerning any catastrophic closures, complaints received and resulting decisions or actions, total fees received, and balances of the Commercial Education Fund and the Student Protection Fund. The State Board of Private Sector Postsecondary Education shall provide the State Board of Community Colleges with any information requested."

SECTION 2. G.S. 115D-88(4c) reads as rewritten:

"(4c) Classes or schools that the State Board, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals."

SECTION 3. G.S. 115D-89 reads as rewritten:

"**§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.**

(a) The State Board of Community Colleges, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, shall have authority to administer and enforce this Article and to grant and issue licenses to proprietary schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such proprietary school may by and with the approval of the State Board of Community Colleges issue certificates and diplomas.

(c) The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives of the State Board of Community Colleges, the State Board of Community Colleges shall have general supervision over proprietary schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Community Colleges is authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency."

SECTION 4. G.S. 115D-90(a) reads as rewritten:

"**§ 115D-90. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.**

(a) No person shall operate, conduct or maintain or offer to operate in this State a proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the ~~President of the Community College System~~ State Board of Private Sector Postsecondary Education for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school for which a license is sought:

(1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.

(2) The general field of instruction.

(3) The place or places where such instruction will be given.

(4) A specific listing of the equipment available for instruction in each field.

(5) The qualifications of instructors and supervisors.

(6) Financial resources available to equip and to maintain the school or classes.

(7) Such additional information as the State Board, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

a. Identifying data, such as volume number and date of publication.

b. Names of the institution and its governing body, officials and faculty.

c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.

d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.

e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.

f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.

g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.

i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged.

j. A description of the available space, facilities and equipment.

k. A course outline for each course for which approval is requested, showing:

1. Subjects or units in the course,
2. Type of skill to be learned, and
3. Approximate (i) time; (ii) clock hours, and (iii) credit hours or credit hours equivalent, as appropriate, to be spent on each subject or unit.

l. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board, acting by and through the State Board of Private Sector Postsecondary Education, as provided herein, a license shall be granted to the applicant when it is shown to the satisfaction of said Board that said applicant, school, programs of study or courses are found to have met the following criteria:

(1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.

(3) Education and experience qualifications of director, administrators and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the student.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.

(6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course or subjects and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State Board of Community Colleges, acting by and through the State Board of Private Sector Postsecondary Education, are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.

(8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Community Colleges may require such evidence of compliance as is deemed necessary.

(9) The school is financially sound and capable of fulfilling its commitments for training.
(10) The school does not exceed its enrollment limitation as established by the State Board of Community Colleges.
(11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.
(12) The school's administrators, directors, owners and instructors are of good reputation and character.
(13) Such additional criteria as may be deemed necessary by the State Board.

(d) Any license issued shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the State Board of Private Sector Postsecondary Education for approval of additional programs of instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license."

SECTION 5. G.S. 115D-91 reads as rewritten:

"**§ 115D-91. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.**

(a) All licenses issued shall expire on ~~June 30 next following the date of issuance.~~June 30.

(b) Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are met:

(1) An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the ~~President of the Community College System.~~ State Board of Private Sector Postsecondary Education.
(2) The renewal fee has been paid.
(3) The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately said Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the ~~President of the Community College System~~ State Board of Private Sector Postsecondary Education may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the ~~President~~ State Board of Private Sector Postsecondary Education finds that the school is likely to qualify after the sale for a license under this Article."

SECTION 6. G.S. 115D-92 reads as rewritten:

"**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund of fees.**

The ~~State Board of Community Colleges~~ State Board of Private Sector Postsecondary Education shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this Article.

The fees and licenses collected under this section shall be placed in a special fund to be designated the "Commercial Education Fund" and shall be used under the supervision and direction of the ~~State Board of Community Colleges~~ State Board of Private Sector

Postsecondary Education for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked."

SECTION 7. G.S. 115D-93 reads as rewritten:

"**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.**

(a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under this section shall be made in accordance with Chapter 150B of the General Statutes.

(b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.

(c) The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Private Sector Postsecondary Education, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

(1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules promulgated thereunder.

(2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to approval or license.

(3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.

(4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.

(5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.

(7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board, acting by and through the ~~President of the Community College System.~~ State Board of Private Sector Postsecondary Education.

(8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.

(9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.

(10) That the applicant for or a holder of a license has failed to provide a required bond or bond alternative.

(11) That the applicant for or holder of a license has failed to pay assessments into the Student Protection Fund."

SECTION 8. G.S. 115D-95 reads as rewritten:

"**§ 115D-95. Bonds required.**

(a) Requirement. – An applicant for a license must comply with the bond requirements in this section. The bond covers the potential loss by students of the school of prepaid tuition and other payments made by them to a school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(b) Amount. – An applicant for a license must file a bond with the ~~North Carolina State Board of Community Colleges~~ State Board of Private Sector Postsecondary Education executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond must be payable to the ~~State Board of Community Colleges,~~ State Board of Private Sector Postsecondary Education, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days' notice to the ~~State Board of Community Colleges.~~ State Board of Private Sector Postsecondary Education.

The application must set out calculations made by the applicant to determine the amount of bond required with the application. The required amount is determined as follows:

(1) Initial licensure. – For an applicant for initial licensure of a school, the bond amount is the amount determined by the State Board of Private Sector Postsecondary Education that is adequate to provide indemnification to any student, or the student's parent or guardian who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school. A bond amount shall be at least twenty-five thousand dollars ($25,000).

(2) First four renewals. – For a school that has been licensed for one year but less than six years, the bond shall be in an amount equal to the greatest amount of unearned paid tuition in the school's possession at anytime during the prior fiscal year. The bond amount shall be evaluated by the school quarterly and reported to the State Board of Private Sector Postsecondary Education or its representative. A quarterly evaluation requiring an increase of five percent (5%) or more in the amount of the bond held by the school shall require an immediate increase in the bond amount. Bond amounts also shall be evaluated pursuant to this subdivision and the rules of the State Board of Community Colleges at the time of the school's annual license renewal and increased if necessary regardless of the amount of the change.

(3) Schools in operation more than five years. – A guaranty bond shall be required for license renewal for a school that has been continuously licensed to operate for more than five years in the State, as follows:

a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is below the catastrophic loss amount, the school shall file a guaranty bond in an amount equal to the maximum amount of prepaid tuition held by the school during the prior fiscal year multiplied by the percentage amount the fund is deficient.

b. If the school held prepaid tuition in excess of the Student Protection Fund catastrophic loss amount during the prior fiscal year, in addition to any bond amount required by sub-subdivision a. of this subdivision, the school shall file a guaranty bond for the difference between the prepaid tuition amount held in the previous fiscal year and the Fund catastrophic loss amount.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the State Board, an applicant may obtain in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the State Board of ~~Community Colleges;~~ Private Sector Postsecondary Education; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

(2) A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the State Board of ~~Community Colleges;~~ Private Sector Postsecondary Education; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the State Board of ~~Community Colleges;~~ Private Sector Postsecondary Education; or in the case of a nonnegotiable certificate of deposit, is assigned to the State Board of Community Colleges in a form satisfactory to the State Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

SECTION 9. G.S. 115D-95.1 reads as rewritten:

"**§ 115D-95.1. Student Protection Fund.**

(a) Definitions. – As used in this section:

(1) "Catastrophic loss amount" means the amount of funds required to protect prepaid student tuition in case of a large-scale event that would draw against the Student Protection Fund. The amount is one million dollars ($1,000,000).

(2) "Fund cap amount" means the catastrophic loss amount plus a reserve amount. The amount is one million five hundred thousand dollars ($1,500,000).

(b) Student Protection Fund. – The Student Protection Fund is established in the Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund is credited to the Fund. The State Board of ~~Community Colleges~~ Private Sector Postsecondary Education administers the Fund. The purpose of the Fund is to compensate students enrolled in a proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(c) Student Protection Fund Advisory Committee. ~~The President of the North Carolina Community College System shall appoint a Student Protection Fund Advisory Committee. Members of the Committee shall be appointed for terms of three years.~~ The State Board of Private Sector Postsecondary Education shall serve as the Student Protection Advisory Committee. The Committee shall advise the State Board of Community Colleges on matters related to the Fund, including, but not limited to, the adjustment of the catastrophic loss amount and Fund cap amount.

~~The Committee shall consist of seven members as follows:~~

~~(1) Three professional staff members of the Community Colleges System Office.~~

~~(2) An owner/director of a proprietary school with less than 100 students, or the owner/director's designee.~~

~~(3) An owner/director of a proprietary school with between 100 and 750 students, or the owner/director's designee.~~

~~(4) An owner/director of a proprietary school or group of proprietary schools with more than 750 students, or the owner/director's designee.~~

~~(5) An owner/director of a proprietary school appointed at large, or the owner/director's designee.~~

(d) Initial Payment. – Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars ($1,250) into the Fund.

(e) Annual Revenue Payment. – Each proprietary school operating in the State shall pay annually into the Fund an amount based on its annual gross tuition revenue generated in the State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
$1.00 – $25,000	$200.00
$25,001 – $50,000	$250.00
$50,001 – $100,000	$300.00
$100,001 – $200,000	$400.00
$200,001 – $300,000	$500.00
$300,001 – $400,000	$600.00
$400,001 – $500,000	$700.00
$500,001 – $750,000	$1,000
$750,001 – $1,000,000	$1,250
$1,000,001 – $1,500,000	$1,500
$1,500,001 – $2,000,000	$2,000
Greater than $2,000,000	$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over $2,000,000.

(f) Suspension of Payments. – If the Student Protection Fund balance is equal to or exceeds the Fund cap amount, the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The State Board of Private Sector Postsecondary Education shall require schools to resume payments into the Fund if the balance of the Fund is less than the catastrophic loss amount.

(g) Catastrophic Assessments. – If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (e) of this section. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board shall develop a method of allocating funds among claims.

(h) Payment Required for Proprietary School Licensure. – The full and timely payment into the Fund pursuant to this section is a condition of licensure.

(i) Payments Nonrefundable. – No payment to the Student Protection Fund shall be refunded in the event that a school's license application is rejected or a school's license is suspended or revoked.

(j) Student Repayment. – A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or

foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If the Student Protection Fund is insufficient to cover the qualified claims, the State Board must develop a method of allocating funds among claims.

(k) Rules. – The State Board of ~~Community Colleges~~ Private Sector Postsecondary Education shall adopt rules for the implementation of this section."

SECTION 10.(a) Effective July 1, 2011, two positions in the Community Colleges System Office of Proprietary Schools shall be terminated.

SECTION 10.(b) The State Board of Private Sector Postsecondary Education shall have fiduciary responsibility for the Commercial Education Fund beginning January 1, 2012.

SECTION 11.(a) Appointments to the State Board of Private Sector Postsecondary Education may be made on or after the day this act becomes law. The State Board of Private Sector Postsecondary Education may meet after all appointments have been made.

SECTION 11.(b) The State Board of Private Sector Postsecondary Education may, with the approval of the State Board of Community Colleges, establish operations for the State Board of Private Sector Postsecondary Education and the Office of Private Sector Postsecondary Education prior to January 1, 2012. The State Board of Community Colleges may authorize the use of funds from the Commercial Education Fund for this purpose.

SECTION 12. Section 10(a) of this act becomes effective July 1, 2011. Section 11 of this act is effective when this act becomes law. The remainder of this act becomes effective January 1, 2012.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 685
PROPOSED COMMITTEE SUBSTITUTE S685-CSRQ-16 [v.3]

5/10/2011 5:35:01 PM

Short Title: Modify Regulation of Proprietary Schools. (Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW RELATING TO THE REGULATION OF PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 115D of the General Statutes is amended by adding three new sections to read:

"**§ 115D-89.1. State Board of Proprietary Schools.**

(a) The State Board of Proprietary Schools is established in the North Carolina Community Colleges System Office.

(b) The State Board of Proprietary Schools shall consist of seven members as follows:

(1) The person serving as President of the North Carolina Association of Career Colleges and Schools.

(2) Two members appointed by the Governor.

(3) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be the owner or director of a proprietary school licensed in the State with less than 100 total annual enrollment of students and one the owner or director of a proprietary school or group of proprietary schools licensed in the State with more than 750 total annual enrollment of students.

(4) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be the owner or director of a proprietary school licensed in the State with between 100 and 750 total annual enrollment of students and one the owner or director of a proprietary school licensed in the State.

The appointing authorities shall appoint members who have a demonstrated history of experience in proprietary or public postsecondary education, an understanding of standards of quality in postsecondary education, and leadership beyond a particular institution.

(c) No member of the General Assembly, spouse of a member of the General Assembly, or officer or employee of the State shall be eligible to serve on the State Board of Proprietary Schools.

(d) One initial member appointed by each appointing authority shall be appointed for a term ending December 30, 2014; the other member shall be appointed for a term ending December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January 1. No person shall be appointed or elected to more than two consecutive six-year terms.

Vacancies in appointments made by the Governor shall be filled by the Governor. Vacancies in the appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) The State Board of Proprietary Schools may declare vacant the office of a member who does not attend three consecutive scheduled meetings without justifiable excuse. The Chair of the State Board of Proprietary Schools shall notify the appropriate appointing authority of any such vacancy.

(f) The State Board of Proprietary Schools shall elect from its membership a chair and such other officers as it may deem necessary. Officers shall serve for a term of two years.

(g) The State Board of Proprietary Schools shall meet at stated times established by the State Board of Proprietary Schools but not less frequently than four times a year. Special meetings of the State Board of Proprietary Schools may be set at any regular meeting or may be called by the chair. A majority of the qualified members of the State Board of Proprietary Schools shall constitute a quorum for the transaction of business.

"**§ 115D-89.2. Office of Proprietary Schools; staff.**

The Office of Proprietary Schools shall be the principal administrative unit under the direction of the State Board of Proprietary Schools. Unless specified in G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Proprietary Schools.

The State Board of Proprietary Schools shall hire an executive director of the Office of Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary Schools, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Proprietary Schools may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools upon recommendation of the Executive Director of the Office of Proprietary Schools. The Executive Director shall provide an annual projected operating budget to the State Board of Proprietary Schools at a time each year designated by the State Board of Proprietary Schools. The budget will be approved by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

"**§ 115D-89.3. State Board of Proprietary Schools and State Board of Community Colleges; licensing authority and coordination of responsibilities to administer Article.**

The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant and issue licenses to proprietary schools by and through the State Board of Proprietary Schools, shall receive written recommendation from the State Board of Proprietary Schools concerning applicants for licenses and annual renewal applications for licenses. The State Board of Proprietary Schools shall prepare and have approved by the State Board of Community Colleges a certificate of license that reflects the recommendation of the State Board of Proprietary Schools and approval by the State Board of Community Colleges. The State Board of Community Colleges shall also receive from the State Board of Proprietary Schools and have authority concerning proposed changes to the General Statutes and rules affecting proprietary schools. The State Board of Community Colleges shall receive a written report annually from the State Board of Proprietary Schools to include the number of schools receiving initial licenses during the previous year, a list of currently licensed proprietary schools, school closures during the previous year, including a complete report of actions concerning any catastrophic closures, complaints received and resulting decisions or actions, total fees received, and balances of the Commercial Education Fund and the Student Protection

Fund. The State Board of Proprietary Schools shall provide the State Board of Community Colleges with any information requested."

SECTION 2. G.S. 115D-88(4c) reads as rewritten:

"(4c) Classes or schools that the State Board, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals."

SECTION 3. G.S. 115D-89 reads as rewritten:

"**§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.**

(a) The State Board of Community Colleges, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, shall have authority to administer and enforce this Article and to grant and issue licenses to proprietary schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such proprietary school may by and with the approval of the State Board of Community Colleges issue certificates and diplomas.

(c) The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the State Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives of the State Board of Community Colleges, the State Board of Community Colleges shall have general supervision over proprietary schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Community Colleges is authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency."

SECTION 4. G.S. 115D-90 reads as rewritten:

"**§ 115D-90. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.**

(a) No person shall operate, conduct or maintain or offer to operate in this State a proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the ~~President of the Community College System~~ State Board of Proprietary Schools for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school for which a license is sought:

(1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
(2) The general field of instruction.
(3) The place or places where such instruction will be given.
(4) A specific listing of the equipment available for instruction in each field.
(5) The qualifications of instructors and supervisors.
(6) Financial resources available to equip and to maintain the school or classes.
(7) Such additional information as the State Board, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:
    a. Identifying data, such as volume number and date of publication.
    b. Names of the institution and its governing body, officials and faculty.
    c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
    d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
    e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
    f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
    g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
    h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
    i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%)

refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged.

j. A description of the available space, facilities and equipment.

k. A course outline for each course for which approval is requested, showing:

1. Subjects or units in the course,
2. Type of skill to be learned, and
3. Approximate (i) time; (ii) clock hours, and (iii) credit hours or credit hours equivalent, as appropriate, to be spent on each subject or unit.

l. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board, acting by and through the ~~President of the Community College System,~~State Board of Proprietary Schools, as provided herein, a license shall be granted to the applicant when it is shown to the satisfaction of ~~said~~ the State Board that said applicant, school, programs of study or courses are found to have met the following criteria:

(1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.

(3) Education and experience qualifications of director, administrators and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the student.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.

(6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course or subjects and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State Board of Community Colleges, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.

(8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Community Colleges may require such evidence of compliance as is deemed necessary.

(9) The school is financially sound and capable of fulfilling its commitments for training.

(10) The school does not exceed its enrollment limitation as established by the State Board of Community Colleges.

(11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.

(12) The school's administrators, directors, owners and instructors are of good reputation and character.

(13) Such additional criteria as may be deemed necessary by the State ~~Board.~~Board of Community Colleges.

(d) Any license issued shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the ~~President of the Community College System~~ State Board of Proprietary Schools for approval of additional programs of instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license."

SECTION 5. G.S. 115D-91 reads as rewritten:

"**§ 115D-91. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.**

(a) All licenses issued shall expire on ~~June 30 next following the date of issuance.~~June 30.

(b) Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are met:

(1) An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the ~~President of the Community College System.~~ State Board of Proprietary Schools.

(2) The renewal fee has been paid.

(3) The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately ~~said~~ the State Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the ~~President of the Community College System~~ State Board of Proprietary Schools may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the ~~President~~ State Board of Proprietary Schools finds that the school is likely to qualify after the sale for a license under this Article."

SECTION 6. G.S. 115D-92 reads as rewritten:

"**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund of fees.**

The ~~State Board of Community Colleges~~ State Board of Proprietary Schools shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this ~~Article.~~Article in accordance with Article 2A of Chapter 150B of the General Statutes.

The fees and licenses collected under this section shall be placed in a special fund to be designated the "Commercial Education Fund" and shall be used under the supervision and direction of the ~~State Board of Community Colleges~~ State Board of Proprietary Schools for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked."

SECTION 7. G.S. 115D-93 reads as rewritten:

"**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.**

(a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under this section shall be made in accordance with Chapter 150B of the General Statutes.

(b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.

(c) The State Board, acting by and through the ~~President of the Community College System,~~ State Board of Proprietary Schools, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

(1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules promulgated thereunder.

(2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to approval or license.

(3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.

(4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.

(5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.

(7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board, acting by and through the ~~President of the Community College System.~~ State Board of Proprietary Schools.

(8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.

(9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.

(10) That the applicant for or a holder of a license has failed to provide a required bond or bond alternative.

(11) That the applicant for or holder of a license has failed to pay assessments into the Student Protection Fund."

SECTION 8. G.S. 115D-95(b) reads as rewritten:

"(b) Amount. – An applicant for a license must file a bond with the North Carolina State Board of Community Colleges executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond must be payable to the State Board of Community Colleges, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days' notice to the State Board of Community Colleges.

The application must set out calculations made by the applicant to determine the amount of bond required with the application. The required amount is determined as follows:

(1) Initial licensure. – For an applicant for initial licensure of a school, the bond amount is the amount determined by the State Board that is adequate to provide indemnification to any student, or the student's parent or guardian who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school. A bond amount shall be at least twenty-five thousand dollars ($25,000).

(2) First four renewals. – For a school that has been licensed for one year but less than six years, the bond shall be in an amount equal to the greatest amount of unearned paid tuition in the school's possession at anytime during the prior fiscal year. The bond amount shall be evaluated by the school quarterly and reported to the State Board or its representative. A quarterly evaluation requiring an increase of five percent (5%) or more in the amount of the bond held by the school shall require an immediate increase in the bond amount. Bond amounts also shall be evaluated pursuant to this subdivision and the rules of the State Board of Community Colleges and State Board of Proprietary Schools at the time of the school's annual license renewal and increased if necessary regardless of the amount of the change.

(3) Schools in operation more than five years. – A guaranty bond shall be required for license renewal for a school that has been continuously licensed to operate for more than five years in the State, as follows:

a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is below the catastrophic loss amount, the school shall file a guaranty bond in an amount equal to the maximum amount of prepaid tuition held by the school during the prior fiscal year multiplied by the percentage amount the fund is deficient.

b. If the school held prepaid tuition in excess of the Student Protection Fund catastrophic loss amount during the prior fiscal year, in addition to any bond amount required by sub-subdivision a. of this subdivision, the school shall file a guaranty bond for the difference between the prepaid tuition amount held in the previous fiscal year and the Fund catastrophic loss amount."

SECTION 9. G.S. 115D-95.1 reads as rewritten:

"**§ 115D-95.1. Student Protection Fund.**

(a) Definitions. – As used in this section:

(1) "Catastrophic loss amount" means the amount of funds required to protect prepaid student tuition in case of a large-scale event that would draw against the Student Protection Fund. The amount is one million dollars ($1,000,000).

(2) "Fund cap amount" means the catastrophic loss amount plus a reserve amount. The amount is one million five hundred thousand dollars ($1,500,000).

(b) Student Protection Fund. – The Student Protection Fund is established in the Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund is credited to the Fund. The State Board of ~~Community Colleges~~ Proprietary Schools administers the Fund. The purpose of the Fund is to compensate students enrolled in a proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(c) Student Protection Fund Advisory Committee. ~~The President of the North Carolina Community College System shall appoint a Student Protection Fund Advisory Committee. Members of the Committee shall be appointed for terms of three years.~~ The State Board of Proprietary Schools shall serve as the Student Protection Advisory Committee. The Committee shall advise the State Board of Community Colleges on matters related to the Fund, including, but not limited to, the adjustment of the catastrophic loss amount and Fund cap amount.

~~The Committee shall consist of seven members as follows:~~

~~(1) Three professional staff members of the Community Colleges System Office.~~

~~(2) An owner/director of a proprietary school with less than 100 students, or the owner/director's designee.~~

~~(3) An owner/director of a proprietary school with between 100 and 750 students, or the owner/director's designee.~~

~~(4) An owner/director of a proprietary school or group of proprietary schools with more than 750 students, or the owner/director's designee.~~

~~(5) An owner/director of a proprietary school appointed at large, or the owner/director's designee.~~

(d) Initial Payment. – Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars ($1,250) into the Fund.

(e) Annual Revenue Payment. – Each proprietary school operating in the State shall pay annually into the Fund an amount based on its annual gross tuition revenue generated in the State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
$1.00 – $25,000	$200.00
$25,001 – $50,000	$250.00
$50,001 – $100,000	$300.00
$100,001 – $200,000	$400.00
$200,001 – $300,000	$500.00
$300,001 – $400,000	$600.00
$400,001 – $500,000	$700.00
$500,001 – $750,000	$1,000
$750,001 – $1,000,000	$1,250
$1,000,001 – $1,500,000	$1,500
$1,500,001 – $2,000,000	$2,000
Greater than $2,000,000	$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over $2,000,000.

(f) Suspension of Payments. – If the Student Protection Fund balance is equal to or exceeds the Fund cap amount, the State Board of ~~Community Colleges~~ Proprietary Schools shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The State Board of Proprietary Schools shall require schools to resume payments into the Fund if the balance of the Fund is less than the catastrophic loss amount.

(g) Catastrophic Assessments. – If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of ~~Community Colleges~~ Proprietary Schools may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (e) of this section. If the amount

of the catastrophic assessment will be insufficient to cover qualified claims, the State Board shall develop a method of allocating funds among claims.

(h) Payment Required for Proprietary School Licensure. – The full and timely payment into the Fund pursuant to this section is a condition of licensure.

(i) Payments Nonrefundable. – No payment to the Student Protection Fund shall be refunded in the event that a school's license application is rejected or a school's license is suspended or revoked.

(j) Student Repayment. – A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If the Student Protection Fund is insufficient to cover the qualified claims, the State Board must develop a method of allocating funds among claims.

(k) Rules. – The State Board of ~~Community Colleges~~Proprietary Schools shall adopt rules for the implementation of this section."

SECTION 10. Effective July 1, 2011, two positions in the Community Colleges System Office of Proprietary Schools shall be terminated.

SECTION 11. Appointments to the State Board of Proprietary Schools shall be made within 30 days after the effective date of this act.

SECTION 12. Sections 1 through 9 of this act become effective January 1, 2012. Section 10 of this act becomes effective July 1, 2011. The remainder of this act becomes effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 685 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Stein
Sen.)

1 moves to amend the bill on page 1, line 11-12
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting those lines to read:
4
5 (1) The President of the Community College
6 System, or the President's designee.
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE BILL 685:
Modify Regulation of Proprietary Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 11, 2011
Introduced by:	Sen. Apodaca	**Prepared by:**	Drupti Chauhan Committee Counsel
Analysis of:	PCS to First Edition S685-CSRQ-16		

SUMMARY: ***Senate Bill 685 would create the State Board of Private Sector Postsecondary Education in the North Carolina Community Colleges System to oversee the licensing of proprietary schools in the State.***

The Proposed Committee Substitute does the following:

- ***Substitutes the name of the State Board of Private Sector Postsecondary Education to the State Board of Proprietary Schools;***
- ***Provides that the State Board of Community Colleges would hold any bonds executed by a proprietary school; and***
- ***Clarifies the effective dates for the act.***

CURRENT LAW: The State Board of Community Colleges (State Board) acting by and through the President of the Community College System has the authority to administer and enforce provisions regarding proprietary schools and issue licenses to proprietary schools.

BILL ANALYSIS:

Section 1:

The State Board of Proprietary Schools (SBPS) would be created within the North Carolina Community College System.

Membership: The SBPS would have 7 members including the President of the North Carolina Association of Career Colleges and Schools; 2 members appointed by the Governor; and 4 members appointed by the General Assembly. The appointing authorities would be required to appoint members with a demonstrated history of experience in proprietary or public postsecondary education, an understanding of standards of quality in postsecondary education, and leadership beyond a particular institution. The members would serve staggered 6 year terms for no more than 2 consecutive 6 year terms.

Office and Staff: The Office of the SBPS would be the principal administrative unit under the SBPS. The SBPS would have the authority to recommend for adoption and to administer all policies, regulations, and standards it deems necessary for the operation of the Office of the SBPS. An executive director may be hired or there may be a contract with an outside consultant to serve as the executive director. Compensation would be from funds provided by fee from the Commercial Education Fund. Other employees maybe hired as deemed necessary. The executive director would be required to provide an annual projected operating budget to the SBPS which would have to approve the budget from funds provided by fees deposited in the Commercial Education Fund.

Authority and Responsibilities: The SBPS would provide the State Board with written recommendations concerning applicants for licenses and annual renewal applications for licenses. It would also have to prepare a certificate of license for approval by the State Board that reflects the

SBPS's recommendation. The SBPS shall be required to report annually to the State Board on the number of schools receiving initial licenses during the previous year; a list of currently licensed proprietary schools; school closures including catastrophic closures; complaints received and resulting actions; total fees received, and balances of the Commercial Education and Student Protection Funds.

Sections 2-9: These sections would make conforming changes in the Article on Proprietary Schools. The SBPS would be given the authority to establish reasonable fees for licenses, renewals, and approvals granted and for inspections in accordance with Chapter 150B of the General Statutes. Both the Commercial Education Fund and the Student Protection Fund would be administered by the SBPS with the SBPS serving as the Student Protection Advisory Committee. The State Board would continue to hold any bonds executed by a proprietary school.

Sections 10-11: The two positions in the Community System Office of Proprietary Schools would be terminated effective July 1, 2011. Appointments to the SBPS would have to be made within 30 days after the effective date of the act.

EFFECTIVE DATE: Sections 1-9 of the bill would become effective January 1, 2012. Section 10 would become effective July 1, 2011 and the remainder of the bill would become effective when it becomes law.

S685-SMRQ-30(CSRQ-16) v1

HOUSE BILL 769
Committee Substitute Favorable 4/20/11

Short Title: High School to Work Partnership. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT DIRECTING LOCAL BOARDS OF EDUCATION TO ADOPT AND IMPLEMENT POLICIES THAT ENCOURAGE HIGH SCHOOL TO WORK PARTNERSHIPS.

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:

...

(34a) To Encourage High School to Work Partnerships. – Each local board of education shall encourage high schools and local businesses to partner, specifically target students who may not seek higher education, and facilitate high school to work partnerships. Local businesses shall be encouraged to work with local high schools to create opportunities for students to complete a job shadow, internship, or apprenticeship. Students may also be encouraged to tour the local business or clinic, meet with employees, and participate in career and technical student organizations. Waiver forms may be developed in collaboration with participating businesses for the protection of both the students and the businesses.

Each local board of education shall encourage high schools to designate the Career Development Coordinator or other designee of the local Career and Technical Education administrator to be the point person for local businesses to contact. If the person selected is a teacher, the teacher shall work with the principal and the local Career and Technical Education administrator to find time in the school day to contact businesses and develop opportunities for students. The high school shall include a variety of trades and skilled labor positions for students to interact with and shadow and shall encourage students who may be interested in a job-shadowing opportunity to pursue and set up the job shadow.

Each local board of education shall develop a policy with provisions for students who are absent from school while doing a job shadow to make up the work. Students shall not be counted as absent when participating in these work-based learning opportunities or in Career and Technical Education student organization activities. Local boards may determine maximum numbers of days to be used for job-shadowing activities."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

HOUSE BILL 769:
High School to Work Partnership

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 10, 2011
Introduced by:	Reps. Cotham, Lewis, Holloway, Hall	**Prepared by:**	Sara Kamprath
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***The Second Edition of House Bill 769 would direct local boards of education to encourage high school to work partnerships. Each local board of education shall: encourage partnerships between high schools and businesses to especially target students who may not pursue higher education, encourage high schools to designate the Career Development Coordinator or a designee of the CTE administrator to be the contact person for businesses, and develop a policy that provides for students to make up work when they are absent from school while doing a job shadow.***

CURRENT LAW: G.S. 115C-47(34) outlines the duties and powers of local boards of education to encourage the business community to facilitate student learning. Local boards, in consultation with businesses, are to develop voluntary guidelines related to after-school employment and time for parent participation in parent-teacher conferences.

BILL ANALYSIS: Local businesses would be encouraged to work with local high schools to offer opportunities for students to job shadow a variety of trade and skilled labor positions, and complete internships or apprenticeships. Students may also be encouraged to tour the local businesses, meet with employees, and participate in career and technical student organizations. Local boards of education, in collaboration with participating businesses, may develop waiver forms for the protection of the students and businesses.

Local boards would encourage high schools to designate the Career Development Coordinator or other designee of the local Career and Technical Education (CTE) administrator to be the contact person for local businesses. If a teacher is selected as the contact person, then the teacher and principal shall work with the local CTE administrator to find time during the school day for the teacher to contact businesses.

Local boards would be required to develop a policy that provides for students who are absent from school while on a job shadow to make up missed work. Students would not be counted as absent when participating in these work-based experiences or in CTE student organization activities. Local boards may determine a maximum number of days that a student can participate in job-shadowing experiences.

BACKGROUND: G.S. 115C-151 requires the State Board of Education to administer through local boards of education a comprehensive program of vocational and technical education to develop occupational skills, develop highly advanced technical abilities, and assist in informed decision making about career possibilities. SBE Policy FCB-A-000, "Strong Family, Community, and Business Support," encourages local education agencies to "collaborate with community agencies and other organizations to provide resources to strengthen school programs, families, and student learning."

EFFECTIVE DATE: The bill is effective when it becomes law and applies beginning with the 2011-2012 school year.

H769-SMRJ-17(e2) v1

PAGES ATTENDING

COMMITTEE: Education **ROOM:** 544

DATE: 5-11 **TIME:** 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Jessica Williford	Fuquay-Varina	Phil Berger
2 Ashton Herring	Calypso	Brent Jackson
3		
4		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Senate Education/Higher Education Committee — Wednesday, May 11, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NCAE
[signature]	Ed Consultant
Suzanne Beasley	SEANC
Tony Bass	SEANC
[signature]	[illegible]
Gene Causby	NCSCA
Emily Doyle	NCPAPA
Katherine Joyce	NCASA
[signature]	JP Assoc
Leanne Winner	NCSBA
[signature]	PSF of NC
[signature]	SEANC
Doug Miskiw	PSG

VISITOR REGISTRATION SHEET

Senate Education/Higher Education Committee — Wednesday, May 11, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Keith Bates	UNC-TV
John Harris	NCOA
Michael T. James	NCGA
Joni Allen	BEGINNINGS
Andrew Pugh	NCGA
Emily Grimm	MWC
Linda Gunda	NCATE
Sheria Reid	SOG
Jim Stegall	North Carolina Alliance for Public Charter Schools
Ann Mell	SBE
M.A. Ll	SBE

VISITOR REGISTRATION SHEET

Senate Education/Higher Education Committee — Wednesday, May 11, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jaime King	NCEL
Christopher [illegible]	NC Justice Center
Sam Watts	NC Center for Public Policy Research
[illegible]	NEO
Tom [illegible]	ACF
John Peterson	CAPSTRAT
Linda [illegible]	CISNC
Mike Torrant	UNCO

VISITOR REGISTRATION SHEET

Senate Education/Higher Education Committee — Wednesday, May 11, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Willis	NCCS
Vernon Bryan	NCCS
Elizabeth Brownstein	OSBM
Dr. Gardner Culpepper	DLC & Assoc.
Tom Morrell	NCICU
Steve Pleasant	COA

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Monday, June 6, 2011 at 4:30 PM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 4:30 PM on June 6, 2011, in Room 544 of the Legislative Office Building. Fourteen members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and introduced the Sergeants-at-Arms. He then announced that Senate Bill 759, Equal Education Opportunity Tax Credit would not be discussed.

Senator Brown was recognized for a motion that the committee adopt the Proposed Committee Substitute to Senate Bill 159.

Senator Hise was recognized to explain the bill. He informed the committee that the PCS would allow the Blue Ridge Correctional Facility to be transferred to Mayland Community College for their basic law-enforcement training program.

Senator Stein inquired about the appraised value of the property. Senator Hise responded that the appraised value is $249,000.

Senator Brown moved for a favorable report of the Proposed Committee Substitute to Senate Bill 159.

Chairman Soucek called for a vote on the motion and the committee adopted an unfavorable report to the original bill, but a favorable report to the Proposed Committee Substitute.

Senator Goolsby was recognized for a motion to adopt the Proposed Committee Substitute to Senate Bill 726.

Chairman Soucek called on Senator Hise to explain the bill. Senator Hise explained that currently there are strict policies preventing multiple-birth children from being in the same classroom. The bill would allow parents to petition their children's schools for an alternative arrangement should they so choose.

Senator McKissick was recognized and requested to have someone from the State Boards Association, the North Carolina Association of Educators or anyone else in the audience to speak in opposition.

Brian Lewis, North Carolina Association Educators (NCAE) was recognized and stated that the NCAE had no formal position on the bill.

Senator McKissick followed-up by asking Senator Hise if there was a compelling psychological rationale behind wanting to place multiple-birth children in the same class. He also mentioned his concern about the difficulty place on teachers to tell identical siblings apart.

Senator Hise responded that the bill would not force schools into a decision one way or the other, but expressed his belief that the best experts on children are their own parents. He also added that there is no "one size-fits all" stratagem on how to deal with multiple-birth siblings.

Senator Dannelly was recognized and opined that the bill was another attempt to usurp local control of schools. He also suggested that the timetable for adjustments to multiple-birth sibling placement was too long.

Senator Hise was recognized and responded that principals would retain the discretion to reassign children for disciplinary reasons at any time.

Senator Tillman was recognized and clarified that state law allows principals the prerogative of reassigning children at any time for disciplinary reasons.

Senator Robinson was recognized and asked Senator Hise about allowing for developmental assessments and reassignment based on those factors.

Chairman Soucek indicated that Senator Tillman had an answer to that concern.

Senator Tillman explained that the bill would not modify provisions in law dealing with the assignment of students based on developmental assessments.

Senator Stevens moved for a favorable report to the Proposed Committee Substitute.

Chairman Soucek called for a vote on the motion and the committee adopted an unfavorable report to the original bill, but a favorable report to the Proposed Committee Substitute.

Chairman Soucek then recognized Senator Brock to explain Senate Bill 631.

Senator Brock explained that the bill would allow university credit to be awarded for Cherokee language instruction.

Senator McKissick was recognized and asked Senator Brock if this bill would require the universities to develop their own curriculum.

Senator Brock indicated that they would only have to administer an entry test such as already exists for foreign language credits.

Senator McKissick followed up by asking if Senator Brock had obtained information on the fiscal impact would be to the universities.

Senator Brock indicated that he did not have any formal information on the long-term costs, but estimated them to be relatively insignificant.

Senator Robinson was recognized and asked Senator Brock how the bill would affect each school in the university system.

Senator Brock reiterated his previous point that there would only be a placement test administered to incoming students for them to receive credit.

Senator Stein was recognized and asked Senator Brock about awarding credit as opposed to waiving the requirement.

Senator Brock responded that he wants to be sure that there is a consistent program at all state universities.

Lesley Cates, University of North Carolina General Administration was recognized and explained that current policy is to waive the requirement. She suggested that the main change because of this bill would be to award credit.

Senator Stein followed up by asking Senator Brock why the Cherokee language should be treated differently than other languages.

Senator Brock responded that treating it differently is not his intention, but rather to ensure there is consistency across the entire university system.

Senator Stein moved for a favorable report.

Senator Dannelly was recognized and asked about the logistics of grading these entry tests.

Senator Brock responded that he did not know the exact location of where the tests are graded, but restated that the testing regime was still a work in progress.

Chairman Soucek called for a vote and the committee issued a favorable report to Senate Bill 631.

Chairman Soucek recognized Representative Insko to explain House Bill 334.

Representative Insko explained that the bill provides for the state board of education to report yearly to the education oversight committee on the fitness status of children between kindergarten and eighth grade. She further explained the fitness evaluation process and how the North Carolina Alliance for Athletics, Health, Physical Education, Recreation and Dance (NCAAHPERD) would issue their report to the Department of Public Instruction (DPI), which would in turn report to the education oversight committee.

Representative LaRoque was recognized to add his thoughts on childhood obesity.

Senator Tillman moved for a favorable report.

Senator Robinson was recognized and stated her support for the bill and expressed her own concern about childhood obesity.

Senator Dannelly was recognized and asked whether NCAAHPERD would be making recommendations along with the report.

Representative Insko responded that any policy recommendations should come from DPI instead.

Senator Dannelly expressed his disappointment that experts from NCAAHPERD would not be passing down recommendations with the data they would provide.

Chairman Soucek called on Judy Martino, Grant Program Director, NCAAHPERD who explained that they collaborate with other groups who are better equipped to make recommendations based on their data.

Senator McKissick was recognized and asked about the potential for an amendment to House Bill 334.

Senator Tillman was recognized and suggested that it be taken up on the Senate Floor. He added that the education oversight committee could and would ask for recommendations from anyone they desired. He also noted that he would be handling the bill on the Senate Floor.

Senator Daniel was recognized and opined that he felt that a sedentary lifestyle is the major culprit behind obesity in both children and adults.

Chairman Soucek called for a vote and the committee issued a favorable report to House Bill 334.

Chairman Soucek then recognized Representative Floyd to explain House Bill 515.

Representative Floyd explained that the bill would allow book fees to be rolled into tuition for members of the military. He stated that the reason for this is that some branches of the military allow tuition reimbursement.

Senator Stein moved for a favorable report.

Senator Robinson was recognized and asked why the university system was not included.

Representative Floyd responded that the bill is limited to the community colleges because they had expressed the original interest in the legislation.

Chairman Soucek called for a vote and the committee issued a favorable report to House Bill 515. He noted that Senator Meredith would be handling the bill on the Senate Floor.

Chairman Soucek recognized Representatives Langdon to explain House Bill 736.

Representative Langdon stated that the bill would provide a framework similar to the earlier Senate Bill to deal with school disciplinary issues.

Senator Stevens inquired why it was necessary to deal with this bill since the Senate Bill had already been passed.

Representative Langdon replied that the bill had been sent to the Senate before the Senate had voted their own version to the House.

Senator Stevens then moved for a favorable report.

Representative Luebke was also recognized and added that he was proud of the bipartisan work that had been done to create the bill.

Senator Tillman was recognized and offered an amendment and asked Drupti Chauhan of the Research Division to explain the amendment.

Drupti Chauhan, Research Division stated that the amendment was necessary to make conforming changes due to the removal of the State Safe Schools Plan from the budget.

Senator Tillman moved for adoption of the amendment.

Chairman Soucek called for a vote on the amendment and the committee adopted the amendment.

Senator Stevens was then recognized and asked about the corporal punishment changes that were discussed in earlier Senate education meetings.

Ms. Chauhan informed the committee that the House Bill before them makes no changes to the corporal punishment laws.

Senator McKissick moved for a favorable report on the bill as amended.

Chairman Soucek called for a vote and the committee issued a favorable report to House Bill 736 as amended rolled into a Proposed Committee Substitute with a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. He noted that Senator Tillman would handle the bill on the Senate Floor.

Chairman Soucek then recognized Representative Carney to explain House Bill 758.

Representative Carney explained that the bill would create a commission to develop a comprehensive arts education plan.

Senator Brock was recognized to offer a verbal amendment. He explained that his amendment would realign the membership of the commission to consist of four members to be appointed by the Governor, four members to be appointed by the Speaker of the House and four members to be appointed by the President Pro Tempore of the Senate.

Chairman Soucek called for a vote and the committee adopted the amendment.

Senator Robinson moved for a favorable report, opined that there was a link between the arts and a child's critical thinking and noted that it connects directly to the entire education experience.

Senator McKissick noted a similar bill from a previous year and its similarity to this bill.

Chairman Soucek called for a vote and the committee issued a favorable report to House Bill 758 as amended rolled into a Proposed Committee Substitute with a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. He noted that Senator Tillman would handle the bill on the Senate Floor.

Chairman Soucek then called for adjournment.

The meeting adjourned at 5:50 PM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Monday, June 6, 2011, 4:30 PM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 159	47th Senatorial District Local Act.	Senator Hise
SB 631	UNC/Cherokee Language Credit.	Senator Brock
SB 726	Multiple Birth Sibling Classroom Placement.	Senator Hise
~~SB 759~~	~~Equal Education Opportunity Tax Credit.~~	~~Senator Graham~~
HB 334	Report on Fitness Testing in Schools.	Representative Bell Representative Harrison Representative LaRoque Representative Insko
HB 515	Comm. Coll. Tuition for Members of Military.	Representative Floyd Representative Boles, Jr.
HB 736	Amend Law Re: School Discipline.	Representative Langdon, Jr. Representative Lucas Representative Daughtry
HB 758	Establish Arts Education Commission.	Representative Luebke Representative Adams Representative Carney Representative Johnson Representative Glazier

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Tuesday, June 07, 2011

Senator SOUCEK,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **631** UNC/Cherokee Language Credit.
Sequential Referral: None
Recommended Referral: None

H.B. **334** Report on Fitness Testing in Schools.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **515** Comm. Coll. Tuition for Members of Military.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **159** 47th Senatorial District Local Act.
Draft Number: 75164
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

S.B. **726** Multiple Birth Sibling Classroom Placement.
Draft Number: 95096
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **758** Establish Arts Education Commission.
Draft Number: 30371
Sequential Referral: None

Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **736** Amend Law Re: School Discipline.
Draft Number: 50367
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 7

Committee Clerk Comments:

HB 758 – Senator Tillman
HB 736 – Senator Tillman
HB 515 – Senator Meredith
HB 334 – Senator Tillman

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 159

Short Title:	47th Senatorial District Local Act.	(Local)
Sponsors:	Senator Hise.	
Referred to:	Rules and Operations of the Senate.	

March 2, 2011

A BILL TO BE ENTITLED

AN ACT RELATING TO THE 47TH SENATORIAL DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates only to the 47th Senatorial District.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 159
PROPOSED COMMITTEE SUBSTITUTE S159-CSRF-35 [v.5]

6/3/2011 7:30:10 PM

Short Title: Convey Blue Ridge Corr. Fac to Mayland CC. (Local)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE BLUE RIDGE CORRECTIONAL FACILITY TO MAYLAND COMMUNITY COLLEGE FOR THE EXPANSION OF EXISTING COMMUNITY COLLEGE PROGRAMS AND THE DEVELOPMENT OF NEW PROGRAMS.

The General Assembly of North Carolina enacts:

Whereas, the BRIDGE program (Building, Rehabilitating, Instructing, Developing, Growing and Employing) was operated at the Blue Ridge Correctional Facility located on Prison Camp Road in Avery County from 1990 until 2002; and

Whereas, since 2002, the Blue Ridge Correctional Facility has been closed and sitting idle at cost to the Department of Corrections and the State; and

Whereas, Mayland Community College serves the citizens of Mitchell, Avery, and Yancey Counties; and

Whereas, the Mayland Community College campus is located in Spruce Pine, 5 miles from the Blue Ridge Youth Prison Facility; and

Whereas, based on the Mayland Community College Long-Range Plan, the college is lacking 100,000 square feet of classroom, shop, and laboratory space as determined by the Student/Faculty Ratio utilized by the North Carolina Community College System; and

Whereas, the current economic downturn has impacted Mitchell, Avery, and Yancey Counties such that the counties do not have the industrial or retail activity to produce a tax base sufficient to support the construction of needed facilities; and

Whereas, the Blue Ridge Correctional Facility would provide valuable instructional space and property for existing programs as well as future growth; and

Whereas, Mayland Community College will seek additional sources of external funding to cover the costs of renovation, maintenance, and insurance of the Blue Ridge Correctional Facility; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State of North Carolina shall convey to the Board of Trustees of Mayland Community College, for consideration of one dollar (1.00) all right, title, and interest in the Blue Ridge Correctional Facility, being a portion of the tract identified in Deed Book 32, page 290 of the Avery County Register of Deeds and as Tax parcel No. 182200083490, as further described below:

Blue Ridge Correctional Facility Site:

Blue Ridge Youth Prison Facility/3950 is part of Complex Number 1-6-6 entitled Avery Correctional Center/Blue Ridge Youth Center/4614/3950. The Facility is located on that portion of Complex Number 1-6-6 lying south of Prison Camp Road and consists of the following buildings, accompanied by 13.21 deeded acres. The buildings and assets include:

1. Dormitory Asset #33.
2. Kitchen/Administration Asset #34.
3. Visitors Check-In Building Asset #35.
4. Transformer Building Asset #36.
5. Well House Asset #37.
6. B Dormitory Asset #43.

The property does not include the Forest Service building and land, comprising approximately 10 acres, located on that portion of Complex Number 1-6-6 lying south of Prison Camp Road.

SECTION 2. The State of North Carolina shall convey the real property described in Section 1 'as is" "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Mayland Community College.

SECTION 3. The conveyance of the State's right, title, and interest in the Blue Ridge Correctional Facility shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply.

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

SENATE BILL 159:
47th Senatorial District Local Act

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 6, 2011
Introduced by:	Sen. Hise	**Prepared by:**	Kara McCraw Committee Counsel
Analysis of:	PCS to First Edition S159-CSRF-35		

SUMMARY: ***The Proposed Committee Substitute (PCS) for SB 159 would transfer the Blue Ridge Correctional Facility from the State of North Carolina to the Board of Trustees of Mayland Community College.***

CURRENT LAW: Article 7 of Chapter 146 governs disposition of State property and requires that sales of land owned by the State must be made by the State and approved by the Governor and Council of State. Article 16 of Chapter 146 establishes the form of conveyances for State property, and in G.S. 146-74 requires proposed conveyances to be submitted to the Governor and Council of State for approval.

BILL ANALYSIS: The PCS for SB 159 would require the State of North Carolina to transfer the Blue Ridge Correctional Facility to Mayland Community College for $1.00. Mayland Community College would be required to bear the costs associated with the conveyance.

The Blue Ridge Correctional Facility is a portion of a parcel of land of approximately 13.21 acres which includes 6 buildings. The transfer does not include another portion of the parcel of approximately 10 acres which is Forest Service building and land.

The property would be conveyed as is and without warranty as to the title, boundaries, uses, zoning, local ordinances, or physical, environmental, health and safety conditions of the property.

The conveyance would be exempt from the requirements of Article 7 of Chapter 146 and G.S. 146-74.

EFFECTIVE DATE: SB 159 would become effective when it becomes law.

BACKGROUND: The Blue Ridge Correctional Facility located in Avery County was closed in 2002. The service area for Mayland Community College includes Avery, Mitchell, and Yancey Counties.

S159-SMTC-33(CSRF-35) v1

SENATE BILL 631

Short Title:	UNC/Cherokee Language Credit.	(Public)
Sponsors:	Senator Brock.	
Referred to:	Education/Higher Education.	

April 19, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO RECOGNIZE THE CHEROKEE LANGUAGE AS A LANGUAGE FOR WHICH A STUDENT MAY RECEIVE FOREIGN LANGUAGE CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-11 is amended by adding a new subdivision to read:

"(4c) The Board of Governors shall require each constituent institution to develop and implement a policy that recognizes the Cherokee language as a language for which a student may receive foreign language credit that counts toward the satisfaction of the foreign language course requirement at the institution."

SECTION 2. This act is effective when it becomes law and applies to the 2011-2012 academic year and each subsequent year.

SENATE BILL 631:
UNC/Cherokee Language Credit

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 1, 2011
Introduced by:	Sen. Brock	**Prepared by:**	Drupti Chauhan
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 631 would require each constituent institution of The University of North Carolina to recognize the Cherokee language as a language for which students may receive foreign language credit that satisfies foreign language requirements at the constituent institution.

BILL ANALYSIS: Senate Bill 631 would direct the Board of Governors at The University of North Carolina to require each constituent institution to develop and implement a policy that would recognize the Cherokee language as a language for which students may receive foreign language credit that counts toward the satisfaction of the foreign language course requirements at that campus.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply to the 2011-2012 academic year and each subsequent year.

BACKGROUND: According to UNC General Administration, UNC-Chapel Hill and Western Carolina University are currently offering Cherokee language courses. Both of these campuses allow students to obtain language credit for the Cherokee language to fulfill their foreign language requirements for a degree program.

Campuses have the authority to set their own policies for foreign language requirements for various degree programs. For example, on some campuses such as UNC-Asheville, when a particular language is not offered, the student's level of fluency or expertise is determined by the faculty with the assistance of someone on campus or in the community. The university then would waive the requirement for the student to take a foreign language but would not grant the student course credit. UNC-Asheville uses a similar policy for students taking placement exams for languages that are taught on the campus. If a student demonstrates proficiency, the student is granted an exemption from the university's foreign language requirement for degree completion but does not receive academic credit.

S631-SMRQ-35(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 726*

Short Title:	Multiple Birth Sibling Classroom Placement.	(Public)
Sponsors:	Senators Hise; Goolsby and Rouzer.	
Referred to:	Education/Higher Education.	

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW PARENTS OR GUARDIANS TO MAKE THE DECISION REGARDING CLASSROOM PLACEMENT FOR MULTIPLE BIRTH SIBLINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 25 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-366.3. Classroom placement of multiple birth siblings.**

(a) As used in this section, the term "multiple birth siblings" means twins, triplets, quadruplets, or other siblings resulting from a multiple birth.

(b) The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing that the school place the siblings in the same classroom or in separate classrooms. The request must be made no later than five days before the first day of each school year or five days after the first day of attendance of students during the school year if the students are enrolled in the school after the school year commences. The school may recommend to the parent the appropriate classroom placement for multiple birth siblings and may provide professional educational advice to assist the parent with the decision regarding appropriate classroom placement.

(c) Except as provided in subsection (d) or (e) of this section, a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) A school is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(e) At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the multiple birth siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings. A parent may appeal the principal's classroom placement of multiple birth siblings in the manner provided by the policy of that school administrative unit. During an appeal, the multiple birth siblings shall remain in the classroom chosen by the parent.

(f) This section does not affect the right of a school administrative unit, principal, or teacher to remove a student from a classroom pursuant to the student discipline policies of that school administrative unit."

SECTION 2. This act becomes effective beginning with the 2011-2012 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 726*
PROPOSED COMMITTEE SUBSTITUTE S726-CSTL-11 [v.2]

5/31/2011 3:16:17 PM

Short Title: Multiple Birth Sibling Classroom Placement. (Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW PARENTS OR GUARDIANS TO MAKE THE DECISION REGARDING CLASSROOM PLACEMENT FOR MULTIPLE BIRTH SIBLINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 25 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-366.3. Classroom placement of multiple birth siblings.**

(a) As used in this section, the term "multiple birth siblings" means twins, triplets, quadruplets, or other siblings resulting from a multiple birth.

(b) The parent of multiple birth siblings who are assigned to the same grade level and school may request a consultative meeting with the school principal to consider that the initial school placement of the siblings be in the same classroom or in separate classrooms. The request must be made no later than five days before the first day of each school year or five days after the first day of attendance of students during the school year if the students are enrolled in the school after the school year commences. The school may recommend to the parent the appropriate classroom placement for multiple birth siblings and may provide professional educational advice to assist the parent with the decision regarding appropriate classroom placement.

(c) Except as provided in subsection (d) or (e) of this section, a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) A school is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(e) At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the multiple birth siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

(f) This section does not affect the right of a school administrative unit, principal, or teacher to remove a student from a classroom pursuant to the student discipline policies of that school administrative unit."

SECTION 2. This act becomes effective beginning with the 2011-2012 school year.

SENATE BILL 726:
Multiple Birth Sibling Classroom Placement

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 6, 2011
Introduced by:	Sen. Hise	**Prepared by:**	Patsy Pierce
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***Senate Bill 726 would allow parents of multiple birth siblings to make a written request regarding placement of their children together or in separate classrooms. Schools would provide advice on appropriate placements and would place the children according to parental request with two exceptions: (1) if the school would have to add an additional classroom, or (2) if, at the end of the first grading period, the school determines the placement is disruptive. Parents may appeal the decision to the latter situation. The bill would not affect a school's right to remove a student from a classroom pursuant to the school's discipline policies.***

The Proposed Committee Substitute (PCS) changes "request in writing" to "request a consultative meeting" regarding parent's input about the initial placement of their multiple birth children and removes parental appeal the school's placement decision following the end of the first grading period.

BILL ANALYSIS: The PCS for Senate Bill 726 creates a new section in State statute, G.S. 115C-366.3, which would define "multiple birth siblings" as twins, triplets, quadruplets, or other siblings resulting from a multiple birth. Parents of multiple birth siblings assigned to the same grade level could request a consultative meeting with the principal to consider the initial placement of their children in the same or different classroom. The request must be made not later than five days before the first day of each school year or five days after the students first attend school. Schools may recommend and offer educational advice to parents regarding appropriate placement(s) of the multiple birth siblings. Schools will place the children as requested by parents, with two exceptions: (1) if separate classroom placement would require an additional classroom to the grade level of the multiple birth siblings, or (2) if, at the end of the first grading period, the principal, in consultation with the childrens' teacher(s), decide that the placement(s) is disruptive to the school. This new section would not affect the right of a school administrative unit, principal, or teacher to remove a student from a classroom pursuant to the unit's student discipline polices.

EFFECTIVE DATE: This act would become effective beginning with the 2011-2012 school year.

BACKGROUND: Three states, Virginia, New Jersey, and Minnesota currently have legislation mandating classroom placement of multiple birth siblings based on parental request. Virginia amended their legislation during the 2011 session to base classroom placement on a superintendent's decision with principal input. Missouri and Mississippi both introduced legislation regarding parental placement decisions, but neither had laws enacted.

S726-SMTL-40(e1) v2

HOUSE BILL 334
Second Edition Engrossed 3/23/11

Short Title:	Report on Fitness Testing in Schools.	(Public)
Sponsors:	Representatives Insko, Bell, Harrison, and LaRoque (Primary Sponsors). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Education.	

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION TO REPORT ON THE RESULTS OF FITNESS TESTING IN EACH LOCAL SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-12(37) reads as rewritten:

"(37) To Adopt Guidelines for Fitness Testing. – The State Board of Education shall adopt guidelines for the development and implementation of evidence-based fitness testing for students statewide in grades kindergarten through eight. The State Board of Education shall present annually by September 15 to the Joint Legislative Education Oversight Committee, the report prepared by the North Carolina Alliance for Athletics, Health, Physical Education, Recreation and Dance on the fitness testing conducted during the prior school year in each school administrative unit."

SECTION 2. The State Board of Education shall report on the results of fitness testing pursuant to G.S. 115C-12(37) to the Legislative Task Force on Childhood Obesity annually by September 15 until the Task Force is terminated.

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

HOUSE BILL 334:
Report on Fitness Testing in Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 6, 2011
Introduced by:	Reps. Insko, Bell, Harrison, LaRoque	**Prepared by:**	Drupti Chauhan
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 334 would require the State Board of Education to present the report prepared by the North Carolina Alliance for Athletics, Health, Physical Education, Recreation, and Dance on fitness testing in grades kindergarten through eight to the Joint Legislative Education Oversight Committee.***

CURRENT LAW: G.S. 115C-12(37) requires the State Board of Education to adopt guidelines for the development and implementation of evidence-based fitness testing in kindergarten through 8th grade. Beginning in the 2011-12 school year, LEAs must implement evidence-based fitness testing according to guidelines adopted by the State Board of Education.

BILL ANALYSIS: House Bill 334 would require the State Board of Education to present the report prepared by the North Carolina Alliance for Athletics, Health, Physical Education, Recreation, and Dance on fitness testing in grades kindergarten through eight to the Joint Legislative Education Oversight Committee by September 15 of each year. The report would cover the fitness testing conducted during the prior school year in each local school administrative unit.

EFFECTIVE DATE: The bill is effective when it becomes law.

BACKGROUND: The Task Force on Childhood Obesity recommended in its report to the 2010 General Assembly that the "General Assembly enact legislation to mandate the use of evidence-based fitness testing for students statewide in all K through 8 schools by the 2011-2012 school year." The Task Force's proposed recommendation was enacted during the 2010 Session.

H334-SMRQ-37(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 2

HOUSE BILL 515
Committee Substitute Favorable 4/11/11

Short Title: Comm. Coll. Tuition for Members of Military. (Public)

Sponsors:

Referred to:

March 30, 2011

A BILL TO BE ENTITLED

AN ACT TO PERMIT COMMUNITY COLLEGES TO INCLUDE THE COST OF TEXTBOOKS IN THE TUITION CHARGED FOR MEMBERS OF THE ARMED SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-39 is amended by adding a new subsection to read:

"(d) A community college may add the cost of textbooks purchased at the college's bookstore to the tuition rates established pursuant to subsection (a) of this section for all purposes associated with billing the armed services for the enrollment of members of the armed services, as defined in G.S. 116-143.3, if the student's branch of the armed services permits the addition of textbooks to tuition costs in its tuition assistance program. The college may retain the funds attributable to the cost of the textbooks."

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

HOUSE BILL 515:
Comm. Coll. Tuition for Members of Military

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 6, 2011
Introduced by:	Reps. Boles, Floyd	**Prepared by:**	Drupti Chauhan
Analysis of:	Second Edition		Committee Counsel*

SUMMARY: ***House Bill 515 would include the cost of textbooks in the tuition at community colleges for active duty service members, so that these costs would be included as "tuition" for the purposes of payment by the armed forces.***

CURRENT LAW and BACKGROUND: The Armed Forces Tuition Assistance (TA) is a program that gives each branch of the military service the ability to pay up to 100% for the tuition expenses of its service members. Each service has its own criteria for eligibility, obligated service, application process and restrictions—including whether textbooks may be included in the program. The money is usually paid directly to the institution by the individual services.

BILL ANALYSIS: House Bill 515 would include the cost of textbooks in the tuition costs for military members who are attending community colleges under the TA program, if the student's branch of service permits the addition of textbook to tuition costs in its tuition assistance program. In order for the cost to be covered, the books must be purchased at the college's bookstore. The community college would be allowed to retain the funds attributable to the cost of the textbooks.

EFFECTIVE DATE: This act would become effective when it becomes law.

H515-SMRQ-38(e2) v1

**Hal Pell, Counsel for the House Committee on Homeland Security, Military, and Veterans Affairs significantly contributed to this summary.*

HOUSE BILL 736
Committee Substitute Favorable 4/20/11
Third Edition Engrossed 4/28/11

Short Title: Amend Law Re: School Discipline. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REORGANIZE THE GENERAL STATUTES RELATING TO SCHOOL DISCIPLINE; PREVENT LITIGATION BY ADDING DEFINITIONS TO, AND CLARIFYING AMBIGUITIES IN, THE CURRENT LAW; CODIFY EXISTING CASE LAW; AND INCREASE LOCAL CONTROL AND FLEXIBILITY REGARDING DISCIPLINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-390 and G.S. 115C-391 are repealed.

SECTION 2. Article 27 of chapter 115C of the General Statutes is amended by adding the following new sections:

"**§ 115C-390.1. State policy and definitions.**

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school officials and teachers need adequate tools to maintain good discipline in schools. However, the General Assembly also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

(b) The following definitions apply in this Article:

(1) Alternative education services. – Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education policies.

(2) Corporal punishment. – The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(3) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any local board of education or charter school.

(4) Expulsion. – The indefinite exclusion of a student from school enrollment for disciplinary purposes.

(5) Firearm. – Any of the following:

a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.
b. The frame or receiver of any such weapon.
c. Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

(6) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

(7) Parent. – Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of this Chapter.

(8) Destructive device. – An explosive, incendiary, or poison gas:
a. Bomb.
b. Grenade.
c. Rocket having a propellant charge of more than four ounces.
d. Missile having an explosive or incendiary charge of more than one-quarter ounce.
e. Mine.
f. Device similar to any of the devices listed in this subdivision.

(9) Principal. – Includes the principal and the principal's designee.

(10) School official. – A superintendent or any other central office administrator to whom the superintendent has delegated duties under this Article and any principal or assistant principal.

(11) School personnel. – Any of the following:
a. An employee 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."

(12) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action.

(13) Substantial evidence. – Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

(14) Superintendent. – Includes the superintendent and the superintendent's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et

seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations.

"**§ 115C-390.2. Discipline policies.**

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

"**§ 115C-390.3. Reasonable force.**

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:

(1) To correct students.

(2) To quell a disturbance threatening injury to others.

(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.

(4) For self-defense.

(5) For the protection of persons or property.

(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

"**§ 115C-390.4. Corporal punishment.**

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.

(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 704, whose parent has stated in writing that corporal punishment shall not be administered on that student. In school administrative units where corporal punishment is permitted, parents shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent at the first individualized education program or section 504 plan meeting held during the school year.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.

(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.

(3) The grade level of the students who received corporal punishment.

(4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

"**§ 115C-390.5. Short-term suspension.**

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

"**§ 115C-390.6. Short-term suspension procedures.**

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily

available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

"**§ 115C-390.7. Long-term suspension.**

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

"**§ 115C-390.8. Long-term suspension procedures.**

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the

information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

"**§ 115C-390.9. Alternative education services.**

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.

(2) The student poses a threat to staff or other students.

(3) The student substantially disrupts the learning process.

(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.

(5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.

(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

"**§ 115C-390.10. 365-day suspension for gun possession.**

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.SC. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

"**§ 115C-390.11. Expulsion.**

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and

convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

"**§ 115C-390.12. Request for readmission.**

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents."

SECTION 3. G.S. 115C-391.1(i) reads as rewritten:

"(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under ~~G.S. 115C-390~~ G.S. 115C-390.3 or modifies the rules and procedures governing discipline under ~~G.S. 115C-391(a).~~G.S. 115C-390.1 through G.S. 115C-390.12."

SECTION 4. G.S. 115C-12(27) reads as rewritten:

"(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been ~~placed in an~~provided alternative ~~program.~~education services. The data shall be reported in a disaggregated manner ~~and~~, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion."

SECTION 5. G.S. 115C-45(c)(1) reads as rewritten:

"(1) The discipline of a student under ~~G.S. 115C-391(c), (d), (d1), (d2), (d3), or (d4);~~ G.S. 115C-390.7, 115C-390.10, or 115C-390.11;".

SECTION 6. G.S. 115C-105.47(b)(6) reads as rewritten:

"(6) Mechanisms for assessing the needs of disruptive and disorderly students and students who are at risk of academic failure, and providing them with services to assist them in achieving academically and in modifying their ~~behavior,~~ behavior, including any positive behavior management or positive behavior support programs that have been adopted, and removing them from the classroom when necessary."

SECTION 7. G.S. 115C-105.47(b)(13)b. reads as rewritten:

"(13) Direction to school improvement teams within the local school administrative unit to consider the special conditions at their schools and to incorporate into their school improvement plans the appropriate components of the local plan for:

a. maintaining safe and orderly schools; and
b. addressing the needs of students who are at risk of academic failure or who are disruptive or ~~both,~~ both, and including the components of any positive behavior management or positive behavior support programs that have been adopted."

SECTION 8. G.S. 115C-238.29B(b)(11) reads as rewritten:

"(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

SECTION 9. G.S. 115C-238.29F(g)(7) reads as rewritten:

"(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

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

"(r) To Maintain Student Discipline. – The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 ~~days~~days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and ~~age~~disability status of each student, the duration of suspension for each student, whether ~~an~~ alternative education ~~was considered or~~services were provided for each student, and whether a student had multiple ~~suspensions.~~suspensions in that academic year."

SECTION 11. G.S. 115C-288(e) reads as rewritten:

"(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. – The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education ~~as prescribed by G.S. 115C-391(a).~~ in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal ~~shall~~ may use reasonable force ~~to discipline students under G.S. 115C-390~~ pursuant to G.S. 115C-390.3 and may suspend ~~or dismiss pupils under~~students ~~G.S. 115C-391.~~ pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter."

SECTION 12. G.S. 115C-366 reads as rewritten:

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

...

(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~~ 115C-390.5 through G.S. 115C-390.10 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~~ 115C-390.11 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~~ staff as found by clear and convincing evidence, 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).~~ 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities Education ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

...

(h) The following definitions apply in this section:

...

(3) Educational decisions. – Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. ~~115C-391,~~ 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

...."

SECTION 13. G.S. 115C-402(b) reads as rewritten:

"(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension ~~for a period of more than 10 days~~ or ~~of any~~ expulsion ~~under~~ imposed pursuant to G.S. ~~115C-391~~ 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:

a. The student's parent, legal guardian, or custodian.

b. The student, if the student is at least 16 years old or is emancipated.

(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.

(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.

(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child."

SECTION 14. G.S. 14-208.18(f) reads as rewritten:

"(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. ~~115C-391(d)(2).~~ 115C-390.11(a)(2)."

SECTION 15. G.S. 20-11(n1)d.2. reads as rewritten:

"2. The bringing, possession, or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. ~~115C-391(d1)~~ 115C-390.10 or that could have resulted

in that disciplinary action if the conduct had occurred in a public school."

SECTION 16. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H D

HOUSE BILL 736
Committee Substitute Favorable 4/20/11
Third Edition Engrossed 4/28/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H736-PCS50367-RQ-20

Short Title: Amend Law Re: School Discipline. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REORGANIZE THE GENERAL STATUTES RELATING TO SCHOOL DISCIPLINE; PREVENT LITIGATION BY ADDING DEFINITIONS TO, AND CLARIFYING AMBIGUITIES IN, THE CURRENT LAW; CODIFY EXISTING CASE LAW; AND INCREASE LOCAL CONTROL AND FLEXIBILITY REGARDING DISCIPLINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-390 and G.S. 115C-391 are repealed.

SECTION 2. Article 27 of chapter 115C of the General Statutes is amended by adding the following new sections:

"**§ 115C-390.1. State policy and definitions.**

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school officials and teachers need adequate tools to maintain good discipline in schools. However, the General Assembly also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

(b) The following definitions apply in this Article:

(1) Alternative education services. – Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education policies.

(2) Corporal punishment. – The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(3) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any local board of education or charter school.

(4) Expulsion. – The indefinite exclusion of a student from school enrollment for disciplinary purposes.

(5) Firearm. – Any of the following:

a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.

b. The frame or receiver of any such weapon.

c. Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

(6) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

(7) Parent. – Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of this Chapter.

(8) Destructive device. – An explosive, incendiary, or poison gas:

a. Bomb.

b. Grenade.

c. Rocket having a propellant charge of more than four ounces.

d. Missile having an explosive or incendiary charge of more than one-quarter ounce.

e. Mine.

f. Device similar to any of the devices listed in this subdivision.

(9) Principal. – Includes the principal and the principal's designee.

(10) School official. – A superintendent or any other central office administrator to whom the superintendent has delegated duties under this Article and any principal or assistant principal.

(11) School personnel. – Any of the following:

a. An employee 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."

(12) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action.

(13) Substantial evidence. – Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

(14) Superintendent. – Includes the superintendent and the superintendent's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations.

"**§ 115C-390.2. Discipline policies.**

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

"**§ 115C-390.3. Reasonable force.**

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:

(1) To correct students.

(2) To quell a disturbance threatening injury to others.

(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.

(4) For self-defense.

(5) For the protection of persons or property.

(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

"**§ 115C-390.4. Corporal punishment.**

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.

(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 704, whose parent has stated in writing that corporal punishment shall not be administered on that student. In school administrative units where corporal punishment is permitted, parents shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent at the first

individualized education program or section 504 plan meeting held during the school year.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.

(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.

(3) The grade level of the students who received corporal punishment.

(4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

"**§ 115C-390.5. Short-term suspension.**

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

"**§ 115C-390.6. Short-term suspension procedures.**

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education.

"**§ 115C-390.7. Long-term suspension.**

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8.

"**§ 115C-390.8. Long-term suspension procedures.**

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record.

"**§ 115C-390.9. Alternative education services.**

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.

(2) The student poses a threat to staff or other students.

(3) The student substantially disrupts the learning process.

(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.

(5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.

(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

"**§ 115C-390.10. 365-day suspension for gun possession.**

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.SC. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9.

"**§ 115C-390.11. Expulsion.**

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff.

"**§ 115C-390.12. Request for readmission.**

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the

administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents."

SECTION 3. G.S. 115C-391.1(i) reads as rewritten:

"(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under ~~G.S. 115C-390~~ G.S. 115C-390.3 or modifies the rules and procedures governing discipline under ~~G.S. 115C-391(a).~~ G.S. 115C-390.1 through G.S. 115C-390.12."

SECTION 4. G.S. 115C-12(27) reads as rewritten:

"(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been ~~placed in an~~provided alternative ~~program.~~education services. The data shall be reported in a disaggregated manner ~~and~~, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion."

SECTION 5. G.S. 115C-45(c)(1) reads as rewritten:

"(1) The discipline of a student under ~~G.S. 115C-391(c), (d), (d1), (d2), (d3), or (d4);~~ G.S. 115C-390.7, 115C-390.10, or 115C-390.11;".

SECTION 6. G.S. 115C-105.47(b)(6) reads as rewritten:

"(6) Mechanisms for assessing the needs of disruptive and disorderly students and students who are at risk of academic failure, and providing them with services to assist them in achieving academically and in modifying their ~~behavior,~~ behavior, including any positive behavior management or positive behavior support programs that have been adopted, and removing them from the classroom when necessary."

SECTION 7. G.S. 115C-105.47(b)(13)b. reads as rewritten:

"(13) Direction to school improvement teams within the local school administrative unit to consider the special conditions at their schools and to

incorporate into their school improvement plans the appropriate components of the local plan for:

a. maintaining safe and orderly schools; and

b. addressing the needs of students who are at risk of academic failure or who are disruptive or ~~both,~~ both, and including the components of any positive behavior management or positive behavior support programs that have been adopted."

SECTION 8. G.S. 115C-238.29B(b)(11) reads as rewritten:

"(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

SECTION 9. G.S. 115C-238.29F(g)(7) reads as rewritten:

"(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

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

"(r) To Maintain Student Discipline. – The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 ~~days~~days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and ~~age~~disability status of each student, the duration of suspension for each student, whether ~~an~~ alternative education ~~was considered or~~services were provided for each student, and whether a student had multiple ~~suspensions.~~suspensions in that academic year."

SECTION 11. G.S. 115C-288(e) reads as rewritten:

"(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. – The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education ~~as prescribed by G.S. 115C-391(a).~~ in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal ~~shall~~ may use reasonable force ~~to discipline students under G.S. 115C-390~~ pursuant to G.S. 115C-390.3 and may suspend ~~or dismiss pupils under~~students ~~G.S. 115C-391.~~ pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter."

SECTION 12. G.S. 115C-366 reads as rewritten:

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

...

(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~~ 115C-390.5 through G.S. 115C-390.10 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~~ 115C-390.11 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~~ staff as

found by clear and convincing evidence, 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).~~ 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities Education ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

...

(h) The following definitions apply in this section:

...

(3) Educational decisions. – Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. ~~115C-391,~~ 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

...."

SECTION 13. G.S. 115C-402(b) reads as rewritten:

"(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension ~~for a period of more than 10 days~~ or ~~of any~~ expulsion ~~under~~ imposed pursuant to G.S. ~~115C-391~~ 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:

a. The student's parent, legal guardian, or custodian.

b. The student, if the student is at least 16 years old or is emancipated.

(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.

(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.

(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child."

SECTION 14. G.S. 14-208.18(f) reads as rewritten:

"(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. ~~115C-391(d)(2).~~ 115C-390.11(a)(2)."

SECTION 15. G.S. 20-11(n1)d.2. reads as rewritten:

"2. The bringing, possession, or use on school property of a weapon or firearm that resulted in disciplinary action under

G.S. ~~115C-391(d1)~~ 115C-390.10 or that could have resulted in that disciplinary action if the conduct had occurred in a public school."

SECTION 16. If House Bill 200, 2011 Regular Session, becomes law, then Sections 6 and 7 of this act are deleted.

SECTION 17. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 736

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

H736-ARQ-88 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
Third Edition

Date _____,2011

Senator Tillman

moves to amend the bill on page 14, lines 3 through 4 by rewriting the lines to read:

"**SECTION 16.** If House Bill 200, 2011 Regular Session, becomes law, then Sections 6 and 7 of this bill are deleted.

SECTION 17. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 736:
Amend Law Re: School Discipline

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 1, 2011
Introduced by:	Reps. Langdon, Luebke, Daughtry, Lucas	**Prepared by:**	Drupti Chauhan* Committee Counsel
Analysis of:	Third Edition		

SUMMARY: HB 736 revises the current law regarding student discipline by repealing existing statutes and codifying a new statutory process.

CURRENT LAW: Article 27 of Chapter 115C provides for student discipline.

G.S. 115C-390 permits, except as restricted or prohibited by local board of education (local board) rules, the use of reasonable force to restrain or correct pupils and maintain order.

G.S. 115C-391 provides for the following:

Policies for Student Conduct: Local boards must adopt policies governing student conduct and establish procedures to be followed if the conduct could result in suspension, expulsion, or corporal punishment. Policies should include reasonable dress codes. Codes must be made available to students and parents at the beginning of each school year.

Corporal punishment: Policies for corporal punishment must include certain conditions restricting where the punishment can occur, prior notice of conduct that could result in corporal punishment, who may administer the punishment, a witness requirement, and notice to parents. Corporal punishment may not be administered on a child with a disability if the child's parent has stated that in writing. Local boards must report annually on incidents of corporal punishment to the State Board of Education.

Use of Reasonable Force: Regardless of policies, school personnel may use reasonable force to control behavior or remove a person from the scene under certain circumstances such as threat of injury to another, to obtain possession of a weapon, self-defense, protection of persons or property, and to maintain order at school-related events.

Short-term Suspensions: Principals, or their designees, are authorized to suspend students for 10 days or less for violation of student conduct policies. Notice must be given to parents, and the student must be given the opportunity to take home school books, inquire about homework, and take exams missed during the suspension.

Long-term Suspensions: For long-term suspensions (suspensions of more than 10 days, but not exceeding the time remaining in the school year), the superintendent may grant a school principal the authority to long-term suspend a student who violates the code of conduct.

Due Process for Long Term Suspensions

- **Notice:** The local board of education must give written notice of the student's rights to the student's parent in a way that will provide actual notice (certified mail, telephone, fax, e-mail, etc.) The notice must be written in the parent's first language when possible. The notice must include a description of the incident, the rule violated, the process to request a hearing, the hearing process, the right to retain an attorney or, if permitted by local policy, an advocate, and the right to review the student's educational records.
- **Appeal:** A decision by a principal or superintendent regarding long-term suspensions may be appealed to the local board. A decision of the local board, either to suspend or expel a student, or a determination in an appeal to the local board from a principal or superintendent's decision regarding long-term suspensions, is a final decision which is subject to judicial review in superior court of the county where the local board made its decision.

Suspension for Specific Offenses: A student must be long-term suspended from school for certain offenses. Discretion for modification of the mandatory long-term suspensions is given to local boards. For some offenses, prior to suspension, the local board is required to consider placement of the student in alternative education settings if available and appropriate.

Offenses with mandatory 365 day suspensions:

- Bringing or possessing a weapon on school property or at a school-sponsored event.
- Communicating false reports of a bomb on school property or at school related events.

Offenses where student is removed to alternative setting, if possible, and otherwise receives mandatory suspension of 300-365 days:

- Physical assault leading to serious injury of a teacher or school personnel, if the student is at least 13.

Offenses where student is removed to alternative setting, if possible, and otherwise may be suspended for up to 365 days:

- Any of the following occurring on school property or at a school-sponsored event:
- Physical assault of a teacher or other adult
- Physical assault of another student if witnessed by school personnel, or
- Physical assault and serious injury of another student

Offenses where student may be suspended for up to 365 days:

- Communicating false threats regarding devices on educational property that would harm people.
- Displaying items on educational property with the intent to perpetrate a hoax regarding devices to harm people.
- Threatening to commit an act of terror on educational property likely to cause a significant disruption to the school day.
- Making a false report regarding an act of terror on educational property likely to cause a significant disruption to the school day.
- Conspiring to commit any of these acts.

Expulsions: Students 14 or older whose behavior indicates that the student's continued presence is a clear threat to the safety of other students or employees may be expelled by the local board based on clear and convincing evidence. Prior to expulsion, the local board must consider whether any alternative programs may provide educational services instead. Expelled students may request reconsideration after 6 months and be readmitted if the local board finds the student is no longer a threat. Students convicted of certain sex offenses who are otherwise forbidden from being on school property may be expelled, or may be allowed to remain on campus if under the supervision of school personnel at all times.

No Civil Liability: Officers or employees of the State Board or local boards shall not be civilly liable for using reasonable force in conformity with State law, State or local rules, or State and local polices related to student discipline. The plaintiff bears the burden to show that the amount of force was unreasonable.

BILL ANALYSIS: HB 736 would repeal G.S. 115-390 and G.S. 115C-391 and would add new sections to do the following:

G.S. 115C-390.1 - State Policy and Definition: Clarify the purpose of school discipline and defines terms for the Article on school discipline.

G.S. 115C-390.2 – Discipline policies: Require local boards to adopt a Code of Student Conduct of expected standards of behavior, conduct that would subject a student to discipline, and range of disciplinary measures. Policies should reflect the following:

- Permit suspension for conduct off of educational property only if the conduct would be expected to have a direct and immediate impact on school operation or safety.
- Prohibit long-term suspension and expulsion for truancy/tardiness, allow short-term suspension for those offenses of no more than 2 days.
- Prohibit mandatory long-term suspensions or expulsions for specific violations unless required by federal law.
- Minimize use of long-term suspensions and expulsions to serious violations that threaten safety or threaten to substantially disrupt the educational environment.
- Allow superintendents and principals to consider factors such as the student's intent, disciplinary and academic history, benefits of alternative to suspension, and other mitigating or aggravating factors when considering long-term suspension.

- Policies must be published and made available to parents and students.
- Local boards are encouraged to include behavior management programs in safe school plans, and school administrators are encouraged to use a range of responses that do not remove a student from the classroom or school building.

G.S. 115C-390.3 – Reasonable Force: School personnel may use reasonable force to control behavior or remove a person from the scene in order to correct students, quell disturbances threatening injury to others, obtain possession of a weapon from a student, for self-defense, to protect persons or property, and to maintain order on educational property, in the classroom, or at school-related activities. Current law limiting civil liability for school personnel is recodified in this section.

G.S. 115C-390.4 - Corporal Punishment: Local boards of education must determine if corporal punishment will be permitted. If permitted, the policy must include the following, recodifying much of the current law:

- The punishment must not be administered in a classroom with other students present.
- Only teachers, principals, and assistant principals may administer corporal punishment, and it must be witnessed by one of those individuals who has been informed of the reason for the punishment.
- Parents must be notified that corporal punishment has been administered, and a written explanation of the reasons provided to the parent.
- Records must be maintained of each administration and the reasons for that administration.
- Excessive force may not be used – force that results in medical attention beyond first aid.
- Corporal punishment may not be administered on a child with a disability whose parent has stated this in writing.

Reports on the number of times corporal punishment is administered must be made to the State Board of Education, including specific demographic and educational information.

G.S. 115C-390.5 – Short-Term Suspension: Principals may impose short-term suspensions (10 days or less) for violation of the student code. If a student's short-term suspension totals add to more than 10 days in a semester, the principal must apply procedures and mechanisms developed in the safe school plan for disruptive and disorderly students. Students must be provided with textbooks, missed assignments and materials, and the opportunity to take missed exams.

G.S. 115C-390.6 – Short-term Suspension Procedures:

- **Informal Hearing:** Prior to suspension, students must be given the opportunity for an informal hearing with the principal where the student is present, is informed of the charges and basis for accusation, and make statements in defense or mitigation. A suspension may be imposed prior to a hearing if the student's presence creates a direct and immediate threat to student or staff safety, or substantially disrupts or interferes with education or discipline of the school, but should be held as soon after as practicable.
- **Notice to Parents:** Notice must be given to parents, including the reason and description of the conduct for which the student was suspended. Notice must be given by the end of the workday if possible, but no later than 2 days after the suspension, and by a means reasonably designed to achieve actual notice. If English is the parent's second language, when foreign language resources are readily available the notice should be translated to the parent's first language.
- **No Appeal:** Short-term suspensions are not entitled to appeal to the superintendent, local board, or courts. Local boards of education may, in the board's discretion, provide the opportunity for review or appeal of a short-term suspension.

G.S. 115C-390.7 – Long-term suspension: A principal may recommend long-term suspension for violations of the student code to the superintendent. Only a superintendent may long-term suspend a student. Opportunity for a hearing must be provided before a long-term suspension. If the hearing is declined by the student, the superintendent must review the circumstances and either 1) impose the suspension, 2) impose another penalty, or 3) decline to impose a penalty.

- Students who are long-term suspended or assigned to alternative education for assault on a teacher may not be returned to the teacher's classroom without the teacher's consent.

- Disciplinary reassignment of a student to a full-time educational program that meets the standard course of study requirements and allows progress towards grade completion and graduation is not a long-term suspension and does not require the long-term suspension procedures.

G.S. 115C-390.8 – Long-term Suspension Procedures:

- **Notice Requirements:** Written notice must be given to the student's parents upon recommendation for long-term suspension by the end of the workday or as soon as practicable. The written notice must contain a description of the incident, the student code provisions violated, the process to request a hearing, the hearing process, the right to retain an attorney for the hearing, if permitted by local policy the right to have an advocate for the hearing, the right to review and obtain the student's educational records, and the local board policy on expungment of discipline records. The written notice must be provided by a method reasonably designed to achieve actual notice, with translation into the parent's primary language, if not English, when foreign language resources are readily available. All notices must also contain the following information translated into the dominant non-English language used within the local school administrative unit (LEA): nature of the document, process to request a hearing, and contact for a school employee the parent can call to obtain assistance in understanding the information.
- **Formal hearing:** No long-term suspension may be imposed without an opportunity for a formal hearing.
  - If not requested, the superintendent may proceed with the review and decision as to long-term suspension.
  - If a postponement is requested or hearing requested beyond the time set, the hearing must be scheduled, but the student may not return to school.
  - If the student and parent do not appear for the scheduled hearing, the hearing right is deemed waived.

  The hearing may be conducted by the local board, the superintendent, or a hearing officer or hearing panel appointed by the superintendent or local board. The hearing officer or panel must determine relevant facts and credibility of the witnesses, and following the hearing, the superintendent or local board must make the final decision regarding the suspension. The hearing officer or panel's factual determinations are adopted unless not supported by substantial evidence.
- **Due Process Rights of Students:** Board policy for long-term suspension hearings must include the following structural due process rights for students:
  - Right to be represented by an attorney, or in the local board's discretion, a non-attorney advocate.
  - Right to be present and accompanied by parents.
  - Right to review any audio/video of incident, and information supporting the suspension that may be presented, including witness statements. School officials are not compelled to release information that could allow the student to identify witnesses if that identification creates a safety risk for the witness.
  - Right to question witnesses.
  - Right to present evidence, including written statements or oral testimony.
  - Right to have a record made of hearing.
  - Right to make own audio recording of hearing.
  - Right to a written decision based on substantial evidence presented at the hearing that upholds, modifies, or rejects the principal's recommendations. The decision must include the basis for the decision, notice of what will be included in the student record, and the student's right to appeal and procedures for appeal.
- **Appeal** – If not made by the local board, the student may appeal the decision to the local board. The appeal must be heard and a final written decision issued within 30 calendar days. A local board decision to uphold a long-term suspension is subject to judicial review.

G.S. 115C-390.9 – Alternative education services: Long-term suspended students must be offered alternative education services unless the superintendent provides a significant or compelling reason for declining those services. This could include that the student exhibits violent behavior, poses a threat to students and staff, substantially disrupts the learning process, has otherwise engaged in serious misconduct that makes alternative

education not feasible, has failed to comply with reasonable conditions for admittance, or that the LEA lacks resources to provide educationally appropriate alternative education services.

Appeal: If the superintendent declines to provide services, the student may seek review by the local board. The superintendent must provide a written explanation of the denial and supporting documentation prior to the local board review.

G.S. 115C-390.10: 365-Day Suspension for Gun Possession: As required by the federal Gun Free Schools Act, students determined to have brought or been in possession of a firearm or destructive device on educational property or a school-sponsored event off educational property must be suspended for 365 calendar days.

- The superintendent may modify the required suspension in writing on a case-by-case basis.
- The 365-day suspension should not be imposed if the student took or received the weapon from another person, or found the weapon, delivered or reported the weapon as soon as practicable to the proper authority, and had no intent to use the weapon in a harmful or threatening way.
- The provision does not apply to firearms brought onto educational property for approved activities when appropriate safeguards have been adopted to protect student safety.
- A student suspended under this section must be notified of the right to petition for readmission, and the student is entitled to the hearing procedures for a long-term suspension. Students suspended under this section must be considered for alternative education services.

G.S. 115C-390.11 – Expulsion: Any student 14 or older whose continued presence constitutes a clear threat to student or staff safety may be expelled by the local board upon recommendation of the superintendent. Prior to expulsion, a hearing must be conducted, with the same notice as for a long-term suspension hearing. The long-term suspension hearing process applies, except that the decision to expel must be based on clear and convincing evidence. An expelled student must be provided notice of the right to petition for readmission.

- **Sex Offenders** – A student who is otherwise prohibited from being on school property by G.S. 14-208.18 (Sex offender unlawfully on premises) may be expelled. The local board must consider alternative education services that may be offered. If the local board determines the student should be provided educational services on school property, the student must be under the supervision of school personnel at all times.

G.S. 115C-390.12 – Requests for Readmission: Students suspended for 365 days or expelled may, after 180 calendar days, request readmission to the LEA in writing.

- **365-Day Suspension:** The process for 365-day suspended students must include the opportunity for an in-person meeting with the superintendent or local board, and the student must be readmitted if the student demonstrates that the student's presence is no longer a threat. A superintendent's decision to not readmit may be appealed to the local board. There is no right to judicial review of the board's decision. A readmission decision must be issued within 30 days of the petition.
- **Expelled Students:** The local board must consider an expelled student's petition for readmission, and shall allow the parties to be heard in the same manner as an appeal to the board. The student must be readmitted if the student demonstrates that the student's presence is no longer a threat. The decision to deny readmission is not subject to judicial review. Requests for readmission may be made not more often than once every 6 months. A readmission decision must be issued within 30 days of the petition.

Reasonable conditions may be placed on a readmitted student, and the student may be assigned to any program within the school system. A readmitted student who assaulted or injured a teacher may not be returned to the teacher's classroom without the teacher's consent.

Sections 3-15 make conforming changes to the statutes.

EFFECTIVE DATE: HB 736 would become effective when it becomes law and apply beginning with the 2011-2012 school year.

H736-SMRQ-32(e3) v3

**Kara McCraw, Committee Counsel, substantially contributed to this summary.*

HOUSE BILL 758

Short Title:	Establish Arts Education Commission.	(Public)
Sponsors:	Representatives Carney, Glazier, Adams, and Johnson (Primary Sponsors). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Education.	

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE ARTS EDUCATION COMMISSION.

Whereas, arts education teaches 21st Century skills necessary for a prepared and competitive workforce; and

Whereas, the General Assembly has established the Joint Select Study Commission on Arts Education for Grades K-12 in the Public Schools of North Carolina that recommended legislation for a high school graduation requirement in the arts; and

Whereas, the General Assembly passed Senate Bill 66, "An Act to Create a Comprehensive Arts Education Plan"; and

Whereas, the Comprehensive Arts Education Task Force recommendations include a high school graduation requirement in the arts, implementation of the arts components of the Basic Education Plan, and expansion of the A+ Schools program in North Carolina; and

Whereas, these previous committee reports submitted over time increasingly indicate a developing consensus as to the need for statewide policies in arts education; and

Whereas, despite the developing consensus reflected in the previous committees, no change to the State's education policies related to arts education has yet occurred; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Establishment. – The Arts Education Commission is established in the General Assembly.

SECTION 2. Membership. – The Commission shall be composed of 14 members, as follows:

(1) Four members appointed by the Governor.

(2) Six members appointed by the Speaker of the House of Representatives to include three Representatives and three citizens at-large.

(3) Four members appointed by the President Pro Tempore of the Senate to include two Senators and two citizens at-large.

The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their appointees. The Commission shall meet upon the call of the cochairs. Vacancies shall be filled by the appointing authority. Public members shall be residents of the State. A quorum of the Commission shall be a majority of the 14 members

SECTION 3. Duties. – The Commission shall do the following:

(1) Review, prioritize, and recommend implementation strategies for the recommendations of the Comprehensive Arts Education Plan for K-12.
(2) Recommend the content and process to establish an arts education "report card" which shall be presented yearly by the Department of Public Instruction to the Joint Legislative Education Oversight Committee.
(3) Recommend ways to assess and promote opportunities for students to learn the skills of creativity and innovation in public schools.
(4) Work with the Department of Public Instruction in the creation of arts education assessment models based on the existing NAEP Arts Assessments and Field Tests that are complete in both music and visual art and currently under development in theatre arts and dance to measure student achievement in arts education. With the approval of the State Board of Education, this analysis and assessment of student performance will be included in the North Carolina Educator Evaluation System for Arts Education Teachers as well as serve as a model for evaluating the effective practice of arts integration by classroom teachers in other content areas.
(5) Recommend the establishment of arts education accountability incentives for schools under the accountability component of the Accountability and Curriculum Reform Effort (ACRE) for the following:
a. Providing arts education taught by certified arts educators and implementing arts integration strategies taught by classroom teachers from other content areas.
b. Completing concentrations, with appropriate scope and sequence of curriculum, in an arts education discipline.
(6) Study and recommend a permanent financing strategy to provide for comprehensive arts education in grades K-12.

SECTION 4. Compensation; Administration. – Members of the Commission shall receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. With the prior approval of the Legislative Services Commission, the Commission may hold its meetings in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request that all officers, agents, agencies, and departments of the State provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them. The Commission may meet during a regular or extra session of the General Assembly.

SECTION 5. Report. – The Commission shall report its findings and recommendations to the 2012 Regular Session of the 2011 General Assembly no later than May 1, 2012. The Commission shall terminate upon the filing of its final report.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 2

HOUSE BILL 758
Senate Education/Higher Education Committee Substitute Adopted 6/7/11

Short Title: Establish Arts Education Commission. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE ARTS EDUCATION COMMISSION.

Whereas, arts education teaches 21st Century skills necessary for a prepared and competitive workforce; and

Whereas, the General Assembly has established the Joint Select Study Commission on Arts Education for Grades K-12 in the Public Schools of North Carolina, which recommended legislation for a high school graduation requirement in the arts; and

Whereas, the General Assembly passed Senate Bill 66, "An Act to Create a Comprehensive Arts Education Plan"; and

Whereas, the Comprehensive Arts Education Task Force recommendations include a high school graduation requirement in the arts, implementation of the arts components of the Basic Education Plan, and expansion of the A+ Schools program in North Carolina; and

Whereas, these previous committee reports submitted over time increasingly indicate a developing consensus as to the need for statewide policies in arts education; and

Whereas, despite the developing consensus reflected in the previous committees, no change to the State's education policies related to arts education has yet occurred; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Establishment. – The Arts Education Commission is established in the General Assembly.

SECTION 2. Membership. – The Commission shall be composed of 12 members, as follows:

(1) Four members appointed by the Governor.

(2) Four members appointed by the Speaker of the House of Representatives to include two Representatives and two citizens at large.

(3) Four members appointed by the President Pro Tempore of the Senate to include two Senators and two citizens at large.

The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their appointees. The Commission shall meet upon the call of the cochairs. Vacancies shall be filled by the appointing authority. Public members shall be residents of the State. A quorum of the Commission shall be a majority of the 12 members.

SECTION 3. Duties. – The Commission shall do the following:

(1) Review, prioritize, and recommend implementation strategies for the recommendations of the Comprehensive Arts Education Plan for K-12.

(2) Recommend the content and process to establish an arts education "report card" which shall be presented yearly by the Department of Public Instruction to the Joint Legislative Education Oversight Committee.

(3) Recommend ways to assess and promote opportunities for students to learn the skills of creativity and innovation in public schools.

(4) Work with the Department of Public Instruction in the creation of arts education assessment models based on the existing NAEP Arts Assessments and Field Tests that are complete in both music and visual art and currently under development in theatre arts and dance to measure student achievement in arts education. With the approval of the State Board of Education, this analysis and assessment of student performance will be included in the North Carolina Educator Evaluation System for Arts Education Teachers, as well as serve as a model for evaluating the effective practice of arts integration by classroom teachers in other content areas.

(5) Recommend the establishment of arts education accountability incentives for schools under the accountability component of the Accountability and Curriculum Reform Effort (ACRE) for the following:

a. Providing arts education taught by certified arts educators and implementing arts integration strategies taught by classroom teachers from other content areas.

b. Completing concentrations, with appropriate scope and sequence of curriculum, in an arts education discipline.

(6) Study and recommend a permanent financing strategy to provide for comprehensive arts education in grades K-12.

SECTION 4. Compensation; Administration. – Members of the Commission shall receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. With the prior approval of the Legislative Services Commission, the Commission may hold its meetings in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request that all officers, agents, agencies, and departments of the State provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them. The Commission may meet during a regular or extra session of the General Assembly.

SECTION 5. Report. – The Commission shall report its findings and recommendations to the 2012 Regular Session of the 2011 General Assembly no later than May 1, 2012. The Commission shall terminate upon the filing of its final report.

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

HOUSE BILL 758:
Establish Arts Education Commission

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 6, 2011
Introduced by:	Reps. Carney, Glazier, Adams, Johnson	**Prepared by:**	Patsy Pierce*
Analysis of:	First Edition		Legislative Analyst

SUMMARY: House Bill 758 would create the Arts Education Commission in the General Assembly.

BILL ANALYSIS: House Bill 758 would create the Arts Education Commission (Commission) in the General Assembly. The Commission would consist of 14 members: 4 appointed by the Governor; 6 members appointed by the Speaker of the House of Representatives, including 3 Representatives and 3 citizens at-large; and 4 appointed by the President Pro Tempore of the Senate, including 2 Senators and 2 citizens at-large.

The Commission would do the following:

- Review, prioritize, and recommend implementation strategies for the recommendations of the Comprehensive Arts Education Plan for K-12.
- Recommend the content and process for establishing an annual arts education "report card" to the Joint Legislative Education Oversight Committee.
- Recommend ways to assess and promote opportunities for students to learn creativity and innovation.
- Work with the Department of Public Instruction to create assessment models for arts education to measure student achievement in arts education. This analysis and assessment of student performance would be included in the North Carolina Educator Evaluation System for Arts Education Teachers and serve as a model for evaluating the effective practice of arts integration by classroom teachers in other content areas.
- Recommend the establishment of arts education accountability incentives for schools for the following:
    - Providing that arts education be taught by certified arts educators and implementing arts integration strategies taught by classroom teachers from other content areas; and
    - Completing concentrations in an arts education discipline.
- Recommend a permanent financing strategy to provide for comprehensive arts education in grades K-12.

The Commission would be able to meet during the regular or extra session of the General Assembly. The Commission would be required to report its findings and recommendations to the 2012 Session of the 2011 General Assembly by May 1, 2012 and would terminate upon the filing of its final report.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: In 2008, the Joint Select Committee on Arts Education was appointed by the House and Senate with 16 members. It was charged to study the status of arts education in the State and the impact of requiring one credit in arts education for graduation. In the Committee's final report to the General Assembly, it recommended that the State Board of Education modify high school graduation requirements to include one required credit of arts education.

In 2010, the General Assembly enacted S.L. 2010-34 (Senate Bill 66) which directed the State Board of Education to appoint a task force to create a Comprehensive Arts Education Plan to consider policies to implement arts education in the public schools including an arts requirement in grades K-5; the availability of 4 arts disciplines in grades 6-8 with students required to take one arts discipline in each school year; and the availability of arts electives in high school. It also was to consider arts education as a high school graduation requirement and the A + Schools Program. The final recommendations of Comprehensive Arts Education Plan were submitted to the Joint Legislative Education Oversight Committee and included the following:

- Implement K-12 Arts Education by:
    - Requiring arts education in grades K-5
    - Making all four arts (dance, music, theatre, and visual arts) available in grades 6-8 with students required to take one each year
    - Making arts available as electives at the high school level
- Establish the Basic Education Program by:
    - Designating additional, categorical funding allotments for arts education positions at all grade spans
    - Establishing procedures and timeline for phased-in implementation
    - Establishing equitable staffing allocations to address small and low-wealth school systems
- Ensure licensed arts educators deliver all arts education classes
- Require each local education agency (LEA) to designate an arts education coordinator
- Use arts teachers as consultants within schools and across LEAs
- Establish arts education accountability incentives for schools under the accountability component of the Accountability and Curriculum Reform Effort (ACRE)
- Establish a high school graduation requirements in the arts beginning with the 2013-2014 school year with:
    - Designating additional, categorical funding allotments for arts education positions at the high school level
    - Establishing procedures and timeline for phased-in implementation
    - Establishing equitable staffing allocations to address small and low-wealth school systems
- Require an arts unit for admission to a UNC campus
- Restore arts education requirement to the NC Scholars Program
- Expand A + Schools Program as a model for whole school reform with arts instruction central to student learning and integrated throughout the curriculum
- Use A + teachers as consultants within schools and across LEAs
- Prioritize arts integration as a primary component of education reform
- Require arts integration as a component of teacher and administrator preparation and licensure
- Use the NC Educator Evaluation System to assess teachers' use of arts integration
- Use arts teachers as consultants for arts integration within schools and across LEAs
- Use State and local arts organizations, education programs, highly qualified teaching artists, and other resources to increase exposure to the arts for teachers and students within and outside the classroom
- Strengthen ties between schools, parent and school organizations, and community arts programs

*Drupti Chauhan, Committee Counsel, significantly contributed to this summary.

H758-SMTL-39(e1) v2

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Monday, June 6, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bo Heath	McGuire Woods
Allison Waller	Nelson Mullins
John McNair	Policy Group
Leanne Winner	NCSBA
Martez Hill	NCSBE
Ann McColl	SBE
Tom Mundell	NCICU
Gene Causby	NCSCA
Jaclyn Peters	FPASSOC
L Pendergrass	CSS

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Monday, June 6, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Meehan	CapStrat
Elizabeth Ryan	NEA-NH
Amy Ellen	NHPR
Emily Hawthorne	OHGR

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Monday, June 6, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	NCNA NCPA
Rita Nitta	American Heart Assn
Nathan Acosta	NCAAHPERD
Judy Martino	NCAAHPERD
Lydia F. Daniel	Citizen
Sherri Reid	IOG
Chris Agnew	DOA
Christopher Hill	NC Justice Center
	Broader Bridge
	Intern-Rep. Insko
	NCTCC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Monday, June 6, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kara Wells	Arts NC
Angela Carlisle	DCR
Melanie Soles	DCR

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, June 8, 2011 at 10:00 AM
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on June 8, 2011, in Room 544 of the Legislative Office Building. Sixteen members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and introduced the sergeants-at-arms and the pages.

Senator Stevens was then recognized to explain Senate Bill 243. He explained that the bill would extend the sunset on the public-private school partnership four years.

Senator Dannelly was recognized and moved for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report.

Chairman Tillman then announced that House Bill 72, Community College Investment Flexibility and House Bill 855, Personal Learning Plan for Each Child would not be considered.

Senator Soucek was recognized to move for adoption of the Proposed Committee Substitute to Senate Bill 415.

Senator Purcell was then called on to explain the bill. He explained that the bill would provide free breakfasts for children who qualify. He added that by eliminating the reduced-price lunch, more federal money could be acquired to allow for additional free breakfasts.

Chairman Tillman offered an amendment and asked Drupti Chauhan, Research Division to explain it.

Ms. Chauhan explained the amendment by stating that the amendment would add two sections requiring the State Board of Education to report on an overview of the federally supported meal programs.

Senator Dannelly was recognized and asked to have a representative from the Department of Public Instruction to speak to the amendment and their ability to deal with it.

Ben Matthews of DPI answered Senator Dannelly by suggesting that it would not create additional work for DPI.

Senator Newton was recognized and asked about the penalty for fraud coming from people who fill out the forms for reduced price meals in schools.

Mr. Matthews responded by saying that he did not recall any indictments during his tenure.

Chairman Tillman additionally responded by suggesting such types of offenders would be turned over to the Attorney General's Office but that they were relatively few in number.

Senator Garrou was recognized and moved to adopt the amendment.

Chairman Tillman called for a vote and the committee adopted the amendment.

Senator Robinson was recognized and moved for a favorable report.

Chairman Tillman called for a vote on the motion and the committee adopted a favorable report on the bill as amended rolled into a proposed committee substitute with a favorable report to the proposed committee substitute and an unfavorable report to the original bill.

Chairman Tillman then recognized Representative Holloway to explain House Bill 823.

Representative Holloway explained that House Bill 823 would amend the North Carolina Constitution to allow the House and Senate to appoint members to the State Board of Education. Additionally, it would allow the Superintendent of Public Instruction to be a voting member of the State Board of Education.

Senator Brock was recognized and moved for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report. Chairman Tillman noted that he would handle the bill on the Senate Floor but also noted that it would likely be a part of a later session dealing with constitutional amendments.

Senator Stevens was recognized and moved that the committee adopt the proposed committee substitute to Senate Bill 166.

Senator Hartsell was then recognized to explain the bill. He mentioned that he had brought this bill forward three times previously and that bill would work toward aligning education with workforce development.

Senator Pate was recognized and asked Senator Hartsell about the private colleges and universities and their potential involvement.

Senator Brock was recognized thanked Senator Hartsell for the bill and moved for a favorable report.

Senator Purcell was recognized and asked about the funding for this program as it relates to the budget.

Senator Hartsell replied that he was not aware of any new money and mentioned that he thought there were better ways to spend the money already being spent.

Senator Purcell followed up by communicating his surprise that there would be appropriations bills being passed after the budget.

Chairman Tillman responded by saying that the bill would either be sent to Appropriations, where it would not be funded, or the committee could adopt an amendment to remove the appropriations section. He said that one of those outcomes would be required.

Senator Garrou was recognized and suggested that the appropriation should be removed.

Senator Hartsell answered by saying that he would be in favor of such an amendment.

Senator Stevens was recognized and offered an amendment. He explained that the amendment would remove the appropriations section.

Senator Garrou moved for adoption of the amendment.

Chairman Tillman called for a vote and the committee adopted the amendment.

Chairman Tillman then called for a vote on Senator Brock's motion and the committee adopted a favorable report to the proposed committee substitute as amended rolled into a new proposed committee substitute with a favorable recommendation to the proposed committee substitute and an unfavorable recommendation to the original bill.

Chairman Tillman stated that the sequential referral to the Appropriations Committee would be removed and the bill would proceed to the floor.

The meeting adjourned at 10:50 AM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, June 8, 2011, 10:00 AM
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 166	No Adult Left Behind.	Senator Hartsell
SB 243	Public-Private Partnership for Schools.	Senator Stevens
SB 415	Eliminate Cost of Reduced Price School Meals.	Senator Purcell
HB 72	Community College Investment Flexibility.	Representative Crawford, Jr.
HB 823	Governance of the Dep't of Public Instruction.	Representative Holloway Representative Brubaker Representative Blackwell Representative Hilton
HB 855	Personal Learning Plan for Each Child.	Representative Brandon, Jr.

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Wednesday, June 08, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **243** Public-Private Partnership for Schools.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **823** Governance of the Dep't of Public Instruction.
Sequential Referral: None
Recommended Referral: Rules and Operations of the Senate

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **166** No Adult Left Behind.
Draft Number: 75179
Sequential Referral: No
Recommended Referral: None
Long Title Amended: No

S.B. **415** Eliminate Cost of Reduced Price School Meals.
Draft Number: 85218
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 4

Committee Clerk Comments:

SB 166 Does not have a sequential referral to appropriations
HB 823 Senator Tillman

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 243

Short Title:	Public-Private Partnership for Schools.	(Public)
Sponsors:	Senators Stevens; Apodaca, Bingham, Blake, Brunstetter, Daniel, Davis, Forrester, Harrington, Hartsell, Hunt, Newton, Rabon, Tillman, and Tucker.	
Referred to:	Education/Higher Education.	

March 8, 2011

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE LAW ALLOWING CAPITAL LEASE FINANCING FOR PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2006-232 reads as rewritten:

"**SECTION 3.** This act is effective when it becomes law and is repealed effective ~~July 1, 2011.~~July 1, 2015."

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

SENATE BILL 243:
Public-Private Partnership for Schools

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 7, 2011
Introduced by:	Sen. Stevens	**Prepared by:**	Drupti Chauhan
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 243 would extend the sunset for lease financing for public schools to July 1, 2015.

CURRENT LAW: In 2006, the General Assembly enacted S.L. 2006-232, as amended by S.L. 2006-259, to allow local school administrative units to enter into capital leases for school facilities and allows for those leases to contain an agreement relating to construction, repairs, or renovations. When the building is the subject of a capital lease, the local board is not required to own the property and the lease may provide that the lessor is responsible for repairs and renovations. All capital leases are subject to the following limitations:

- The lease cannot contain a clause that restricts the right of the local board to continue to provide a service or activity or to replace or provide a substitute for any property financed or purchased by a capital lease.
- Each capital lease is required to contain a clause specifying that it does not constitute a pledge of the taxing power or full faith and credit of the local board of education or board of county commissioners. This provision clarifies that a capital lease is not a general obligation of the local unit. Further, the act provides that no deficiency judgment can be rendered against a local board of education or other local government unit under the lease.
- A capital lease is considered a continuing capital outlay and is subject to the provisions of G.S. 115C-441(c1) which generally allows a local board of education to enter into a contract for continuing capital outlay provided that the budget resolution includes an appropriation for the current fiscal year, an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums authorized under the contract, and the contracts are approved by the board of county commissioners in a resolution that binds the board to appropriate sufficient sums in later fiscal years. For capital leases, however, the resolution by the board of county commissioners requires only that the board make appropriations in later years in the board's discretion.
- A capital lease is subject to approval by the Local Government Commission (LGC) to the extent that the lease satisfies one or more of the conditions relating to financing agreements requiring approval by the LGC. These conditions are:
    - The agreement extends for at least five years.
    - The agreement obligates the unit to pay sums of money to another, regardless of whether the other is a payee, or the agreement obligates the unit to payments of over $500,000.
- A capital lease cannot contain any agreement with respect to student assignment.
- The property subject to a capital lease is subject to all laws relating to liens on private property.

The 2006 act also provided for 'build-to-suit capital lease.' A build to suit capital lease is defined as a lease that provides for construction or renovation, the cost of which is estimated to exceed $300,000. The following provisions apply to build-to-suit capital leases.

- Before entering into a build to suit capital lease, the local board of education is required to adopt a resolution approving the lease. The board is required to provide at least 10 days' notice of the meeting at which the board plans to adopt the resolution approving the lease. The notice is required to include a brief description of the lease and the name of the other party to the lease. The resolution adopted by the board must include a finding that the capital lease is in the best interests of the unit and that the private developer (the lessor) is qualified to provide the products and services called for under the lease.
- All architectural, engineering, and survey services must be procured in accordance with the provisions of Article 3D of Chapter 143 of the General Statutes. Article 3D provides requirements to ensure that public entities procure qualified professionals when contracting for architectural, engineering, or surveying services.
- Private developers are required to seek competition and minority business participation in connection with the construction work. The private developer is required to conduct a competitive bidding process which could include prequalification of subcontractors. The private developer is required to comply with general law regarding minority business participation in public projects, and is required to adopt the minority business participation goals of the local board of education. The local board of education is required to approve of the private developer's plan for compliance with minority business participation prior to the private developer seeking bids.
- The board of education may require the private developer to provide performance or payment bonds in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. That Article provides for model provisions for performance bonds related to public construction contracts.
- A local board of education may enter into a predevelopment agreement with a private developer. Predevelopment agreements are required to be approved by the board of county commissioners and may involve such areas as site selection or building design.
- A local government unit is authorized to sell, lease, or otherwise transfer real property to a private developer for construction, repair, or renovation of a school facility under a capital lease without following general procedures related to the disposition of property.
- Each capital lease requires that the private developer provide an irrevocable letter of credit of not less than 5% of the total costs of the improvements for the benefit of laborers and materialmen.

BILL ANALYSIS: Senate Bill 243 would extend the sunset for lease financing for the public schools until July 1, 2015.

EFFECTIVE DATE: The bill would be effective when it becomes law and be repealed effective July 1, 2015.

S243-SMRQ-44(e1) v1

HOUSE BILL 823
Committee Substitute Favorable 5/24/11
Third Edition Engrossed 5/26/11

Short Title: Governance of the Dep't of Public Instruction. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION A MEMBER OF THE STATE BOARD OF EDUCATION, TO REQUIRE THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE ALL STATE-LEVEL APPOINTMENTS NECESSARY FOR SUPERVISION AND ADMINISTRATION OF THE FREE PUBLIC SCHOOLS, TO MODIFY THE MEMBERSHIP OF THE STATE BOARD OF EDUCATION TO INCLUDE AN ADDITIONAL AT-LARGE MEMBER, TO REQUIRE THE GENERAL ASSEMBLY TO ELECT ALL AT-LARGE MEMBERS, TO REQUIRE THE GOVERNOR TO APPOINT THE CHAIR OF THE STATE BOARD OF EDUCATION, TO ELIMINATE THE REQUIREMENT THAT APPOINTMENTS BY THE GOVERNOR TO THE STATE BOARD OF EDUCATION ARE SUBJECT TO CONFIRMATION BY THE GENERAL ASSEMBLY, AND TO CREATE A SIX-YEAR TERM OF OFFICE FOR STATE BOARD OF EDUCATION MEMBERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Article IX of the North Carolina Constitution reads as rewritten:

"**Sec. 4. State Board of Education.**

(1) Board. The State Board of Education shall consist of the Superintendent of Public Instruction, the Lieutenant Governor, the Treasurer, ~~and eleven~~ eight members appointed by the Governor, ~~subject to confirmation by the General Assembly in joint session.~~ and four members elected by the General Assembly.

The General Assembly shall divide the State into eight educational districts. Of the ~~appointive~~ members of the ~~Board,~~Board appointed by the Governor, one shall be appointed from each of the eight educational ~~districts and three shall be appointed from the State at large.~~districts.

Of the members of the Board elected by the General Assembly in 2013, one member shall be elected by the House of Representatives and one member shall be elected by the Senate. In 2017 and every six years thereafter, one member shall be elected by the House of Representatives. In 2019 and every six years thereafter, one member shall be elected by the House of Representatives and two members shall be elected by the Senate.

The chair of the Board shall be appointed by the Governor. ~~Appointments shall be for overlapping terms of eight years.~~ Beginning in 2013, members of the Board appointed by the Governor and members of the Board elected by the General Assembly shall serve overlapping terms of six years. ~~Appointments to fill vacancies shall be made by the Governor for the~~

~~unexpired terms and~~ Vacancies shall be filled by the appointing or electing authority for the unexpired term. ~~shall not be subject to confirmation.~~

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of ~~Education.~~Education, and shall make all appointments of administrative and supervisory personnel at the State level necessary for administration and supervision of the free public school system."

SECTION 2. The amendments set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide election to be conducted on May 8, 2012, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments to make the Superintendent of Public Instruction a member of the State Board of Education, to require the Governor appoint the chair of the State Board of Education, to eliminate the requirement that the General Assembly confirm appointments to the State Board of Education by the Governor, to require the Superintendent of Public Instruction to appoint all State-level personnel necessary for administration and supervision of public schools, to add a fourth at-large appointment to the State Board of Education and to require the General Assembly to elect all at-large members of the State Board when current at-large appointments expire, and, beginning in 2013, to reduce the term of office for members appointed and members elected to the State Board to six years."

SECTION 3. If a majority of votes cast on the question are in favor of the amendments set out in Section 1 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The Secretary of State shall enroll the amendments so certified among the permanent records of that office. The amendments set out in Section 1 of this act become effective January 1, 2013.

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

HOUSE BILL 823:
Governance of the Dep't of Public Instruction

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 8, 2011
Introduced by:	Reps. Holloway, Hilton, Brubaker, Blackwell	**Prepared by:**	Kara McCraw
Analysis of:	Third Edition		Committee Counsel

SUMMARY: The 3rd Edition of HB 823 would propose a constitutional amendment for the May 2012 ballot to:

- ***Make the Superintendent of Public Instruction (Superintendent) a member of the State Board of Education (State Board).***
- ***Require the Superintendent to make state-level appointments necessary for supervision and administration of the public school system.***
- ***Increase the number of at-large appointed members on the State Board from three to four.***
- ***Require the General Assembly to elect the at-large members of the State Board. The House and Senate would each elect two members.***
- ***Require the Governor to appoint the chair of the State Board of Education.***
- ***Remove the requirement that the General Assembly confirm the Governor's appointments to the State Board of Education.***
- ***Make the term of office of appointed State Board members six years.***

CURRENT LAW:

NC Constitution

Superintendent: Article III, Sec. 7 creates the Superintendent of Public Instruction (Superintendent) as a statewide elected office with a term of 4 years. The section states that the Superintendent's duties shall be prescribed by law. In Article IX, Sec. 4(2), the Constitution designates the Superintendent as the secretary and chief executive officer of the State Board of Education (State Board).

State Board of Education: Article IX, Section 4 establishes the State Board of Education, which consists of the Lt. Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation of the General Assembly in joint session. Eight education districts must be created by the General Assembly, and the Governor must appoint 1 member from each of the 8 education districts and 3 members at large. Members are appointed for overlapping terms of 8 years. The Governor may fill vacancies for the remainder of the unexpired term without confirmation by the General Assembly.

Article IX, Sec. 5 states that the State Board shall supervise and administer the free public school system and educational funds provided for its support (except for funds from fines and forfeitures), and make all needed rules and regulations, subject to laws enacted by the General Assembly.

General Statutes:

Superintendent: Article 3 of Chapter 115C provides for the election of the Superintendent and designates the Superintendent as the chief administrative officer of the State Board. The Superintendent has the duty to manage on a day-to-day basis the administration of the free public school system, subject to the direction, control, and approval of the State Board. The statutes provide a number of administrative duties for the Superintendent, subject to the direction of the State Board, such as

organizing the Department of Public Instruction, keeping the public informed about public schools, recommending changes needed in school law, administering policies established by the State Board, and communicating and collecting information between the State Board and public schools.

State Board: Article 2 of Chapter 115C provides for appointment of the State Board, its organization and procedures, and general powers and duties. G.S. 115C-11 requires the State Board of Education to elect from its membership a chair and vice-chair. The general supervision and administration of public schools is vested in the State Board, who must establish policy subject to laws enacted by the General Assembly. G.S. 115C-12 provides a number of powers and duties of the State Board, such as apportionment of State and federal funds for public schools, regulating grade and salary for school employees, adoption of textbooks, issuing school report cards, school building improvement reports, administering the school-based management and accountability program, development of content and exit standards, purchase of liability insurance, rules for school transportation systems, standards for alternative learning programs, and others, including a number of reporting and data collection requirements.

BILL ANALYSIS: HB 823 would place an amendment to Article IX, Section 4 of the Constitution before voters at the May 2012 election to do the following:

- Make the Superintendent a member of the State Board.
- Add an additional at-large member to the State Board, and require the General Assembly to elect all four at-large members. The House of Representatives would elect 2 members and the Senate would elect 2 members. Appointments would be staggered, allowing current Board members to complete terms. In 2013, and every 6 years thereafter, the House and Senate would elect an at-large member. In 2017, and every 6 years thereafter, the House would elect an at-large member to the Board. In 2019, and every 6 thereafter, the Senate would elect 2 at-large members and the House would elect 1 at-large member.
- Removes the requirement that the General Assembly confirm the appointments of the Governor to the State Board of Education.
- Require the Governor to appoint the chair of the State Board of Education
- Make the term of office for appointed or elected State Board members six years, beginning with appointments made in 2013.
- Require the Superintendent to make all appointments of state-level personnel necessary for administration and supervision of the free public school system.

EFFECTIVE DATE: HB 823 would become effective when it becomes law. If a majority of voters cast ballots in favor of the amendment, the Constitutional amendments would become effective January 1, 2013.

H823-SMTC-39(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 166

Short Title:	No Adult Left Behind.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	Education/Higher Education.	

March 2, 2011

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE "NO ADULT LEFT BEHIND" INITIATIVE TO EXPAND ECONOMIC OPPORTUNITIES FOR WORKING ADULTS AND ACHIEVE STATEWIDE WORKFORCE DEVELOPMENT GOALS AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that:

(1) No initiative could be undertaken by higher education that offers greater potential for a positive impact on workforce and economic development than the continued education of the adult citizens of this State.

(2) The State's Commission on Workforce Development is instrumental in the economy of the State, and its collaboration with the State's institutions of higher education could greatly benefit adults in need of additional educational opportunities and job training.

(3) There are community-based nonprofit organizations around the State that successfully increase access and foster success for working adults and other nontraditional students. These resources, when coordinated on a statewide level, could greatly benefit working adults and their families to achieve their economic goals.

SECTION 2. The Commission on Workforce Development, acting as the lead agency, with the cooperation of other participating agencies, including the Department of Labor, the Department of Commerce, the Employment Security Commission, the North Carolina Community College System, and The University of North Carolina shall initiate the "No Adult Left Behind" Initiative ("Initiative") geared toward achievement of major statewide workforce development goals. The Initiative may also include community-based nonprofit organizations that provide services or assistance in the areas of worker training, workforce development, and transitioning North Carolinians between industries in the current global labor market.

SECTION 3.(a) The first goal of the Initiative is to increase dramatically to forty percent (40%) the percentage of North Carolinians who earn associate degrees, other two-year educational credentials, and baccalaureate degrees. Specific fields of study may be selected for the most intense efforts. The Commission on Workforce Development shall, as the lead agency along with the North Carolina Community College System and The University of North Carolina as key cooperating institutions, do all of the following:

(1) Collaborate to provide model evening-weekend certificate and degree programs designed specifically for working adults and other nontraditional students.

(2) Work together to promote systemic changes designed to increase access and foster success among adult workers and other nontraditional students.

(3) Make it a priority to provide model evening-weekend certificate and degree programs in high-demand disciplines, occupations, and fields closely linked to economic development or that are the focus of public initiatives.

SECTION 3.(b) The Commission on Workforce Development and the other lead participating institutions may enter into contracts with other qualified organizations, especially community-based nonprofits, to carry out components of the Initiative set forth in subsection (a) of this section.

SECTION 3.(c) The Workforce Development Commission shall submit to the Governor and to the General Assembly by May 1, 2011, and annually thereafter, details of its implementation of this act that shall include at least the following:

(1) Goals, objectives, and accomplishments for the year toward implementation of this act.

(2) An assessment of current adult educational programs to expand economic opportunities for adult workers as outlined by this act.

(3) Recommendations for policy, program, or funding changes to effectuate the workforce development, adult education, and economic development goals set forth in this act.

SECTION 4. There is appropriated from the General Fund to the Commission on Workforce Development the sum of five million dollars ($5,000,000) for the 2011-2012 fiscal year and the sum of five million dollars ($5,000,000) for the 2012-2013 fiscal year to implement the "No Adult Left Behind" Initiative as established by this act.

SECTION 5. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 166
PROPOSED COMMITTEE SUBSTITUTE S166-CSTL-1 [v.2]

3/7/2011 2:02:08 PM

Short Title: No Adult Left Behind. (Public)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE "NO ADULT LEFT BEHIND" INITIATIVE TO EXPAND ECONOMIC OPPORTUNITIES FOR WORKING ADULTS AND ACHIEVE STATEWIDE WORKFORCE DEVELOPMENT GOALS AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that:

(1) No initiative could be undertaken by higher education that offers greater potential for a positive impact on workforce and economic development than the continued education of the adult citizens of this State.

(2) The State's Commission on Workforce Development is instrumental in the economy of the State, and its collaboration with the State's institutions of higher education could greatly benefit adults in need of additional educational opportunities and job training.

(3) There are community-based nonprofit organizations around the State that successfully increase access and foster success for working adults and other nontraditional students. These resources, when coordinated on a statewide level, could greatly benefit working adults and their families to achieve their economic goals.

SECTION 2. The Commission on Workforce Development, acting as the lead agency, with the cooperation of other participating agencies, including the Department of Labor, the Department of Commerce, the Employment Security Commission, the North Carolina Community College System, and The University of North Carolina shall initiate the "No Adult Left Behind" Initiative ("Initiative") geared toward achievement of major statewide workforce development goals. The Initiative may also include community-based nonprofit organizations that provide services or assistance in the areas of worker training, workforce development, and transitioning North Carolinians between industries in the current global labor market.

SECTION 3.(a) The first goal of the Initiative is to increase dramatically to forty percent (40%) the percentage of North Carolinians who earn associate degrees, other two-year educational credentials, and baccalaureate degrees. Specific fields of study may be selected for the most intense efforts. The Commission on Workforce Development shall, as the lead agency along with the North Carolina Community College System and The University of North Carolina as key cooperating institutions, do all of the following:

(1) Collaborate to provide model evening-weekend certificate and degree programs designed specifically for working adults and other nontraditional students.

(2) Work together to promote systemic changes designed to increase access and foster success among adult workers and other nontraditional students.

(3) Make it a priority to provide model evening-weekend certificate and degree programs in high-demand disciplines, occupations, and fields closely linked to economic development or that are the focus of public initiatives.

SECTION 3.(b) The Commission on Workforce Development and the other lead participating institutions may enter into contracts with other qualified organizations, especially community-based nonprofits, to carry out components of the Initiative set forth in subsection (a) of this section.

SECTION 3.(c) The Commission on Workforce Development shall submit to the Governor and to the General Assembly by May 1, 2012, and annually thereafter, details of its implementation of this act that shall include at least the following:

(1) Goals, objectives, and accomplishments for the year toward implementation of this act.

(2) An assessment of current adult educational programs to expand economic opportunities for adult workers as outlined by this act.

(3) Recommendations for policy, program, or funding changes to effectuate the workforce development, adult education, and economic development goals set forth in this act.

SECTION 4. There is appropriated from the General Fund to the Commission on Workforce Development the sum of five million dollars ($5,000,000) for the 2011-2012 fiscal year and the sum of five million dollars ($5,000,000) for the 2012-2013 fiscal year to implement the "No Adult Left Behind" Initiative as established by this act.

SECTION 5. This act becomes effective July 1, 2011.

SENATE PCS 166:
No Adult Left Behind

2011-2012 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	**Date:**	June 8, 2011
Introduced by:	Sen. Hartsell	**Prepared by:**	Patsy Pierce Legislative Analyst
Analysis of:	PCS to First Edition S166-CSTL-1		

SUMMARY: Senate Bill 166 would create the "No Adult Left Behind" initiative to increase the percentage of adults completing college degrees. The PCS makes a technical change on the reporting date and name of the Commission on Workforce Development.

BILL ANALYSIS: SB 166 would direct the Commission on Workforce Development to serve as the lead agency and to cooperate with other agencies such as the Employment Security Commission, the Community College System, the University of North Carolina, and adult-workforce related non-profit organizations to create the "No Adult Left Behind" initiative.

The major goal of the "No Adult Left Behind" initiative would be to increase to 40% the percentage of North Carolinians with two- and four-year degrees. This goal would be achieved through collaboration of the above entities to:

- Provide model evening-weekend certificate and degree programs for non-traditional students.
- Promote systemic changes to increase the accessibility of these programs and to foster the success of the non-traditional students.
- Provide model evening-weekend certificate and degree programs in:
    - high-demand disciplines and occupations;
    - fields closely linked to economic development; or,
    - fields that are the focus of public initiatives.

The Commission on Workforce Development and other participating institutions may contract with qualified organizations, including non-profits, to carry out the components of the "No Adult Left Behind" initiative.

The Commission on Workforce Development would submit an annual report beginning on May 1, 2012 to the Governor and General Assembly which includes:

- Annual goals, objectives, and accomplishments towards the implementation of the "No Adult Left Behind" initiative.
- An assessment of current adult educational programs.
- Recommendations for policy, program, or funding changes needed to help adults to obtain two- and four-year degrees.

Ten million dollars ($10,000,000) would be appropriated over two fiscal years (2011-13) from the General Fund to the Commission on Workforce Development to implement the "No Adult Left Behind" initiative.

EFFECTIVE DATE: This act would become effective July 1, 2011.

S166-SMTL-11(CSTL-1) v3

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 6/8/11

S. B. No. 166 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Stevens
Sen.)

1 moves to amend the bill on page 2, lines 23-26
2 ( ) WHICH CHANGES THE TITLE
3 by deleting those lines and renumbering
4 the remaining section accordingly.
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 415

Short Title:	Eliminate Cost of Reduced Price School Meals.	(Public)
Sponsors:	Senator Purcell.	
Referred to:	Appropriations/Base Budget.	

March 24, 2011

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE COST OF REDUCED PRICE LUNCHES FOR SCHOOL CHILDREN WHO QUALIFY FOR REDUCED PRICE MEALS.

The General Assembly of North Carolina enacts:

SECTION 1. State funds appropriated to the Department of Public Instruction for the Child Nutrition Program shall be used to eliminate the cost of reduced price lunches for children who qualify for reduced price meals. Funds not needed for this purpose shall be used for other expenses of the Child Nutrition Program.

SECTION 2. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 415
PROPOSED COMMITTEE SUBSTITUTE S415-CSRQ-22 [v.2]

6/7/2011 5:53:41 PM

Short Title: Eliminate Cost/Reduced Price Sch Breakfast. (Public)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE SCHOOL BREAKFASTS AT NO COST FOR SCHOOL CHILDREN WHO QUALIFY FOR REDUCED PRICE MEALS AT SCHOOLS PARTICIPATING IN THE NATIONAL SCHOOL BREAKFAST PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Section 8.26 of S.L. 1999-237, funds appropriated for the school breakfast program shall be used to provide school breakfasts at no cost to students of all grade levels qualifying for reduced-price meals in all schools participating in the National School Breakfast Program. If appropriated funds are insufficient to provide school breakfasts at no cost to students qualifying for reduced-price meals, local child nutrition programs shall charge the students qualifying for reduced-price meals the allowable amount for a reduced-price breakfast under the guidelines of the National School Breakfast Program.

SECTION 2. This act becomes effective July 1, 2011.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 415

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

S415-ARQ-93 [v.1]

Comm. Sub. [YES]
Amends Title [YES]
S415-CSRQ-22[v.2]

Date _____,2011

Senator Tillman

moves to amend the bill on page 1, line 4 by rewriting the line to read:

"PARTICIPATING IN THE NATIONAL SCHOOL BREAKFAST PROGRAM; AND TO REQUIRE THE STATE BOARD OF EDUCATION TO REPORT ON THE PUBLIC SCHOOL NUTRITION PROGRAMS OPERATED BY THE LOCAL SCHOOL ADMINISTRATIVE UNITS UNDER THE JURISDICTION OF CHILD NUTRITION SERVICES OF THE DEPARTMENT OF PUBLIC INSTRUCTION; AND TO DIRECT THE STATE AUDITOR TO AUDIT CHILD NUTRITION SERVICES OF THE DEPARTMENT OF PUBLIC INSTRUCTION.";

And on page 1, line 13 by rewriting the line to read:

"**SECTION 2.** The State Board of Education shall report by November 15, 2011 to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations on an overview of the federally supported food service programs. The report shall include the procedure for participation in the programs including the numbers of students who apply, are accepted, and are rejected for free and reduced meals as a part of the programs or automatically qualify for the programs as required by the United States Department of Agriculture.

SECTION 3. The State Auditor shall audit the Division of School Support, Child Nutrition Services of the Department of Public Instruction by December 15, 2011 and report to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations. In its report, the State Auditor shall determine whether the local school administrative units' participation in the federally supported food service programs effectively serve the intent of the General Assembly and comply with federal and State law and regulations.

SECTION 4. This act becomes effective July 1, 2011."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 415

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

S415-ARQ-93 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 415:
Eliminate Cost/Reduced Price Sch Breakfast.

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 8, 2011
Introduced by:	Sen. Purcell	**Prepared by:**	Drupti Chauhan Committee Counsel
Analysis of:	PCS to First Edition S415-CSRQ-22		

SUMMARY: ***Senate Bill 415 would require that State funds appropriated to the Department of Public Instruction for the Child Nutrition Program would have to be used to eliminate the cost of reduced price lunches for children who qualify for reduced price meals.***

The Proposed Committee Substitute would change the bill to provide school breakfasts at no cost for children who qualify for reduced price meals at schools participating in the National School Breakfast Program.

CURRENT LAW: Section 8.26 of S.L. 1999-237 directed the State Board of Education (SBE) to expand the school breakfast program to all students in kindergarten prior to the beginning of the 2000-2001 school year. Any school that served kindergarten students was eligible to receive funds under the program for the 1999-2000 year for those students with the participating schools providing breakfast without charge to all kindergarten students. If the funds were not adequate to expand the program to all students in schools that elected to participate in the program, then priority was to be given schools with a high concentration of children who qualified for free or reduced price lunches. The North Carolina Kindergarten Breakfast Program continues to provide free breakfast to all kindergarten students in participating schools.

BILL ANALYSIS: The Proposed Committee Substitute would require funds appropriated for the school breakfast program to be used to provide school breakfasts at no cost to students of all grade levels qualifying for reduced-price meals in all of the schools that participate in the National School Breakfast Program. If the appropriated funds are insufficient to provide school breakfasts at no cost to students qualifying for reduced-price meals, then the local child nutrition programs would be directed to charge students qualifying for reduced-price meals the allowable amount for a reduced-price breakfast under the guidelines of the National School Breakfast Program.

EFFECTIVE DATE: The bill would become effective July 1, 2011.

S415-SMRQ-42(CSRQ-22) v2

PAGES ATTENDING

COMMITTEE: Education / Higher Ed. **ROOM:** 544

DATE: 6-8 **TIME:** 10 AM

PLEASE PRINT LEGIBILY!!!!!!!!!!!!!

	ge Name	Hometown	Sponsoring Senator
1	Ryder Smith	Burlington	Gunn
2	Mariah Bishop	Apex	Stevens
3	Randi Gibbs	Youngsville	D. Berger
4	Johnathon Garwood	Washington WAXHAW	Hartsell
5	Davidson Brooks	Lushan WAXHAW	Clayton
6	Nicole Day	Raleigh	Hunt
7			
8			
10			

Do not add names below the grid.

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, June 8, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JAIME KING	NCEL
Ann McCen	SBE
Leah Elliott	intern
Martez Hill	SBE
[signature]	NCNA NCTA
[signature]	NCSBA
Meredith Wilden	Policy Group
Gene Causby	NSNA
Leane Winn	NCSBA
Robin Johnson	NCASA
Allison Waller	Nelson Mullins
John Mcmillan	Policy Group

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, June 8, 2011
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Stegall	North Carolina Alliance for Public Charter Schools
Amy McConkey	NC Bev Assn
Sara Riggins	NCFPC
London Nobles	SLF
Michelle Moody	NASW-NC
Erin Schaffhof	UNC-CH
Jennifer Willis	NCCS
Chris Hill	NC Justice Center
Tony Bove	SEANC
David Crawford	AIAIC
Hunt Harris	NMSS-NC

VISITOR REGISTRATION SHEET

Senate Committee on Education/Higher Education — Wednesday, June 8, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ben Matthews	NCDPI

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Monday, June 13, 2011 at 4:30 PM
Room 643, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 4:30 PM on June 13, 2011, in Room 643 of the Legislative Office Building. Twelve members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and introduced the Sergeants-at-Arms.

Representative Blackwell was recognized to explain House Bill 342. He related that the bill would prohibit members of the University system and community colleges from using an applicant's high school accreditation as a determining factor in the admissions process. The bill would also allow Local Education Agencies (LEAs) to be accredited by the North Carolina Department of Public Instruction (DPI).

Senator Stevens moved for a favorable report.

Senator Robinson was recognized and asked about the nature of the new DPI accreditation process.

Representative Blackwell responded by explaining that the process would be voluntary only.

Chairman Tillman called for a vote and the committee adopted a favorable report. Senator Stevens was designated to present the bill on the Senate Floor.

Senator Stevens was then recognized to explain House Bill 344. Senator Stevens explained that the bill would provide tax credits of $3,000 per semester to parents of disabled children currently in public schools in order to allow them access to private schools. Chairman Tillman added that the bill has a serial referral to Appropriations.

Senator Garrou was recognized for a question about the feasibility of expanding the program to include gifted children as well.

Senator Stevens responded by suggesting that that is of course an option in the future, but that much of the concern for disabled students is the lack of resources for them in public schools.

Senator Garrou was recognized and followed-up by asking if there was anticipation of new schools being opened because of this new program.

Senator Stevens responded and mentioned that while that is possible, he believes it to be more likely that existing schools already providing these services will expand to meet increase demand.

Senator Robinson was recognized for a question about including public schools that provide special services.

Senator Stevens responded by suggesting that they should not be included because they are already receiving state money as public schools.

Senator Garrou moved for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report. Senator Stevens was again designated to present the bill on the Senate Floor.

Senator Preston moved to adopt the Proposed Committee Substitute to House Bill 58 for discussion.

Representative Holloway was recognized to explain the bill and referred questions to Gerry Cohen, Director, Bill Drafting.

Senator Garrou inquired about the motivation surrounding this bill and why the community colleges are requesting the bill.

Senator Garrou moved for an unfavorable report.

Chairman Tillman announced that House Bill 58 would be held temporarily and recognized Representative Holloway again to explain House Bill 822.

Representative Holloway stated that the bill would create a pilot program to investigate ways to deal with the State's dropout problem.

Senator Garrou inquired about the cost of the program.

Representative Holloway responded that it would be funded through ADM funding.

Senator Robinson was recognized and asked about whether primary schools would be permitted to participate.

Representative Holloway explained that since a student is not permitted to drop out until age 16, it would only apply to high schools.

Senator Dannelly was recognized and asked for further clarification on the funding sources of the program.

Representative Holloway deferred the question to Beau Heath, Edison Learning. Mr. Heath said that a vendor would be reimbursed for services already rendered.

Senator Robinson was recognized again and asked for clarification on how the program would be administered and who would provide the services.

Representative Holloway responded and said that private entities such as Edison Learning would be contracted by the LEAs to provide the service.

Senator Robinson was recognized for a follow-up question and inquired about the length of time for the pilot program and the timetable for evaluation of the program.

Representative Holloway deferred to Mr. Heath, who explained that the bill provides a three-year timetable for the program.

Representative Hamilton was recognized for further explanation of House Bill 822. She related her disappointment with the cuts made in the budget to the dropout prevention programs, but emphasized that this program would deal only with students who are already out of the system.

Senator Robinson moved for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report to House Bill 822. Chairman Tillman noted that he would present the bill on the Senate Floor.

Chairman Tillman relinquished the chair to Senator Preston in order to introduce and explain House Bill 588.

Senator Newton moved to adopt the Proposed Committee Substitute to House Bill 588 for discussion.

Senator Tillman explained that the bill would require a semester-long course on the nation's founding principles.

Senator Garrou was recognized and asked about how this course would fit into the existing curriculum.

Sara Kamprath, Research Division responded by saying that it would be a determination by DPI on whether this would be a new course or folded into the existing American history course.

Senator Garrou was recognized again and followed-up with a question on how student success would be evaluated.

Senator Tillman responded by suggesting that it was unlikely in his opinion that there would be an additional test, but rather that it would be left to the teachers' judgment to determine based on grades.

Senator Purcell was recognized and asked about the source of the information that would be included in the new curriculum.

Senator Tillman explained that a private benefactor has provided much of the information and will work with the State Board and DPI to refine the curriculum.

Senator Purcell inquired as to the identity of the benefactor and expressed his frustration that this would constitute a new obligation for schools.

Senator Tillman responded by explaining that full responsibility for the program would rest with DPI. DPI would be free to consult with the benefactor or not if they prefer to handle the program themselves.

Senator Robinson was recognized and inquired about the scope of the history that will be included in this program.

Senator Tillman replied by saying that this was intended to be an open-ended process that will be worked on jointly by DPI in consultation with the Education Oversight Committee and that as a result, he is uncertain at present on exactly what form it will take.

Senator Newton was recognized and thanked Senator Tillman for the bill and expressed his opposition to expanding the program beyond the true founding principles.

Senator Dannelly was recognized and asked for an idea of the approach DPI will take with this program.

Ann McColl, State Board of Education, was recognized to answer. She explained that DPI has already been working on refining the social studies curriculum. She revealed that DPI has already met with the private benefactor and that they are working in a similar direction.

Senator Robinson was recognized and inquired about an appropriation or private funding for travel to visit the old State Capitol building.

Senator Tillman responded by saying that he was aware of no such arrangement, but that it is a possible outcome should the curriculum be so modified.

Chairman Preston called for a vote and the committee adopted a favorable report to the Proposed Committee Substitute to House Bill 588 with an unfavorable report to the original bill. Senator Tillman was designated to present the bill on the Senate Floor.

Chairman Preston then relinquished the chair back to Senator Tillman.

Chairman Tillman recognized Representative Folwell to explain House Bill 744.

Representative Folwell explained that he and Senator Pate had worked on this issue previously and that he knew of no opposition.

Senator Garrou was recognized and asked about the changes that have been made since the bill's introduction.

Representative Folwell replied by mentioning that the requirement to check a student's legal status has been removed.

Senator Robinson was recognized and asked for clarification on the purpose of the bill aside from the immunization information.

Representative Folwell explained that the only remaining portion of the bill relates to the requirement for students to disclose their ages.

Senator Newton moved for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report to House Bill 744. Senator Pate was designated to present the bill on the Senate Floor.

Senator Newton moved to adopt the Proposed Committee Substitute to House Bill 58.

Representative Holloway was recognized to explain the bill.

Senator Newton moved for a favorable report.

Senator Robinson was recognized and inquired about the need for separate legislation.

Representative Holloway responded by pointing out that the Governor had vetoed the original legislation and expressed his feeling that it was unfair to the community colleges who had asked for the bill.

Senator Robinson was recognized for a follow-up and asked about the availability of endowment funding in the individual community colleges.

Representative Holloway responded by reminding the committee that the community colleges had asked for this legislation themselves. He expressed that he was unable to know the precise financial situations of each of the community colleges in the bills, but emphasized that they are free to opt-in or opt-out at their own discretion.

Chairman Tillman called for a vote and the committee adopted a favorable report to the committee substitute to House Bill 58 with an unfavorable report to the original bill. Chairman Tillman noted that he would present the bill on the Senate Floor.

Chairman Tillman then recognized Representative Holloway to explain House Bills 15, 134 and 541 as a group.

Representative Holloway explained that these bills are identical in nature to House Bill 58, but include other community colleges.

Senator Newton moved for a favorable report to the other three bills as a group.

Chairman Tillman called for a vote on the motion and the committee adopted favorable reports to House Bills 15, 134 and 541. He added that he would be presenting House Bills 15, 58, 134 and 541 in

Senator Newton was recognized and moved for adoption of the Proposed Committee Substitute to House Bill 765 for purposes of discussion.

Senator Brock was recognized to explain the bill. He explained that it is a study commission to study the extension of the school year.

Senator Garrou was recognized and inquired about the need for so many members on the commission.

Senator Tillman responded by saying that he agrees and that he believes that it is an issue that will be resolved in the future, perhaps as an amendment on the Senate Floor.

Senator Dannelly inquired about the need to study an issue that he feels is so clearly needed.

Senator Tillman responded by saying that while he agreed on the need for a longer school year, he explained that not everyone else in the State would agree and felt that the commission would help with public awareness of the issue and be better equipped to determine the optimal length for the school year.

Senator Robinson was recognized and asked about whether the cost figures would be included in the study committee's mission.

Senator Tillman responded in the affirmative and mentioned that cost figures were another reason that the commission would be necessary.

Senator Brock was recognized for a favorable report.

Chairman Tillman called for a vote and the committee adopted a favorable report to the proposed committee substitute to House Bill 765 with an unfavorable report to the original bill. Senator Brock was designated to present the bill on the Senate Floor.

Chairman Tillman thanked the committee and adjourned the meeting.

The meeting adjourned at 6:00 PM.

Senator Jerry W. Tillman, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Monday, June 13, 2011, 4:30 PM
643 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 15	Opt Out of Fed'l Loan Program/Comm. Colleges.	Representative McElraft
HB 58	Comm. Colleges/Opt Out of Fed'l Loan Program	Representative Holloway Representative Burr Representative Johnson Representative Guice
HB 134	Comm. Colleges/Opt Out of Fed'l Loan Prog-2.	Representative McElraft
HB 342	High School Accreditation.	Representative Holloway Representative Blackwell
HB 344	Tax Credits for Children with Disabilities.	Representative Jones, Jr. Representative Jordan Representative Stam Representative Randleman
HB 541	Comm. Colleges/Opt Out of Fed'l Loan Program.	Representative Hurley
HB 588	The Founding Principles Act.	Representative Brubaker
HB 744	Safe Students Act.	Representative Folwell Representative Torbett Representative Hastings Representative Brown
HB 765	Study Length of School Year.	Representative Lewis
HB 822	Dropout Recovery Pilot Program.	Representative Holloway Representative Blackwell Representative Langdon, Jr. Representative Hilton

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT
Senator Jean Preston, Co-Chair
Senator Dan Soucek, Co-Chair
Senator Jerry W. Tillman, Co-Chair

Monday, June 13, 2011

Senator TILLMAN,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **15** Opt Out of Fed'l Loan Program/Comm. Colleges.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **134** Comm. Colleges/Opt Out of Fed'l Loan Prog-2.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **342** High School Accreditation.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **344** Tax Credits for Children with Disabilities.
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None

H.B.(CS #1) **541** Comm. Colleges/Opt Out of Fed'l Loan Program.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **744** Safe Students Act.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **822** Dropout Recovery Pilot Program.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **765** Study Length of School Year.
Draft Number: 70247
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **58** Comm. Colleges/Opt Out of Fed'l Loan Program

Draft Number:	80268
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **588** The Founding Principles Act.

Draft Number:	11244
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 10

Committee Clerk Comments:

HB 15	Senator Tillman
HB 134	Senator Tillman
HB 342	Senator Stevens
HB 344	Senator Stevens
HB 541	Senator Tillman
HB 744	Senator Pate
HB 822	Senator Tillman
HB 765	Senator Brock
HB 58	Senator Tillman
HB 588	Senator Tillman

H 2

HOUSE BILL 15*
Committee Substitute Favorable 6/7/11

Short Title: Opt Out of Fed'l Loan Program/Comm. Colleges. (Local)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Beaufort County Community College, Brunswick Community College, Cleveland Community College, James Sprunt Community College, Lenoir Community College, Sandhills Community College, and Surry Community College.

SECTION 3. This act becomes effective July 1, 2011.

HOUSE BILL 15:
Opt Out of Fed'l Loan Program/Comm. Colleges

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Rep. McElraft	**Prepared by:**	Sara Kamprath
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: House Bill 15 would allow the board of trustees of certain named community colleges to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). Each community college would have a single opportunity to rescind that resolution and begin participating in the Program.

House Bill 15 is a local bill and applies only to Beaufort County Community College, Brunswick Community College, Cleveland Community College, James Sprunt Community College, Lenoir Community College, Sandhills Community College, and Surry Community College.

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: House Bill 15 would allow the named community colleges to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the college adopted a resolution declining to participate in the Program. The board of trustees of a college would have one opportunity to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

This is a local bill and applies only to Beaufort County Community College, Brunswick Community College, Cleveland Community College, James Sprunt Community College, Lenoir Community College, Sandhills Community College, and Surry Community College.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: On April 5, 2011, the General Assembly ratified House Bill 7, a public bill, which would allow the board of trustees of a community college to adopt a resolution to opt of participating in the William D. Ford Federal Direct Loan Program. A community college would have one chance to rescind the resolution and begin participating in the Program. Governor Perdue vetoed House Bill 7 on April 13, 2011.

In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate

that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

H15-SMRJ-34(e2) v1

H 2

HOUSE BILL 58
Committee Substitute Favorable 6/7/11

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Prog - 3. (Local)

Sponsors:

Referred to:

February 9, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Caldwell Community College and Technical Institute, Martin Community College, and Rockingham Community College.

SECTION 3. This act becomes effective July 1, 2011.

HOUSE BILL 58:
Comm. Colleges/Opt Out of Fed'l Loan Prog - 3

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Reps. Burr, Holloway, Guice, Johnson	**Prepared by:**	Sara Kamprath
Analysis of:	PCS to Second Edition H58-CSRJ-28		Legislative Analyst

SUMMARY: ***House Bill 58 would allow the board of trustees of certain named community colleges to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). Each community college would have a single opportunity to rescind that resolution and begin participating in the Program.***

House Bill 58 is a local bill and applies only to Caldwell Community College and Technical Institute, Martin Community College, and Rockingham Community College.

The PCS adds Sampson Community College to the list of community colleges that may opt out of participating in the Program.

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: The PCS for House Bill 58 would allow the named community colleges to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the college adopted a resolution declining to participate in the Program. The board of trustees of a college would have one opportunity to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

The PCS is a local bill and applies only to Caldwell Community College and Technical Institute, Martin Community College, Rockingham Community College, and Sampson Community College.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: On April 5, 2011, the General Assembly ratified House Bill 7, a public bill, which would allow the board of trustees of a community college to adopt a resolution to opt of participating in the William D. Ford Federal Direct Loan Program. A community college would have one chance to rescind the resolution and begin participating in the Program. Governor Perdue vetoed House Bill 7 on April 13, 2011.

In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate

that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

H58-SMRJ-37(CSRJ-28) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H D

HOUSE BILL 58
Committee Substitute Favorable 6/7/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H58-CSRJ-28 [v.1]

6/13/2011 12:07:15 PM

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Prog - 3. (Local)

Sponsors:

Referred to:

February 9, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Caldwell Community College and Technical Institute, Martin Community College, ~~and Rockingham Community College~~Rockingham Community College, and Sampson Community College.

SECTION 3. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H D

HOUSE BILL 58
Committee Substitute Favorable 6/7/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H58-CSLB-70 [v.1]

6/13/2011 4:54:11 PM

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Prog - 3. (Local)

Sponsors:

Referred to:

February 9, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Caldwell Community College and Technical Institute, Martin Community College, Rockingham Community College, and Sampson Community College.

SECTION 3. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 2

HOUSE BILL 134
Committee Substitute Favorable 6/7/11

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Prog -2. (Local)

Sponsors:

Referred to:

February 21, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Central Carolina Community College, Pamlico Community College, Rowan-Cabarrus Community College, South Piedmont Community College, and Vance-Granville Community College.

SECTION 3. This act becomes effective July 1, 2011.

HOUSE BILL 134:
Comm. Colleges/Opt Out of Fed'l Loan Prog -2

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Rep. McElraft	**Prepared by:**	Sara Kamprath
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 134 would allow the board of trustees of certain named community colleges to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). Each community college would have a single opportunity to rescind that resolution and begin participating in the Program.***

House Bill 134 is a local bill and applies only to Central Carolina Community College, Pamlico Community College, Rowan-Cabarrus Community College, South Piedmont Community College, and Vance-Granville Community College.

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: House Bill 134 would allow the named community colleges to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the college adopted a resolution declining to participate in the Program. The board of trustees of a college would have one opportunity to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

This is a local bill and applies only to Central Carolina Community College, Pamlico Community College, Rowan-Cabarrus Community College, South Piedmont Community College and Vance-Granville Community College.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: On April 5, 2011, the General Assembly ratified House Bill 7, a public bill, which would allow the board of trustees of a community college to adopt a resolution to opt of participating in the William D. Ford Federal Direct Loan Program. A community college would have one chance to rescind the resolution and begin participating in the Program. Governor Perdue vetoed House Bill 7 on April 13, 2011.

In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate

that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

H134-SMRJ-35(e2) v1

HOUSE BILL 342
Committee Substitute Favorable 3/30/11
Committee Substitute #2 Favorable 6/2/11

Short Title: High School Accreditation. (Public)

Sponsors:

Referred to:

March 15, 2011

A BILL TO BE ENTITLED

AN ACT PROHIBITING ANY PUBLIC INSTITUTION OF HIGHER EDUCATION FROM SOLICITING OR USING INFORMATION REGARDING THE ACCREDITATION OF A SECONDARY SCHOOL LOCATED IN NORTH CAROLINA THAT IS ATTENDED BY A STUDENT AS A FACTOR AFFECTING ADMISSIONS, LOANS, SCHOLARSHIPS, OR OTHER EDUCATIONAL ACTIVITY AT THE PUBLIC INSTITUTION, UNLESS THE ACCREDITATION WAS CONDUCTED BY A STATE AGENCY; AUTHORIZING THE STATE BOARD OF EDUCATION TO ACCREDIT SCHOOLS IN A LOCAL SCHOOL ADMINISTRATIVE UNIT AT THE REQUEST OF AND AT THE EXPENSE OF THAT UNIT; AND MODIFYING THE BUDGET OF THE DEPARTMENT OF PUBLIC INSTRUCTION ACCORDINGLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-11 is amended by adding a new subdivision to read:

"**§ 116-11. Powers and duties generally.**

The powers and duties of the Board of Governors shall include the following:

...

(8b) The Board of Governors shall adopt a policy that prohibits any constituent institution from soliciting or using information regarding the accreditation of a secondary school located in North Carolina that a person attended as a factor affecting admissions, loans, scholarships, or other educational activity at the constituent institution, unless the accreditation was conducted by a State agency. For purposes of this subdivision, the term 'accreditation' shall include certification or any other similar approval process."

SECTION 2. Article 1 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-1.3. Accreditation of secondary school located in North Carolina shall not be a factor in admissions, loans, scholarships, or other educational policies.**

(a) For purposes of this section, the term 'accreditation' shall include certification or any other similar approval process.

(b) The State Board of Community Colleges shall adopt a policy that prohibits any community college from soliciting or using information regarding the accreditation of a secondary school located in North Carolina that a person attended as a factor affecting admissions, loans, scholarships, or other educational activity at the community college, unless the accreditation was conducted by a State agency."

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

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(38) Power to accredit schools. – Upon the request of a local board of education, the State Board of Education shall evaluate schools in local school administrative units to determine whether the education provided by those schools meets acceptable levels of quality. The State Board shall adopt rigorous academic standards for accreditation after consideration of (i) the standards of regional and national accrediting agencies, (ii) the Common Core Standards adopted by the National Governors Association Center for Best Practices and the Council of Chief State School Officers, and (iii) other information it deems appropriate.

The local school administrative unit shall compensate the State Board for the actual costs of the accreditation process."

SECTION 4. The receipts collected by the State Board of Education pursuant to G.S. 115C-12(38), as enacted by Section 3 of this act, are hereby appropriated to the Department of Public Instruction for the 2011-2012 fiscal year and the 2012-2013 fiscal year. These funds are in addition to other funds appropriated to the Department for the biennium.

The Department of Public Instruction shall use funds available within its budget to establish a position to coordinate the accreditation process provided for in Section 3 of this act.

SECTION 5. This act is effective when it becomes law. Sections 1 and 2 of this act apply to academic semesters beginning on or after July 1, 2011.

HOUSE BILL 344

Committee Substitute Favorable 6/3/11
Committee Substitute #2 Favorable 6/7/11
Fourth Edition Engrossed 6/7/11

Short Title: Tax Credits for Children with Disabilities. (Public)

Sponsors:

Referred to:

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR CHILDREN WITH DISABILITIES WHO REQUIRE SPECIAL EDUCATION AND TO CREATE A FUND FOR SPECIAL EDUCATION AND RELATED SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.33. Education expenses credit.**

(a) Credit. – A taxpayer is allowed a credit against the tax imposed by this Part for each of the taxpayer's eligible dependent children who is a resident of this State and who for one or two semesters during the taxable year is enrolled in grades kindergarten through 12 in a nonpublic school or in a public school at which tuition is charged in accordance with G.S. 115C-366.1. As used in this section, the term 'eligible dependent child' means a child who meets all of the following criteria:

(1) Is a child with a disability as defined by G.S. 115C-106.3(1).
(2) Was determined to require an individualized education program as defined by G.S. 115C-106.3(8).
(3) Receives special education or related services on a daily basis.
(4) Is a child for whom the taxpayer is entitled to deduct a personal exemption under section 151(c) of the Code for the taxable year.

For the initial eligibility for the tax credit, for at least the preceding two semesters, the eligible dependent child shall have been either (i) enrolled in a public school or (ii) receiving special education or related services through the public schools as a preschool child with a disability as defined by G.S. 115C-106.3(17). An eligible dependent child shall be reevaluated every three years by the local educational agency in order to verify that the child continues to be a child with a disability as defined by G.S. 115C-106.3(1).

(b) Amount. – The credit is equal to the amount the taxpayer paid for tuition and special education and related services expenses, not to exceed three thousand dollars ($3,000) per semester. For home schools, as defined in G.S. 115C-563(a), the credit is equal to the amount the taxpayer paid for special education and related services expenses, not to exceed three thousand dollars ($3,000) per semester.

(c) Semesters. – For the purposes of this section, there are two semesters during each taxable year. The spring semester is the first six months of the taxable year, and the fall semester is the second six months of the taxable year. An eligible dependent child is enrolled in

a school for a semester if the eligible dependent child is enrolled in that school for more than 70 days during that semester.

(d) Disqualification. – A taxpayer may not qualify for a credit for any semester during which the taxpayer's eligible dependent child for whom the credit would otherwise be claimed met any of the following conditions:

(1) Was placed in a nonpublic school or facility by a public agency at public expense.

(2) Spent any time enrolled as a full-time student taking at least 12 hours of academic credit in a postsecondary educational institution.

(3) Was 22 years or older during the entire semester.

(4) Graduated from high school prior to the end of the semester.

(e) Reduction of Credit. – The amount of the credit is reduced for any semester in which the eligible dependent child spent any time enrolled in a public school. The amount of the reduction is a percentage equal to the percentage of the semester that the eligible dependent child spent enrolled in a public school.

(f) Information. – In order to claim the credit allowed by this section, the taxpayer shall provide, when requested, the following to the Secretary:

(1) The name, address, and social security number of each eligible dependent child for whom the credit is claimed and the name and address of the school or schools in which the eligible dependent child was enrolled for more than 70 days each semester.

(2) The taxpayer's certification that the eligible dependent child did not meet any of the disqualifying conditions set out in this section.

(3) The name of the local school administrative unit in which the eligible dependent child resides.

(4) The amount of tuition paid to a public school at which tuition is charged in accordance with G.S. 115C-366.1 for each semester the eligible dependent child for whom the credit is claimed was enrolled in the school.

(5) The eligibility determination that the eligible dependent child is a child with a disability who requires special education and related services.

(6) A listing of the tuition and special education and related services expenses on which the amount of the credit is based.

(7) For home schools as defined in G.S. 115C-563(a), a listing of the special education and related services expenses on which the amount of the credit is based.

(g) Carryforward. – The credit allowed under this section may not exceed the amount of tax imposed by this Part reduced by the sum of all credits allowed against the tax, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding three years.

(h) Transfer. – At the end of each fiscal year, the Secretary shall transfer to the Fund for Special Education and Related Services established under G.S. 115C-472.15 from the net individual income tax collections under G.S. 105-134.2 an amount equal to two thousand dollars ($2,000) multiplied by the number of credits taken under this section during the fiscal year.

(i) Definitions. – The following definitions apply in this section:

(1) "Special education" means specially designed instruction to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital, or institution, and other settings.

(2) "Related services" is as defined in The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act."

SECTION 2. G.S. 105-151.33(a), as enacted by Section 1 of this act, reads as rewritten:

"(a) Credit. – A taxpayer is allowed a credit against the tax imposed by this Part for each of the taxpayer's eligible dependent children who is a resident of this State and who for one or two semesters during the taxable year, is enrolled in grades kindergarten through 12 in a nonpublic school or in a public school at which tuition is charged in accordance with G.S. 115C-366.1. As used in this section, the term 'eligible dependent child' means a child who meets all of the following criteria:

(1) Is a child with a disability as defined by G.S. 115C-106.3(1).
(2) Was determined to require an individualized education program as defined by G.S. 115C-106.3(8).
(3) Receives special education or related services on a daily basis.
(4) Is a child for whom the taxpayer is entitled to deduct a personal exemption under section 151(c) of the Code for the taxable year.

For the initial eligibility for the tax credit, for at least the preceding ~~two semesters,~~ semester, the eligible dependent child shall have been either: (i) enrolled in a public school, or (ii) receiving special education or related services through the public schools as a preschool child with a disability as defined by G.S. 115C-106.3(17). An eligible dependent child shall be reevaluated every three years by the local educational agency in order to verify that the child continues to be a child with a disability as defined by G.S. 115C-106.3(1)."

SECTION 3. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 32D.
"Fund for Special Education and Related Services.

"**§ 115C-472.15. Fund for Special Education and Related Services.**

(a) The Fund for Special Education and Related Services is established as a special revenue fund under the control and direction of the State Board of Education. Interest and other investment income earned by the Fund accrue to it, and revenue in the Fund does not revert. The Fund consists of money credited to it under G.S. 105-151.33.

(b) The State Board of Education shall use the revenue in the Fund only for special educational and related services for children with disabilities. In addition, the State Board of Education shall use revenues in the Fund to reimburse local educational agencies for conducting reevaluations for continued eligibility and developing revised individualized education programs pursuant to G.S. 105-151.33(a)(1)."

SECTION 4. The Department of Revenue shall report to the Revenue Laws Study Committee and the Joint Legislative Education Oversight Committee on the administration of G.S. 105-151.33, as enacted by Section 1 of this act. The report is due by October 1, 2013, and shall include the following:

(1) The number and amount of credits taken under G.S. 105-151.33.
(2) Any concerns relating to the administration of G.S. 105-151.33 or taxpayer compliance with the requirements of that section.
(3) Any other matter with respect to G.S. 105-151.33 the Department wishes to address.

SECTION 4A. If House Bill 200, 2011 Regular Session, becomes law, then Section 2.1 of that act reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2013, according to the following schedule:

Current Operations – General Fund	2011-2012	2012-2013
EDUCATION		
Community Colleges System Office	$ 985,000,000	$ 985,000,000
Department of Public Instruction	7,464,492,057	~~7,450,000,000~~ 7,425,064,000
University of North Carolina – Board of Governors		
Appalachian State University	145,563,319	145,680,676
East Carolina University		
Academic Affairs	247,397,807	247,397,807
Health Affairs	65,196,439	65,196,439
Elizabeth City State University	38,226,042	38,398,361
Fayetteville State University	56,925,951	56,925,951
NC A&T State University	105,355,805	105,794,754
NC Central University	94,342,683	94,342,683
NC State University		
Academic Affairs	434,563,241	434,677,423
Agricultural Research	59,239,461	59,239,461
Agricultural Extension	43,539,609	43,539,609
UNC-Asheville	42,004,444	42,004,444
UNC-Chapel Hill		
Academic Affairs	309,481,584	312,843,120
Health Affairs	219,507,009	222,570,732
AHEC	49,747,851	49,747,851
UNC-Charlotte	216,455,073	217,471,216
UNC-Greensboro	173,180,926	173,180,926
UNC-Pembroke	61,534,005	62,277,254
UNC-School of the Arts	27,796,473	27,796,473
UNC-Wilmington	105,943,181	107,138,757
Western Carolina University	90,591,556	91,070,460
Winston-Salem State University	76,496,951	76,496,950
General Administration	38,186,863	27,628,722
University Institution Programs	(375,153,400)	(383,808,914)
Related Educational Programs	85,679,060	115,272,420
UNC Financial Aid Private Colleges	91,635,664	86,534,065
NC School of Science & Math	18,937,535	18,937,535
UNC Hospitals	18,000,000	18,000,000
Total University of North Carolina – Board of Governors	$ 2,540,375,132	$ 2,551,672,698
HEALTH AND HUMAN SERVICES		
Department of Health and Human Services		
Division of Central Management and Support	$ 50,177,377	$ 44,577,987
Division of Aging and Adult Services	37,019,667	37,019,667
Division of Services for Blind/Deaf/Hard of Hearing	8,389,110	8,372,886
Division of Child Development	266,102,933	266,102,933

Division of Health Service Regulation	16,133,031	16,133,031
Division of Medical Assistance	2,958,388,184	2,907,276,302
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	665,712,232	710,712,232
NC Health Choice	79,452,317	83,717,865
Division of Public Health	190,443,245	157,538,834
Division of Social Services	186,183,068	186,183,068
Division of Vocational Rehabilitation	37,125,788	37,528,128
Total Health and Human Services	$ 4,495,126,952	$ 4,455,162,933
NATURAL AND ECONOMIC RESOURCES		
Department of Agriculture and Consumer Services	$ 65,460,864	$ 62,198,634
Department of Commerce		
Commerce	50,852,340	33,250,463
Commerce State-Aid	32,851,025	30,151,984
NC Biotechnology Center	17,551,710	17,551,710
Rural Economic Development Center	25,376,729	25,376,729
Department of Environment and Natural Resources	165,784,887	148,148,105
DENR Clean Water Management Trust Fund	11,250,000	11,250,000
Department of Labor	15,836,887	15,836,887
Wildlife Resources Commission	18,000,000	17,221,179
JUSTICE AND PUBLIC SAFETY		
Department of Correction	$ 1,337,816,346	$ 1,348,410,793
Department of Crime Control and Public Safety	225,258,795	215,164,518
Judicial Department	438,920,048	435,141,107
Judicial Department – Indigent Defense	110,091,526	112,748,733
Department of Justice	80,704,013	80,864,138
Department of Juvenile Justice and Delinquency Prevention	135,593,692	131,140,565
GENERAL GOVERNMENT		
Department of Administration	$ 63,607,330	$ 65,511,460
Department of State Auditor	11,857,574	10,676,035
Office of State Controller	28,368,957	28,368,957
Department of Cultural Resources		

Cultural Resources	63,524,857	61,697,001
Roanoke Island Commission	1,805,236	1,203,491
State Board of Elections	5,186,603	5,126,603
General Assembly	53,259,495	50,104,208
Office of the Governor		
Office of the Governor	4,741,157	4,741,157
Office of State Budget and Management	5,848,663	5,848,663
OSBM – Reserve for Special Appropriations	1,940,612	440,612
Housing Finance Agency	9,673,051	9,673,051
Department of Insurance		
Insurance	36,393,921	36,393,921
Insurance – Volunteer Safety Workers' Compensation	2,294,000	2,623,654
Office of Lieutenant Governor	695,324	695,324
Office of Administrative Hearings	4,983,871	4,983,871
Department of Revenue	78,199,538	78,199,538
Department of Secretary of State	10,654,563	10,654,563
Department of State Treasurer		
State Treasurer	6,657,031	6,621,750
State Treasurer – Retirement for Fire and Rescue Squad Workers	17,812,114	17,812,114
RESERVES, ADJUSTMENTS, AND DEBT SERVICE		
Contingency and Emergency Fund	$ 5,000,000	$ 5,000,000
State Retirement System Contribution	248,100,000	336,000,000
Judicial Retirement System Contribution	6,800,000	7,800,000
Firemen's & Rescue Squad Workers' Pension Fund	4,318,042	5,366,928
State Health Plan	7,119,541	102,151,104
Information Technology Fund	4,458,142	6,158,142
Reserve for Job Development Investment Grants (JDIG)	15,400,000	27,400,000
Continuation Review Reserve	0	35,576,758
Comprehensive Review of Compensation Plans	2,000,000	0
Compensation Adjustment and Performance Pay Reserve	0	121,105,840

Severance Expenditure Reserve	69,000,000	0
Automated Fraud Detection Development	1,000,000	7,000,000
Controller – Fraud Detection Development	500,000	500,000
Debt Service		
General Debt Service	688,957,188	759,984,974
Federal Reimbursement	1,616,380	1,616,380
TOTAL CURRENT OPERATIONS – GENERAL FUND	**$ 19,678,116,193**	~~**$ 19,943,327,275**~~ **$ 19,918,391,275**"

SECTION 5.(a) If House Bill 200, 2011 Regular Session, becomes law, then Section 2.2(a) of that act reads as rewritten:

"**SECTION 2.2(a)** The General Fund availability used in developing the 2011-2013 biennial budget is shown below.

	FY 2011-2012	**FY 2012-2013**
Unappropriated Balance Remaining	$ 0	$ 13,980,015
Ending Unreserved Fund Balance for FY 2009-2010	236,902,394	0
Anticipated Reversions for FY 2010-2011	537,740,799	0
Anticipated Over-collections from FY 2010-2011	180,800,000	0
Repayment of Medicaid Receipts in FY 2010-2011	(125,000,000)	0
Statutory Earmarks:		
Savings Reserve Account	~~(185,000,000)~~(172,700,000)	0
Repairs and Renovations Reserve Account	(125,000,000)	0
Beginning Unreserved Fund Balance	**$ ~~520,443,193~~532,743,193**	**$ 13,980,015**
Revenues Based on Existing Tax Structure	**$ 18,129,800,000**	**$ 19,181,900,000**
Nontax Revenues		
Investment Income	$ 59,400,000	$ 76,700,000
Judicial Fees	217,800,000	217,800,000
Disproportionate Share	100,000,000	100,000,000
Insurance	71,400,000	73,500,000
Other Nontax Revenues	182,500,000	182,500,000
Highway Trust Fund/Use Tax Reimbursement Transfer	41,500,000	27,600,000
Highway Fund Transfer	20,230,000	24,080,000
Subtotal Nontax Revenues	**$ 692,830,000**	**$ 702,180,000**
Total General Fund Availability	~~**$ 19,343,073,193**~~	**$ 19,898,060,015** **$ 19,355,373,193**
Adjustments to Availability: 2011 Session		
Loss of Estate Tax	$ (57,100,000)	$ (72,200,000)
Small Business Tax Relief Package	(131,600,000)	(335,600,000)
Repeal Wildlife Resources Commission Sales Tax		

Earmark	22,970,000	23,920,000
Suspend Corporate Income Tax Earmark (Public School Construction)	72,110,000	74,750,000
Increase in Judicial Fees	61,765,715	61,765,715
Increase Investment Company Notice Filing Fee	1,600,000	1,600,000
Increase Parking Fees for Visitors	550,000	550,000
Loss of Revenue from the Town of Butner	(1,213,235)	(1,213,235)
Transfer from E-Commerce Reserve Fund	4,483,526	0
Divert Funds from Parks & Recreation Trust Fund	8,435,000	0
Divert Funds from Recreational/Natural Heritage Trust Fund	8,000,000	0
Transfer from Highway Fund for State Highway Patrol	196,849,542	188,209,049
Transfer Additional Funds from Highway Trust Fund	35,223,642	0
Transfer from Mercury Prevention Pollution Fund	250,000	0
Transfer from Commerce – Enterprise Fund	500,000	0
Divert Funds from Scrap Tire Disposal Account	2,268,989	0
Divert Funds from White Goods Management Account	1,951,465	0
Diversion of Golden LEAF Funds	17,563,760	17,563,760
Master Settlement Agreement Funds	24,668,720	25,580,772
Transfer Health and Wellness Trust Funds to Public Health	32,904,411	0
Department of Revenue – Accounts Receivable Program	25,000,000	25,000,000
Medicaid Disproportionate Share Receipts	15,000,000	15,000,000
Adjust Transfer from Insurance Regulatory Fund	(742,348)	(742,348)
Adjust Transfer from Treasurer's Office	(3,881,172)	(3,916,453)
Transfer from NC Flex FICA Funds	1,000,000	0
Proceeds from the Sale of State Assets	15,000,000	25,000,000
Children with Disabilities Tax Credit	(12,300,000)	(24,936,000)
Subtotal Adjustments to Availability:		
2011 Session	**~~353,558,015~~341,258,015**	**~~$45,267,260~~ 20,331,260**
Revised General Fund Availability	**$ 19,696,631,208**	**~~$ 19,943,327,275~~ $ 19,918,391,275**
Less General Fund Appropriations	**$ (19,682,651,193)**	**~~$ (19,943,327,275)~~ $ (19,918,391,275)**
Unappropriated Balance Remaining	**$ 13,980,015**	**$ 0"**

SECTION 5.(b) If House Bill 200, 2011 Regular Session, becomes law, then Section 2.2(m) of that act reads as rewritten:

"**SECTION 2.2.(m)** Notwithstanding G.S. 143C-4-2, the State Controller shall transfer only one hundred ~~eighty-five million dollars ($185,000,000)~~ seventy-two million seven hundred thousand dollars ($172,700,000) from the unreserved fund balance to the Savings Reserve Account on June 30, 2011. This is not an 'appropriation made by law,' as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2011."

SECTION 5A. If House Bill 200, 2011 Regular Session, becomes law, then that act is amended by adding the following new section to read:

"**ADM ADJUSTMENT**

SECTION 7.31. Notwithstanding any other provision of this act, the funds appropriated for the average daily membership (ADM) adjustment for public schools shall be adjusted to provide fifty-five million eight hundred eighty-two thousand six hundred fifty-one dollars ($55,882,651) in the 2011-2012 fiscal year and one hundred eighteen million one hundred fifty-one thousand four hundred fourteen dollars ($118,151,414) in the 2012-2013 fiscal year. The funds appropriated for the ADM adjustment shall be distributed to modify allotments to charter schools and local school administrative units, reflecting changes in ADM due to population growth and other changes in State law."

SECTION 6. Sections 1, 3, 4, and 4A of this act are effective for taxable years beginning on or after January 1, 2011, and apply to semesters for which the credit is claimed beginning on or after July 1, 2011, except that transfers under G.S. 105-151.33(h) shall not be made before the 2012-2013 fiscal year. Section 2 of this act is effective for taxable years beginning on or after January 1, 2016, and applies to semesters for which the credit is claimed beginning on or after July 1, 2016. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 2

HOUSE BILL 541
Committee Substitute Favorable 6/7/11

Short Title: Comm. Colleges/Opt Out of Fed'l Loan Program. (Local)

Sponsors:

Referred to:

March 31, 2011

AN ACT TO PROVIDE THAT CERTAIN NORTH CAROLINA COMMUNITY COLLEGES MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 is amended by adding a new subsection to read:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act applies only to Alamance Community College, Central Piedmont Community College, Gaston College, Mitchell Community College, Montgomery Community College, Randolph Community College, Richmond Community College, Robeson Community College, Stanly Community College, and Wilkes Community College.

SECTION 3. This act becomes effective July 1, 2011.

HOUSE BILL 541:
Comm. Colleges/Opt Out of Fed'l Loan Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Rep. Hurley	**Prepared by:**	Sara Kamprath
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: House Bill 541 would allow the board of trustees of certain named community colleges to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program (Program). Each community college would have a single opportunity to rescind that resolution and begin participating in the Program.

House Bill 541 is a local bill and applies only to Alamance Community College, Central Piedmont Community College, Gaston College, Mitchell Community College, Montgomery Community College, Randolph Community College, Richmond Community College, Robeson Community College, Stanly Community College and Wilkes Community College.

CURRENT LAW: G.S. 115D-40.1(d) provides that all community colleges shall participate in the William D. Ford Federal Direct Loan Program beginning July 1, 2011. At that time financial aid counselors would have to begin to inform students about funds available through the Program in addition to other programs and funds currently available to help community college students.

BILL ANALYSIS: House Bill 541 would allow the named community colleges to opt out of participating in the William D. Ford Federal Direct Loan Program if the board of trustees of the college adopted a resolution declining to participate in the Program. The board of trustees of a college would have one opportunity to rescind the resolution and begin to participate in the Program. The board of trustees would not have the authority to again decline to participate in the Program.

This is a local bill and applies only to Alamance Community College, Central Piedmont Community College, Gaston College, Mitchell Community College, Montgomery Community College, Randolph Community College, Richmond Community College, Robeson Community College, Stanly Community College and Wilkes Community College.

EFFECTIVE DATE: The act becomes effective July 1, 2011.

BACKGROUND: On April 5, 2011, the General Assembly ratified House Bill 7, a public bill, which would allow the board of trustees of a community college to adopt a resolution to opt of participating in the William D. Ford Federal Direct Loan Program. A community college would have one chance to rescind the resolution and begin participating in the Program. Governor Perdue vetoed House Bill 7 on April 13, 2011.

In Section 8.15 of S.L. 2009-451, the General Assembly urged all of the community colleges to participate in federal student loan programs.

Participation Rates

In October 2009, the Joint Select Committee on State Funded Student Financial Aid was created, in part, to study the availability and sustainability of existing federal sources for student grants, loans, and scholarships. The Committee heard several presentations about the issue of community college participation in the William D. Ford Federal Direct Loan Program before the 2010 Session. The Committee learned that during the 2009-10 academic year 21 of the 58 community colleges participated in the federal loan programs. The two primary reasons reported by the community colleges for not

participating in the Program are: 1) a fear of exceeding the established federal loan cohort default rate that would trigger the loss of participation in the Pell Grant program and 2) the colleges can cover student need without participating in the Program.

In November 2010, the North Carolina Community Colleges System Office surveyed the financial administrators at the 58 community colleges and found that 20 of the 58 colleges were currently participating.

Default Rates

Currently, a community college may lose its eligibility for Pell grants and various federal student loans if the community college has a cohort default rate that is 25% or greater for each of the two most recent fiscal years or if the most recent cohort default rate is greater than 40%. However, beginning with fiscal year 2009, the default rates will be calculated on a three-year period rather than a two-year period; and beginning with fiscal year 2012, the cohort default rate threshold percentage increases from 25% or more to 30% or more for the three most recent fiscal years. No penalties will occur under the new formula until receipt of the 2014 cohort default rates (includes the rates for 2011, 2012, and 2013).

Committee Recommendation

In its interim report to the 2010 Session, the Joint Select Committee on the State Funded Student Financial Aid recommended legislation to require that all community colleges shall participate in the William D. Ford Federal Direct Loan Program by July 1, 2011. The legislation was enacted during the 2010 Session.

H541-SMRJ-36(e2) v1

HOUSE BILL 588
Committee Substitute Favorable 6/7/11

Short Title: The Founding Principles Act. (Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT TO ENACT THE FOUNDING PRINCIPLES ACT.

Whereas, the survival of the republic requires that our nation's children, the future guardians of its heritage and participants in its governance, have a clear understanding of the Founding Philosophy and the Founding Principles of government for a free people, which are found in the Declaration of Independence, the United States Constitution, the Federalist Papers, and the writings of the Founders, and an understanding of their preservation; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "The Founding Principles Act."

SECTION 2. G.S. 115C-81(g) reads as rewritten:

"(g) Civic Literacy. –

(1) Local boards of education shall require during the high school years the teaching of ~~the nation's founding and related documents, which shall include at least the major principles in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.~~ a semester course "American History I – The Founding Principles," to include at least the following:

a. The Creator-endowed inalienable rights of the people.

b. Structure of government, separation of powers with checks and balances.

c. Frequent and free elections in a representative government.

d. Rule of law.

e. Equal justice under the law.

f. Private property rights.

g. Federalism.

h. Due process.

i. Individual rights as set forth in the Bill of Rights.

j. Individual responsibility.

A passing grade in the course shall be required for graduation from high school.

~~(2) Local boards of education shall require that high school students demonstrate knowledge and understanding of the nation's founding and related documents in order to receive a certificate or diploma of graduation from high school.~~

~~(3) Local boards of education shall include among the requirements for graduation from high school a passing grade in all courses that include~~

~~primary instruction in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.~~

(3a) Local boards of education shall allow and may encourage any public school teacher or administrator to read or post in a public school building, classroom, or event, excerpts or portions of writings, documents, and records that reflect the history of the United States, including, but not limited to, (i) the preamble to the North Carolina Constitution, (ii) the Declaration of Independence, (iii) the United States Constitution, (iv) the Mayflower Compact, (v) the national motto, (vi) the National Anthem, (vii) the Pledge of Allegiance, (viii) the writings, speeches, documents, and proclamations of the founding fathers and Presidents of the United States, (ix) decisions of the Supreme Court of the United States, and (x) acts of the Congress of the United States, including the published text of the Congressional Record. Local boards, superintendents, principals, and supervisors shall not allow content-based censorship of American history in the public schools of this State, including religious references in these writings, documents, and records. Local boards and professional school personnel may develop curricula and use materials that are limited to specified topics provided the curricula and materials are aligned with the standard course of study or are grade level appropriate.

(3b) A local school administrative unit may display on real property controlled by that local school administrative unit documents and objects of historical significance that have formed and influenced the United States legal or governmental system and that exemplify the development of the rule of law, such as the Magna Carta, the Mecklenburg Declaration, the Ten Commandments, the Justinian Code, and documents set out in subdivision (3a) of this subsection. This display may include, but shall not be limited to, documents that contain words associated with a religion; provided however, no display shall seek to establish or promote religion or to persuade any person to embrace a particular religion, denomination of a religion, or other philosophy. The display of a document containing words associated with a religion shall be in the same manner and appearance generally as other documents and objects displayed and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects. The display also shall be accompanied by a prominent sign quoting the First Amendment of the United States Constitution as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

(4) The State Board of Education shall require that any high school level curriculum-based tests developed and administered statewide beginning with the 2014-2015 academic year ~~1990-91~~ include questions related to the philosophical foundations of our form of government and the principles underlying the Declaration of Independence, the United States ~~Constitution and its amendments,~~Constitution, and the most important of the Federalist Papers.

(5) The ~~State~~ Department of Public Instruction and the local boards of education, as appropriate, shall ~~establish~~ provide or cause to be provided

curriculum content for the semester course required in subdivision (1) of this subsection and ~~provide for~~ teacher training to ensure that the intent and provisions of this subsection are carried out. ~~The curriculum content established shall include a review of the contributions made by Americans of all races.~~

(6) The Department of Public Instruction shall submit a biennial report by October 15 of each odd-numbered year to the Joint Legislative Education Oversight Committee covering the implementation of this subsection."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2014-2015 school year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011 .

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HOUSE BILL 588
PROPOSED SENATE COMMITTEE SUBSTITUTE H588-CSRJ-26 [v.3]

6/12/2011 2:31:49 PM

Short Title: The Founding Principles Act. (Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT TO ENACT THE FOUNDING PRINCIPLES ACT.

Whereas, the survival of the Republic requires that our nation's children, the future guardians of its heritage and participants in its governance, have a clear understanding of the Founding Philosophy and the Founding Principles of a government for a free people, which are found in the Declaration of Independence, the United States Constitution, the Federalist Papers, and the writings of the Founders, and an understanding of their preservation; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "The Founding Principles Act."

SECTION 2. G.S. 115C-81(g) reads as rewritten:

"(g) Civic Literacy. –

(1) Local boards of education shall require during the high school years the teaching of ~~the nation's founding and related documents, which shall include at least the major principles in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.~~ a semester course that focuses on the following:

a. America's Founding Philosophy, to include at least the following:

1. The Creator-endowed inalienable rights of the people.
2. The purpose of government is to protect the inalienable rights of the people and to protect people from violence and fraud.
3. Structure of government, separation of powers, checks and balances.
4. Rule of law with frequent and free elections in a representative government.

b. America's Founding Principles, to include at least the following:

1. Federalism, government as close to the people as possible.
2. Bill of Rights guaranteed freedoms of speech, press, religion, and peaceful assembly.
3. Private property rights and freedom of individual enterprise.
4. Innocent of any crime until proven guilty with rights of habeus corpus, no unreasonable searches or seizures, no cruel or unusual punishment, and right to a speedy trial by a jury of peers.

5. A virtuous and moral people educated in the philosophy and principles of government for a free people.
6. Constitutional limitations on government power to tax and spend and prompt payment of public debt.
7. Money with intrinsic value.
8. Right of people to keep and bear arms, strong defense capability, supremacy of civil authority over military.
9. Peace, commerce, and honest friendship with all nations, entangling alliances with none.
10. Eternal vigilance by "We the People."

A passing grade in the course shall be required for graduation from high school.

~~(2) Local boards of education shall require that high school students demonstrate knowledge and understanding of the nation's founding and related documents in order to receive a certificate or diploma of graduation from high school.~~

~~(3) Local boards of education shall include among the requirements for graduation from high school a passing grade in all courses that include primary instruction in the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.~~

(3a) Local boards of education shall allow and may encourage any public school teacher or administrator to read or post in a public school building, classroom, or event, excerpts or portions of writings, documents, and records that reflect the history of the United States, including, but not limited to, (i) the preamble to the North Carolina Constitution, (ii) the Declaration of Independence, (iii) the United States Constitution, (iv) the Mayflower Compact, (v) the national motto, (vi) the National Anthem, (vii) the Pledge of Allegiance, (viii) the writings, speeches, documents, and proclamations of the founding fathers and Presidents of the United States, (ix) decisions of the Supreme Court of the United States, and (x) acts of the Congress of the United States, including the published text of the Congressional Record. Local boards, superintendents, principals, and supervisors shall not allow content-based censorship of American history in the public schools of this State, including religious references in these writings, documents, and records. Local boards and professional school personnel may develop curricula and use materials that are limited to specified topics provided the curricula and materials are aligned with the standard course of study or are grade level appropriate.

(3b) A local school administrative unit may display on real property controlled by that local school administrative unit documents and objects of historical significance that have formed and influenced the United States legal or governmental system and that exemplify the development of the rule of law, such as the Magna Carta, the Mecklenburg Declaration, the Ten Commandments, the Justinian Code, and documents set out in subdivision (3a) of this subsection. This display may include, but shall not be limited to, documents that contain words associated with a religion; provided however, no display shall seek to establish or promote religion or to persuade any person to embrace a particular religion, denomination of a religion, or other philosophy. The display of a document containing words associated with a

religion shall be in the same manner and appearance generally as other documents and objects displayed and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects. The display also shall be accompanied by a prominent sign quoting the First Amendment of the United States Constitution as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

(4) The State Board of Education shall require that any high school level curriculum-based tests developed and administered statewide beginning with the 2014-2015 academic year ~~1990-91~~ include questions related to the philosophical foundations of our form of government and the principles underlying the Declaration of Independence, the United States ~~Constitution and its amendments,~~Constitution, and the most important of the Federalist Papers.

(5) The ~~State~~ Department of Public Instruction and the local boards of education, as appropriate, shall ~~establish~~ provide or cause to be provided curriculum content for the semester course required in subdivision (1) of this subsection and ~~provide for~~ teacher training to ensure that the intent and provisions of this subsection are carried out. ~~The curriculum content established shall include a review of the contributions made by Americans of all races.~~

(6) The Department of Public Instruction shall submit a biennial report by October 15 of each odd-numbered year to the Joint Legislative Education Oversight Committee covering the implementation of this subsection."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2014-2015 school year.

HOUSE BILL 588:
The Founding Principles Act

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 12, 2011
Introduced by:	Rep. Brubaker	**Prepared by:**	Sara Kamprath
Analysis of:	PCS to Second Edition H588-CSRJ-26		Legislative Analyst

SUMMARY: ***The Second Edition of House Bill 588 would require that students pass a semester course on the Founding Principles in order to graduate from high school beginning with the 2014-2015 school year. The Department of Public Instruction must provide or cause to be provided the course curriculum. The Department must submit a biennial report by October 15 of each odd-numbered year to the Joint Legislative Education Oversight Committee regarding the implementation of the bill.***

The Senate Proposed Committee Substitute changes the content of the curriculum that would be taught in the semester course.

[As introduced, this bill was identical to S520, as introduced by Sen. Vaughan, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS: The Senate PCS adds a requirement for a semester course that focuses on America's Founding Philosophy and America's Founding Principles, as defined in the bill. Beginning with the 2014-2015 academic year, any Statewide high school curriculum-based tests administered must include questions related to the philosophical foundations of our form of government and the principles underlying the Declaration of Independence, the U.S. Constitution, and the most important of the Federalist Papers. DPI and local boards of education, as appropriate, must provide or cause to be provided the curriculum content for the course.

DPI must submit a biennial report by October 15 of each odd-numbered year to the Joint Legislative Education Oversight Committee regarding the implementation of the bill.

CURRENT LAW: G.S. 115C-81(g) currently directs local boards of education to require during high school the teaching of the nation's founding and related documents, including the major principles in the Declaration of Independence, the U.S. Constitution, and the most important of the Federalist Papers.

Local boards of education are directed to require that high school students both demonstrate knowledge and understanding of the nation's founding and related documents and pass all courses that include primary instruction in the Declaration of Independence, the U.S. Constitution, and the most important of the Federalist Papers.

As appropriate, DPI and the local boards shall establish the curriculum content, including a review of the contributions made by Americans of all races.

EFFECTIVE DATE: The bill is effective when it becomes law and applies beginning with the 2014-15 school year.

BACKGROUND: Freshmen entering high school in 2012-13 will be required to pass 2 U.S. History courses to receive a high school diploma under the new Social Studies Standards approved by the State Board of Education on December 2, 2010. Because of the State Board's action to require an additional U. S. History course, students will then need a minimum of 4 credits in social studies to graduate.

HOUSE BILL 744
Committee Substitute Favorable 6/7/11
Third Edition Engrossed 6/8/11

Short Title: Safe Students Act. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SAFE STUDENTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. This act may be cited as the "Safe Students Act."

SECTION 2. G.S. 115C-364(c) reads as rewritten:

"(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school ~~may~~ shall require the parent or guardian of any child presented for admission for the first time to that school to furnish (i) a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of ~~birth~~birth, as provided in Article 4 of Chapter 130A of the General Statutes and (ii) a certificate of immunization as required by G.S. 130A-155."

SECTION 3. G.S. 130A-109 reads as rewritten:

"**§ 130A-109. Birth certificate as evidence.**

Certified copies of birth certificates shall be accepted by public school authorities in this State as prima facie evidence of the age of children registering for school attendance, and no other proof shall be required. In addition, certified copies of birth certificates shall be required by all factory inspectors and employers of youthful labor, as prima facie proof of age, and no other proof shall be required. However, when it is not possible to secure a certified copy of a birth certificate, ~~school authorities,~~ factory inspectors and employers may accept as secondary proof of age any competent evidence by which the age of persons is usually ~~established.~~established. School authorities may accept only competent and verifiable evidence as secondary proof of age, specifically including but not limited to: (i) a certified copy of any medical record of the child's birth issued by the treating physician or the hospital in which the child was born, or (ii) a certified copy of a birth certificate issued by a church, mosque, temple, or other religious institution that maintains birth records of its members."

SECTION 4. This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

HOUSE BILL 744:
Safe Students Act

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Reps. Folwell, R. Brown, Hastings, Torbett	**Prepared by:**	Drupti Chauhan
Analysis of:	Third Edition		Committee Counsel

SUMMARY: House Bill 744 would direct principals to require that a certified copy of a child's birth certificate or other satisfactory evidence of the child's date of birth be presented for the initial admission to a school. It would provide that when a certified copy of a birth certificate is not available, then school authorities may use other competent and verifiable evidence as secondary proof of age.

CURRENT LAW: The principal of a public school may require a parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate or other satisfactory evidence of date of birth. If a certified copy of a birth certificate is presented, it must be accepted by public school officials as prima facie evidence of the age of children registering for school attendance and no other proof is then required. Certified copies of birth certificates must be also required by factory inspectors and employers of youth as prima facie proof of age.

If it is not possible to present a certified copy of a birth certificate, school authorities, factory inspectors, nd employers may accept any competent evidence by which the age of individuals is usually stablished as secondary proof of age.

Under 42 U.S.C. 11432(g)(3)(C)(i) of the federal McKinney-Vento Homeless Assistance Act, schools selected for homeless children must immediately enroll the homeless child even if the child or parent or guardian is unable to produce the records normally required for enrollment.

BILL ANALYSIS:

Section 1: The act may be cited as the "Safe Students Act".

Section 2: Principals would be directed to require that a parent or guardian of any child presented for admission for the first time to that school furnish a certified copy of the child's birth certificate or other satisfactory evidence of date of birth as provided by Article 4 of Chapter 130A. Article 4 of Chapter 130A provides for different methods of establishing fact of birth or certificates of identification. It would also add a cross reference to the statute that currently requires certificates of immunizations to be presented whenever a child enters a public or private school.

Section 3: If a certified copy of a birth certificate is not available, school authorities would be able to use other competent and verifiable evidence as secondary proof of age that could include the following documents but would not be limited to these documents:

- A certified copy of any medical record of the child's birth issued by the treating physician or the hospital in which the child was born; or
- A certified copy of a birth certificate issued by a church, mosque, temple, or other religious institution that maintains birth records of its members.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply beginning with the 2011-2012 school year.

H744-SMRQ-52(e3) v1

HOUSE BILL 765

Short Title:	Study Length of School Year.	(Public)
Sponsors:	Representative Lewis (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY THE CURRENT LENGTH OF THE SCHOOL YEAR IN NORTH CAROLINA AND TO DETERMINE HOW LONG THE SCHOOL YEAR SHOULD BE.

Whereas, the Constitution of North Carolina reads as follows: "The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right"; and

Whereas, the length of the school year in North Carolina, like the rest of the United States, is currently a minimum of 180 teaching days, or 1000 hours, and funds for public education in the State are based on the length of the school term; and

Whereas, North Carolina law does not prohibit school districts from providing more than 180 days of instruction time; and

Whereas, the seminal education report "A Nation at Risk" noted in 1984 that the 180-day school calendar had become outdated and could not sufficiently supply the kind of instructional time that American students needed in a world of increasing complexity; and

Whereas, 180 instructional days consistently puts the United States at or near the bottom of other industrialized nations, according to rankings of instructional time done by the Organization for Economic Cooperation and Development (OECD); and

Whereas, Trends in International Mathematics and Science Study (TIMSS) studies show that the average time spent in the classroom by students in participating nations is 193, translating into a 156-day instructional day gap for American students over a 12-year academic career, or nearly one full school year.

Whereas, North Carolina's graduation rate ranks in the bottom third of all states; and

Whereas, some experts contend that the current school year does not afford ample time to equip young North Carolinians with the knowledge and skills necessary to compete in an increasingly competitive and global workplace; and

Whereas, studies document that approximately two-thirds of the grade 9 achievement gap between lower and higher income youth can be explained by unequal access to summer learning opportunities during the elementary school years; and

Whereas, studies have documented that most students lose about two months of grade level equivalency in mathematical computation skills over the summer break; and

Whereas, low-income students also lose more than two months in reading achievement, despite the fact that their middle-class peers make slight gains; and

Whereas, children lose more than academic knowledge over the summer. Most children, particularly children at high risk of obesity, gain weight more rapidly when they are out of school during summer break; and

Whereas, students typically score lower on standardized tests at the end of summer vacation than they do on the same tests at the beginning of the summer; and

Whereas, North Carolina continues to spend precious resources on the remediation of its students; and

Whereas, the State of North Carolina should explore the feasibility of extending its school year and potentially being a model for the nation; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly reaffirms its intent that every child in North Carolina deserves an opportunity to a sound basic education.

SECTION 2.(a) Commission Established. – There is established in the General Assembly a Blue Ribbon Commission to study the length of our current school year.

SECTION 2.(b) Membership. – The Commission shall be composed of 19 members as follows:

(1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
(2) Five members of the Senate appointed by the President Pro Tempore of the Senate.
(3) The chair of the North Carolina State Board of Education.
(4) The executive director of the North Carolina School Boards Association.
(5) The Superintendent of Public Instruction.
(6) The president of North Carolina Association of Educators, Inc.
(7) The executive director of the North Carolina Association of School Administrators.
(8) The executive director of the Public School Forum of North Carolina.
(9) The executive director of the Professional Educators of North Carolina, Inc.
(10) The executive director of the N.C. Principals/Assistant Principals Association, Inc.
(11) The executive director of the North Carolina Congress of Parents and Teachers, Incorporated.

SECTION 2.(c) Duties of Commission. – The Commission shall study the following matters related to North Carolina's educational needs:

(1) Strategies for making North Carolina's children ready to compete in the 21st century.
(2) The cost of implementing a longer school year.
(3) A plan for implementing a longer school year.
(4) The impact of summer learning loss.
(5) The cost of remediation in the public schools, the community colleges, and the constituent institutions of The University of North Carolina.
(6) The impact of the current calendar on low-income and at-risk students.
(7) The impact of the current calendar on math and science scores.
(8) The achievement gap.

SECTION 2.(d) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 2.(e) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 10 members.

SECTION 2.(f) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 2.(g) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

SECTION 2.(h) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 2.(i) Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 2.(j) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 2.(k) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 2.(l) Report. – The Commission shall make an interim report of its findings and recommendations to the 2012 Regular Session of the 2011 General Assembly and shall make a final report of its findings and recommendations to the 2013 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

SECTION 2.(m) Funding. – The Commission may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties.

SECTION 2.(n) Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

SECTION 3. This act becomes effective July 1, 2011.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 765
PROPOSED SENATE COMMITTEE SUBSTITUTE H765-CSRQ-23 [v.2]

6/13/2011 12:00:33 PM

Short Title: Study Length of School Year. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY THE CURRENT LENGTH OF THE SCHOOL YEAR IN NORTH CAROLINA AND TO DETERMINE HOW LONG THE SCHOOL YEAR SHOULD BE.

Whereas, the Constitution of North Carolina reads as follows: "The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right"; and

Whereas, the length of the school year in North Carolina, like many other states in the United States, is currently a minimum of 180 teaching days, and 1000 hours, and funds for public education in the State are based on the length of the school term; and

Whereas, North Carolina law does not prohibit school districts from providing more than 180 days of instruction time; and

Whereas, the seminal education report "A Nation at Risk" noted in 1984 that the 180-day school calendar had become outdated and could not sufficiently supply the kind of instructional time that American students needed in a world of increasing complexity; and

Whereas, 180 instructional days consistently puts the United States at or near the bottom of other industrialized nations, according to rankings of instructional time done by the Organization for Economic Cooperation and Development (OECD); and

Whereas, Trends in International Mathematics and Science Study (TIMSS) studies show that the average time spent in the classroom by students in participating nations is 193, translating into a 156-day instructional day gap for American students over a 12-year academic career, or nearly one full school year.

Whereas, North Carolina's graduation rate continues to need to improve; and

Whereas, some experts contend that the current length of the school year does not afford ample time to equip young North Carolinians with the knowledge and skills necessary to compete in an increasingly competitive and global workplace; and

Whereas, studies document that approximately two-thirds of the grade 9 achievement gap between lower and higher income youth can be explained by unequal access to summer learning opportunities during the elementary school years; and

Whereas, studies have documented that most students lose about two months of grade level equivalency in mathematical computation skills over the summer break; and

Whereas, low-income students also lose more than two months in reading achievement, despite the fact that their middle-class peers make slight gains; and

Whereas, children lose more than academic knowledge over the summer. Most children, particularly children at high risk of obesity, gain weight more rapidly when they are out of school during summer break; and

Whereas, students typically score lower on standardized tests at the end of summer vacation than they do on the same tests at the beginning of the summer; and

Whereas, North Carolina continues to spend precious resources on the remediation of its students; and

Whereas, the State of North Carolina should explore the feasibility of extending its school year and potentially being a model for the nation; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly reaffirms its intent that every child in North Carolina deserves an opportunity to a sound basic education.

SECTION 2. There is established a Blue Ribbon Commission to Study the Current Length of the School Year (Commission).

SECTION 3. The Commission shall be composed of 19 members as follows:

(1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Five members of the Senate appointed by the President Pro Tempore of the Senate.

(3) The chair of the North Carolina State Board of Education.

(4) The executive director of the North Carolina School Boards Association.

(5) The Superintendent of Public Instruction.

(6) The president of North Carolina Association of Educators, Inc.

(7) The executive director of the North Carolina Association of School Administrators.

(8) The executive director of the Public School Forum of North Carolina.

(9) The executive director of the Professional Educators of North Carolina, Inc.

(10) The executive director of the N.C. Principals/Assistant Principals Association, Inc.

(11) The executive director of the North Carolina Congress of Parents and Teachers, Incorporated.

SECTION 4. The Commission shall study the following matters related to North Carolina's educational needs:

(1) Strategies for making North Carolina's children ready to compete in the 21st century.

(2) The cost of implementing a longer school year.

(3) A plan for implementing a longer school year.

(4) The impact of summer learning loss.

(5) The cost of remediation in the public schools, the community colleges, and the constituent institutions of The University of North Carolina.

(6) The impact of the current calendar on low-income and at-risk students.

(7) The impact of the current calendar on math and science scores.

(8) The achievement gap.

SECTION 5. The Speaker of the House of Representatives shall designate one Representative as Cochair and the President Pro Tempore of the Senate shall designate one Senator as Cochair. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 10 members. Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 6. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The

Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.4. The Commission may meet upon the call of the Cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Task Force in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Task Force, and the expenses relating to the clerical employees shall be borne by the Task Force. The Task Force may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Task Force hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Task Force with any information in their possession or available to them.

The Commission may apply for, receive, and accept grants of non-State funds or other contribution as appropriate to assist in the performance of its duties.

SECTION 7. The Commission may make an interim report of its findings and recommendations to the 2012 Regular Session of the 2011 General Assembly and shall make a final report of its findings and recommendations to the 2013 General Assembly. The Commission shall terminate on December 31, 2012 or the filing of its final report, whichever occurs first.

SECTION 8. This act becomes effective July 1, 2011.

HOUSE BILL 765:
Study Length of School Year

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Rep. Lewis	**Prepared by:**	Drupti Chauhan
Analysis of:	PCS to First Edition H765-CSRQ-23		Committee Counsel

SUMMARY: House Bill 765 would establish a Blue Ribbon Commission in the General Assembly to study the current length of the school year. The Proposed Committee Substitute (PCS) makes technical changes.

BILL ANALYSIS: The PCS for House Bill 765 would establish a 19 member Blue Ribbon Commission (Commission) in the General Assembly to study the current length of the school year.

Membership would include:

- Five members of the House of Representatives, appointed by the Speaker
- Five members of the Senate, appointed by the President Pro Tempore
- The chair of the State Board of Education
- The executive director of the NC School Boards Association
- The Superintendent of Public Instruction
- The president of the NC Association of Educators, Inc.
- The executive director of the NC Association of School Administrators
- The executive director of the Public School Forum of North Carolina
- The executive director of the Professional Educators of North Carolina, Inc.
- The executive director of the NC Principals/Assistant Principals Association, Inc.
- The executive director of the NC Congress of Parents and Teachers, Inc.

The Commission would be charged with studying the following:

- Strategies for making NC's children ready to compete in the 21st century
- Cost and plan for implementing a longer school year
- Impact of summer learning loss
- Cost of remediation
- Impact of the current calendar on low income and at-risk students an on math and science scores
- The achievement gap

Vacancies would be filled by the appointing authority and Cochairs of the Commission would be appointed by the Speaker of the House and the President Pro Tempore of the Senate. The Commission would meet on the call of the Cochairs with a quorum of 10 members.

The Commission may submit an interim report to the 2012 Regular Session of the 2011 General Assembly and would be required to submit a final report to the 2013 General Assembly.

EFFECTIVE DATE: The bill would become effective July 1, 2011.

H765-SMRQ-51(CSRQ-23) v1

HOUSE BILL 822
Committee Substitute Favorable 6/7/11

Short Title: Dropout Recovery Pilot Program. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO IMPLEMENT A DROPOUT RECOVERY PILOT PROGRAM.

Whereas, dropout rates continue to plague North Carolina, limiting career opportunities for dropouts and costing the State billions of dollars in lost wages; and

Whereas, high school dropouts are more likely to be incarcerated and more likely to need social welfare assistance; and

Whereas, the traditional path to a complete high school education is not for everyone; and

Whereas, many students perform best in nontraditional settings, and many students have family and employment obligations that hinder them from following the traditional route to a diploma; and

Whereas, these students require flexibility in terms of scheduling and content delivery; and

Whereas, there is also a need to close the gap in the graduation rates between minority students and white students; and

Whereas, it would be more efficient for North Carolina to reengage students across the State by implementing a statewide pilot program with an initial focus on the districts of highest need to allow the program to be effectively monitored prior to a statewide implementation; and

Whereas, North Carolina can implement such a program without additional taxes or appropriations; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall implement a three-year Dropout Recovery Pilot Program in New Hanover County Schools and three other local school administrative units selected by the State Board of Education. The purpose of the pilot program is to reengage students and increase the graduation rates in North Carolina through an educational program that provides flexible scheduling and a blended learning environment with individualized and self-paced learning options.

SECTION 2. Under the pilot program, the educational services and programming shall be provided by an education partner that is a nonprofit or for-profit entity approved by the State Board of Education. The local school administrative unit shall be responsible for reporting enrollment to the Department of Public Instruction, working with the education partner to align graduation requirements, and issuing diplomas to those students in the program who complete the necessary graduation requirements.

SECTION 3. The pilot program shall provide the following:

(1) Facilities that are easily accessible to the students being served.
(2) Flexible scheduling, including at least two different program schedules.
(3) Differentiated instruction that shall include individualized, group, and online instructional components.
(4) The capacity for assessing, recording, and responding to the students' academic progress on a daily basis using assessments that are aligned with State and local standards and requirements.

SECTION 4. Before the State Board of Education approves an applicant as an education partner, the applicant must demonstrate the following:

(1) A history providing dropout recovery services to high school students in charter or noncharter public schools.
(2) At least two years of relevant experience operating and providing services to brick-and-mortar public schools.
(3) At least two years of relevant experience providing comprehensive online learning programs.
(4) Relevant experience serving diverse student populations, including socioeconomically disadvantaged students.
(5) An explanation of the steps taken by the applicant to ensure that its proposed instructional content is aligned with State standards.
(6) A plan for the recruitment and hiring of State-certified teachers, including hiring criteria.
(7) A plan for the recruitment and hiring of qualified administrators, including hiring criteria.
(8) A detailed description of the applicant's plan to work with the participating local school administrative units and the State Board of Education to identify students who need to be served, to reengage those students, and to provide alternative education options for students at risk of dropping out. Students at risk of dropping out from their current schools may be transferred into the pilot program.
(9) An operational plan that includes the following:
    a. The number and physical location of proposed sites and a list of the equipment required.
    b. A proposed program calendar and daily schedule and an explanation of how the calendar and schedule meet the needs of prospective students. The schedule must include at least four hours per school day of on-site learning at a physical location.
    c. The student-to-teacher ratio.
    d. A description of each of the instructional methods to be used and number of hours per day for each method.
    e. A plan for differentiated instruction that must include individualized, group, and online instructional components.
    f. Capacity for assessing, recording, and responding to students' academic progress on a daily basis using standards-aligned assessments.
    g. A detailed one-year budget.
    h. A system of competency-based credit.
    i. A plan for aggregation and reporting of student performance data and reporting of financial activity.

SECTION 5. Data and student performance results shall be collected and compiled from the pilot program and the participating local school administrative units. By implementing a uniform statewide pilot program, the success of the pilot program as a whole

can be measured by the State Board of Education. In an effort to provide services to students for the 2011-2012 school year, if a request for proposals is necessary, the process shall be completed within 60 days of the effective date of the legislation.

SECTION 6. A student attending the pilot program shall be enrolled as a student of the resident local school administrative unit. The student shall be included in the ADM of that unit. The resident local school administrative unit shall retain five percent (5%) of the total per pupil funding for the student to cover administrative costs and shall remit payment to the education partner of the remaining ninety-five percent (95%) within 15 days of receiving payment from the Department of Public Instruction.

SECTION 7. Notwithstanding any other provision of law, the State Board of Education shall authorize participating local school administrative units to implement flexible attendance requirements for students participating in the pilot program due to the flexible scheduling and online portions of the pilot program.

SECTION 8. The pilot program shall be operated through the State Board of Education or as a program of the contracting school administrative unit. The pilot program may be an alternative school.

SECTION 9. This act becomes effective July 1, 2011.

HOUSE BILL 822:
Dropout Recovery Pilot Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	June 13, 2011
Introduced by:	Reps. Holloway, Hilton, Blackwell, Langdon	**Prepared by:**	Drupti Chauhan Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 822 would direct the State Board of Education to implement a three year Dropout Recovery Pilot Program in 4 local school administrative units. The educational services and programming would be provided by an education partner that is a nonprofit or for-profit entity approved by the State Board of Education.

BILL ANALYSIS: House Bill 822 would direct the State Board of Education (SBE) to implement a three year Dropout Recovery Pilot Program (Pilot Program) in New Hanover County Schools and three other local school administrative units (LEAs) selected by the SBE. The Pilot Program would provide an educational program that allows for flexible scheduling and a blended learning environment with individualized and self-paced learning options.

Under the Pilot Program, the educational services and programming would be provided by a nonprofit or for-profit education partner approved by the SBE. The LEA would be responsible for reporting enrollment to the Department of Public Instruction (DPI), working with the education partner to align graduation requirements, and issuing diplomas to students who complete necessary graduation requirements.

The Pilot Program would have to provide the following:

- Facilities that are easily accessible to the students being served.
- Flexible scheduling including at least 2 different program schedules.
- Differentiated instruction that would include individualized, group, and online instructional components
- The capacity for assessing, recording, and responding to the students' academic progress on a daily basis using assessments that are aligned with the State and local standards requirements.

Before the SBE would be able to approve an applicant as an education partner, the applicant would have to demonstrate:

- A history of providing dropout recovery services to high school students in traditional and charter public schools with two years of relevant experience operating and providing services to brick and mortar public schools and at least two years of relevant experience providing comprehensive online learning programs.
- Relevant experience serving diverse student populations.
- An explanation of how the proposed instructional content is aligned with State standards.
- Plans for the recruitment and hiring of State-certified teachers and qualified administrators including hiring criteria.
- A detailed description of the applicant's plan to work with participating local school administrative units and the SBE to identify students who need to be served, reengage those students, and to provide alternative education options for students at risk of dropping out.

Students at risk of dropping out of their current schools may be transferred into the pilot program.

- An operation plan that includes: number and physical location of proposed sites and equipment required; proposed program calendar and daily schedule that includes 4 hours each school day of on-site learning at a physical location; student to teacher ratio; description of instructional methods to be used; plan for differentiated instruction; capacity for assessing, recording, and responding to students' academic progress on a daily basis; detailed one year budget; a system of competency based credit; and a plan for aggregation and reporting of student performance data and reporting of financial activity.

Data and student performance results would have to be collected and compiled from the program and all of the participating LEAs.

A student attending the pilot program would be enrolled as a student of the resident LEA and would be included in the ADM of that LEA. The resident LEA would retain 5% of the total per pupil funding for the student in order to cover administrative costs and would remit the remaining 95% to the education partner within 15 days of receiving payment from DPI.

The SBE is directed to authorize participating LEAs to implement flexible attendance requirements for participating students under the flexible scheduling and online portions of the pilot program.

The pilot program would be operated through the SBE or as a program of the LEA and it may be an alternative school.

EFFECTIVE DATE: The bill would become effective July 1, 2011.

H822-SMRQ-50(e2) v1

2011-2012 Membership
Senate Education/Higher Education

Co-Chairs

Senator Jerry Tillman
627-LOB
919-733-5870

Senator Daniel Soucek
311-LOB
919-733-5742

Senator Jean Preston
629-LOB
919—733-5706

John Clark
Committee Clerk
919-733-5742

Members

Senator Austin Allran
525-LOB
919-733-5876

Senator Andrew Brock
623-LOB
919-715-0690

Senator Chris Carney
1028-LB
919-715-3050

Senator Linda Garrou
620-LOB
919-733-5620

Senator Malcolm Graham
622-LOB
919-733-5650

Senator Floyd McKissick
520-LOB
919-733-4599

Senator E. S. Newton
410-LOB
919-715-3030

Senator T. Apodaca
2010-LB
919-733-5745

Senator Harry Brown
300-LOB
919-715-3034

Senator Charlie Dannelly
1127-LB
919-733-5955

Senator Tom Goolsby
2115-LB
919-715-2525

Senator Ralph Hise
1026-LB
919-733-3460

Senator Martin Nesbitt
1129-LB
919-715-3001

Senator Louis Pate, Jr.
406-LOB
919-733-5621

Senator William Purcell
517-LOB
919-733-5953

Senator Robert Rucho
300-LOB
919-733-5742

Senator Tommy Tucker
311-LOB
919-733-7659

Senator Gladys Robinson
1120-LB
919-715-3042

Senator Joshua Stein
1113-LB
919-715-6400

Senator Stan White
1121-LB
919-715-8293

North Carolina General Assembly
Through ate Committee on
Educat igher Education

2011-2012 Biennium
Leg. Day: H-138/S-138

Date:
Time:

Bill	Introducer	Short Title		Latest Action	Date In	Date Out
H 7	Ingle	Comm. Colleges/Opt Out of Fed'l Loan Program.	*R	Ch. SL 2012-31	03/09/2011	03/31/2011
H 15	McElraft	Opt Out of Fed'l Loan Program/Comm. Colleges.	*R	Ch. SL 2011-148	06/09/2011	06/14/2011
H 22	Crawford, Jr.	2011 Budget Technical Corrections.	*R	Ch. SL 2011-391	03/10/2011	03/23/2011
H 48	Holloway	No Standardized Testing Unless Req'd by Feds.	*R	Ch. SL 2011-8	02/21/2011	03/02/2011
H 58	Burr	Comm. Colleges/Opt Out of Fed'l Loan Program	*R	Ch. SL 2011-155	06/09/2011	06/14/2011
H 72	Crawford, Jr.	Community College Investment Flexibility.	*	Ref to Education/Higher Education. If fav, re-ref to Finance	05/23/2011	
H 134	McElraft	Comm. Colleges/Opt Out of Fed'l Loan Prog-2.	*R	Ch. SL 2011-178	06/09/2011	06/14/2011
H 334	Insko	Sports Agents/DMV Police Authority.	*	Ref To Com On Commerce and Job Development	04/07/2011	06/07/2011
H 342	Blackwell	High School Accreditation.	*R	Ch. SL 2011-306	06/07/2011	06/14/2011
H 344	Stam	Tax Credits for Children with Disabilities.	*R	Ch. SL 2011-395	06/08/2011	06/14/2011
H 503	Insko	Parent Choice/Clarify Pre-Kindergarten.	*	Conf Com Appointed	06/06/2011	05/30/2012
H 515	Boles, Jr.	Comm. Coll. Tuition for Members of Military.	*R	Ch. SL 2011-184	05/23/2011	06/07/2011
H 541	Hurley	Comm. Colleges/Opt Out of Fed'l Loan Program.	*R	Ch. SL 2011-154	06/09/2011	06/14/2011
H 588	Brubaker	The Founding Principles Act.	*R	Ch. SL 2011-273	06/09/2011	06/14/2011
H 720	Murry	School & Teacher Paperwork Reduction Act.	*R	Ch. SL 2011-379	06/10/2011	06/14/2011

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H 736	Langdon, Jr.	Amend Law Re: School Discipline.	*R	Ch. SL 2011-282	05/02/2011	06/07/2011
H 744	Folwell	Safe Students Act.	*R	Ch. SL 2011-388	06/10/2011	06/14/2011
H 758	Carney	Establish Arts Education Commission.	*R	Ch. SL 2011-301	05/26/2011	06/07/2011
H 765	Lewis	Study Length of School Year.	*R	Ch. SL 2011-257	06/09/2011	06/14/2011
H 766	Cotham	Testing in the Public Schools.		Ref To Com On Education/Higher Education	04/19/2011	
H 769	Cotham	High School to Work Partnership.	*R	Ch. SL 2011-91	05/02/2011	05/11/2011
H 822	Holloway	Dropout Recovery Pilot Program.	*R	Ch. SL 2011-259	06/09/2011	06/14/2011
H 823	Holloway	SPEAKER/PRO TEM TERM LIMITS	*	Conf Com Appointed	05/31/2011	06/08/2011
H 829	Cotham	Streamline Education Planning Responsibility.	*	Re-ref Com On Education/Higher Education	05/02/2011	
H 837	Carney	Completion of CPR by Students Required.	*R	Ch. SL 2012-197	06/02/2011	06/20/2012
H 855	Brandon, Jr.	Personal Learning Plan for Each Child.	*	Ref To Com On Education/Higher Education	06/02/2011	
H 964	Blackwell	North Carolina Longitudinal Data System.	*R	Ch. SL 2012-133	06/14/2012	06/19/2012
H 966	Holloway	Teacher Prepayment and Salary/Pre-K Eligibility	*R	Ch. SL 2012-13	05/29/2012	05/30/2012
H 987	Weiss	Wake Tech Board of Trustees.	R	Ch. SL 2012-99	06/12/2012	06/20/2012
H1063	Langdon, Jr.	Excuse School Day for Johnston Co. School.	R	Ch. SL 2012-5	05/31/2012	06/05/2012
H1065	Boles, Jr.	Use Moore School Buses for 2014 US Open.	R	Ch. SL 2012-27	06/06/2012	06/06/2012
H1071	Gill	Wake School Board Organizational Meeting.	*R	Ch. SL 2012-106	06/12/2012	06/25/2012
H1096	Sanderson	Simplify Beverage Contract Bids.	*R	Ch. SL 2012-89	06/06/2012	06/19/2012
S 8	Stevens	No Cap on Number of Charter Schools.	*R	Ch. SL 2011-164	01/31/2011	02/16/2011
S 20	Tillman	Amend Law Regulating Proprietary Schools.	*R	Ch. SL 2011-21	02/02/2011	02/23/2011

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S 74	Gunn	Comm. Colleges/Opt Out of Fed'l Loan Program.	*	Re-ref Com On Rules and Operations of the Senate	02/16/2011	02/23/2011
S 83	Newton	Wilson School Board.	*R	Ch. SL 2011-53	02/21/2011	03/02/2011
S 88	Preston	Elect State Community College Bd Members.	R	Ch. Res 2011-3	02/22/2011	02/23/2011
S 90	Tillman	State Board of Education Confirmation.		Re-ref Com On Rules and Operations of the Senate	02/22/2011	05/10/2011
S 114	Allran	No Standardized Testing Unless Req'd by Feds.		Ref To Com On Education/Higher Education	02/24/2011	
S 137	Stevens	Establish Forgivable Loan Fund.	*R	Ch. SL 2011-74	02/28/2011	03/16/2011
S 154	Stevens	Abolish Higher Education Bond Oversight Comm.	R	Ch. SL 2011-43	03/02/2011	03/16/2011
S 159	Hise	Convey Blue Ridge Corr. Fac to Mayland CC.	*R	Ch. SL 2011-305	06/01/2011	06/07/2011
$ S 166	**Hartsell**	**No Adult Left Behind.**	***R**	**Ch. SL 2011-327**	**03/02/2011**	**06/08/2011**
$ S 169	**Hartsell**	**Study Innovations/Incentives in Education.**		**Re-ref Com On Appropriations/Base Budget**	**03/02/2011**	**04/27/2011**
S 172	Hartsell	Classroom Experience for School Personnel.		Ref To Com On Education/Higher Education	03/02/2011	
S 243	Stevens	Public-Private Partnership for Schools.	R	Ch. SL 2011-234	03/08/2011	06/08/2011
S 255	Hartsell	Amend UNC Enrollment Funding Formula.		Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	03/09/2011	
S 283	Hise	Senate Curative.	*R	Ch. SL 2011-413	03/10/2011	03/21/2011
S 287	Apodaca	Extend Small Business Center Incubator Period.	R	Ch. SL 2011-331	03/10/2011	03/23/2011
S 296	Atwater	Dropout Recovery Programs.	*	Re-ref Com On Appropriations/Base Budget	03/10/2011	03/31/2011
S 339	Hartsell	Modify Driver Education Program.	*R	Ch. SL 2011-334	03/15/2011	03/31/2011

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S 348	Atwater	Tuition for Dependents of Deployed Military.		Ref To Com On Education/Higher Education	03/16/2011	
S 361	Tillman	Interscholastic Sports Open to All Students.		Re-ref Com On Rules and Operations of the Senate	03/17/2011	03/21/2011
S 362	Tillman	Reallocate Lottery Funds.		Ref to Education/Higher Education. If fav, re-ref to Finance	03/17/2011	
S 415	Purcell	Eliminate Cost/Reduced-Price Sch Breakfast.	*R	Ch. SL 2011-342	06/01/2011	06/08/2011
S 423	Tillman	Educ. Oversight Comm. Study of Teacher Tenure.		Re-ref Com On Government	03/28/2011	04/06/2011
S 466	Hartsell	Modify Teacher Career Status Law.	*R	Ch. SL 2011-348	03/31/2011	04/14/2011
S 479	Tillman	Testing in the Public Schools.	*R	Ch. SL 2011-280	04/04/2011	04/14/2011
S 497	Pate	ECU/Bd of Governors Dental Scholarship-Loan.		Ref To Com On Education/Higher Education	04/04/2011	
S 498	Pate	Modify Law Re: Corporal Punishment.	*R	Ch. SL 2011-270	04/04/2011	04/14/2011
S 498	Pate	Modify Law Re: Corporal Punishment.	*R	Ch. SL 2011-270	04/26/2011	05/05/2011
S 553	Hartsell	Reestablish Progress Board.		Re-ref Com On Appropriations/Base Budget	04/12/2011	05/05/2011
S 569	Rucho	Community College Efficiency Initiatives.		Re-ref Com On Appropriations/Base Budget	04/14/2011	04/27/2011
S 575	Stevens	Higher Education Efficiency and Flexibility.		Ref to Education/Higher Education. If fav, re-ref to Finance	04/14/2011	
S 576	Hartsell	Changes to Fees for Teacher Certification.	*	Re-ref Com On Rules and Operations of the Senate	04/14/2011	04/27/2011
S 631	Brock	UNC/Cherokee Language Credit.	*	Re-ref Com On Appropriations	04/19/2011	06/07/2011
S 648	Preston	Amend Law Re: School Discipline.	*	Ref To Com On Education	04/20/2011	05/05/2011
S 667	Forrester	Permit Advertising on School Buses.		Re-ref Com On Education/Higher Education	05/10/2011	
S 685	Apodaca	Modify Regulation of Proprietary Schools.	*R	Ch. SL 2011-308	04/20/2011	05/11/2011

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S 689	Soucek	Congressional Curative.	*R	Ch. SL 2011-414	04/20/2011	05/02/2011
S 700	Meredith	Modify Terms of Community College Trustees.		Ref To Com On Education/Higher Education	04/20/2011	
S 724	Stein	An Act to Improve Public Education.	*R	Ch. SL 2012-77	04/20/2011	05/05/2011
S 726	Hise	Multiple Birth Sibling Classroom Placement.	*R	Ch. SL 2011-354	04/20/2011	06/07/2011
S 727	Hise	No Dues Checkoff for School Employees.	*R	Ch. SL 2012-1	04/20/2011	05/02/2011
S 733	Davis	Modify Small School Provisions.		Ref To Com On Education/Higher Education	04/20/2011	
S 757	Graham	Interscholastic Sports/Concussions.		Ref To Com On Education/Higher Education	04/20/2011	
S 759	Graham	Equal Education Opportunity Tax Credit.		Ref to Education/Higher Education. If fav, re-ref to Finance	04/20/2011	
S 776	Pate	Calendar Flexibility/Greene County Schools.		Re-ref Com On Rules and Operations of the Senate	04/28/2011	05/02/2011
S 795	Apodaca	Excellent Public Schools Act.	*	Ref to the Com on Education, if favorable, Appropriations	04/25/2012	05/29/2012
S 805	Westmoreland	Isothermal Community College Fed Loan Program.	*	Ref To Com On Education/Higher Education	05/17/2012	05/30/2012
S 805	Westmoreland	Isothermal Community College Fed Loan Program.	*	Ref To Com On Education/Higher Education	06/14/2012	
S 823	Tillman	Repeal Prohibition on Teacher Prepayment.		Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	05/21/2012	
S 874	Brunstetter	Arts Education as a Graduation Requirement.		Ref To Com On Education/Higher Education	05/23/2012	
S 920	Tucker	Increase Replacement Cycle/School Buses.		Ref To Com On Education/Higher Education	05/30/2012	
S 940	Mansfield	In-State Tuition Rate for Veterans.		Ref to Education/Higher Education. If fav, re-ref to Appropriations/Base Budget	05/31/2012	

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SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Wednesday, May 23, 2012 at 10:00 AM
Room 643, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 10:00 AM on May 23, 2012, in Room 643 of the Legislative Office Building. 21 members of the committee were present. Senator Jerry W. Tillman presided.

Chairman Tillman called the meeting to order and proceeded to introduce the sergeants-at-arms and the pages.

Senator Apodaca moved for adoption of the Proposed Committee Substitute to House Bill 503.

The PCS was adopted for discussion and Chairman Tillman recognized Representatives Insko and LaRoque to explain House Bill 503 and mentioned to the Committee members that no vote would be taken on the bill during this meeting.

Senator Garrou was recognized and made several inquiries of Representatives LaRoque and Representative Insko.

Senator Goolsby was then recognized for questions, which were fielded by Representative Insko.

Chairman Tillman then recognized Senator Stein for a comment and reminded the Committee that there would be no vote on this bill during this meeting and that additional questions could be handled during the next meeting.

Senator Nesbitt was then recognized for questions of Representative Insko.

Chairman Tillman then announced that the bill would be held over until the next meeting. He then introduced Senator Phil Berger to explain the next bill on the calendar: Senate Bill 795.

In addition to his explanation, Senator Berger expressed his desire for constructive feedback relative to the bill.

Chairman Tillman thanked Senator Berger for his detailed explanation and stated that the bill represented a starting point rather than a finished project.

Senators Pate, Nesbitt, McKissick, Robinson, Purcell and Stein were then recognized for questions of Senator Berger.

Chairman Tillman then asked the Committee to remain focused on this bill rather than the larger questions of Education funding throughout the State.

Senator Brown was then recognized; he thanked Senator Berger for introducing the bill.

Fea. Cadet - $150,000

Chairman Tillman, in conclusion, asked that interested parties send their questions ahead of time to assist in the planning for the next meeting. He announced that the meeting would take place on Tuesday, May 29 and would last two hours. He then adjourned the meeting.

The meeting adjourned at 11:05 AM.

Senator Jerry W. Tillman, Presiding

John B. Clark, Committee Clerk

Senate Education/Higher Education Committee
Wednesday, May 23, 2012, 10:00 AM
643 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 503	Nutrition Stds./All Foods Sold at School.	Representative LaRoque Representative Insko
SB 795	Excellent Public Schools Act.	Senator Tillman Senator Berger Senator Apodaca

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 3

HOUSE BILL 503
Committee Substitute Favorable 5/18/11
Third Edition Engrossed 6/1/11

Short Title: Nutrition Stds./All Foods Sold at School. (Public)

Sponsors:

Referred to:

March 30, 2011

A BILL TO BE ENTITLED

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ADOPT RULES FOR OTHER FOOD SALE OPERATIONS ON THE SCHOOL CAMPUS AND TO REQUIRE CHARTER SCHOOLS PARTICIPATING IN THE NATIONAL SCHOOL LUNCH PROGRAM AND LOCAL BOARDS OF EDUCATION TO IMPLEMENT THESE RULES BY THE 2012-2013 SCHOOL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-264.2 is repealed.

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-264.4. Other foods and beverages sold on campus.**

(a) The State Board of Education shall adopt nutritional rules for all competitive foods and beverages sold to students. In promulgating its rules pursuant to this act, the State Board of Education shall adopt either the Alliance for a Healthier Generation's Competitive Foods and Beverage Guidelines or the National Academy of Sciences, Institute of Medicine's Recommended Standards for Competitive Foods and Beverages in Schools as the initial statewide standard for competitive foods and beverages. The rules shall include, but not be limited to, standards for calorie, fat, sugar, and sodium content. The State Board of Education shall report to the Joint Legislative Health Care Oversight Committee and the Joint Legislative Education Oversight Committee on the status of the final rules by April 30, 2012.

(b) For the purposes of this section, "competitive food" means any food or beverage sold to students on school grounds that is not part of the school breakfast or school lunch program. This includes, but is not limited to, vending, school stores, snack bars, fund-raisers, and other informal food sales to students on the school campus, with the exception of child nutrition programs, culinary and other curriculum programs, fund-raisers conducted after the end of the last lunch period of the day, and extracurricular events.

(c) The State Board of Education shall periodically review the nutritional rules for competitive foods and beverages to ensure that they remain current and science-based and shall also review the nutritional rules upon changes to federal law or regulations for competitive foods.

(d) Nothing in subsection (a) of this section shall prohibit a school from adopting stricter rules with respect to snack and beverage vending.

(e) No snack vending or soft drinks shall be available to elementary school students.

(f) The State Board of Education shall adopt these rules by April 30, 2012, and local boards of education shall implement these rules by the beginning of the 2012-2013 school year."

SECTION 3. G.S. 115C-238.29F is amended by adding a new subsection to read:

"(h1) Food and Beverages Sold on Campus. – A charter school participating in the National School Lunch Program shall comply with the nutritional rules for all competitive foods or beverages sold or served to students, as adopted by the State Board of Education under G.S. 115C-264.4. The charter school shall implement those rules by the beginning of the 2012-2013 school year."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H D

HOUSE BILL 503
Committee Substitute Favorable 5/18/11
Third Edition Engrossed 6/1/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H503-CSTL-23 [v.13]

5/18/2012 3:27:50 PM

Short Title: Nutr. Stds./Parent Choice/Clarify Pre-K. (Public)

Sponsors:

Referred to:

March 30, 2011

A BILL TO BE ENTITLED

AN ACT TO (1) DIRECT THE STATE BOARD OF EDUCATION TO ADOPT RULES FOR OTHER FOOD SALE OPERATIONS ON THE SCHOOL CAMPUS; (2) REQUIRE CHARTER SCHOOLS PARTICIPATING IN THE NATIONAL SCHOOL LUNCH PROGRAM AND LOCAL BOARDS OF EDUCATION TO IMPLEMENT THESE RULES BY THE 2013-2014 SCHOOL YEAR; (3) ALLOW PARENTAL CHOICE IN FOOD PROVISION IN CHILD CARE FACILITIES; (4) CLARIFY ELIGIBILITY AND REPEAL CO-PAY REQUIREMENTS FOR THE NC PRE-K PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-264.2 is repealed.

SECTION 2.(a) Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-264.4. Other foods and beverages sold on campus.**

(a) The State Board of Education shall adopt rules regarding nutritional standards for all competitive foods and beverages sold to students. In promulgating its rules pursuant to this section, the State Board of Education shall adopt either the Alliance for a Healthier Generation's Competitive Foods and Beverage Guidelines or the National Academy of Sciences, Institute of Medicine's Recommended Standards for Competitive Foods and Beverages in Schools as the initial Statewide standards for competitive foods and beverages. The rules shall include, but not be limited to, standards for calorie, fat, sugar, and sodium content.

(b) For the purposes of this section, "competitive food" means any food or beverage sold to students on school grounds that is not part of the School Breakfast or School Lunch Programs. This includes, but is not limited to, vending machines, school stores, snack bars, fund-raisers, and other informal food sales to students on the school campus. However, it does not include food or beverages sold to students in culinary and other curriculum programs, fund-raisers conducted after the end of the last lunch period of the day, and extracurricular activities.

(c) The State Board of Education shall periodically review the rules regarding nutritional standards for competitive foods and beverages to ensure that they remain current, science-based, and in compliance with federal law and regulations on competitive foods.

(d) Nothing in subsection (a) of this section shall prohibit a school from adopting stricter rules with respect to food and beverage vending.

(e) No food vending or soft drinks shall be available to elementary school students."

SECTION 2.(b) The State Board of Education shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee on the status of the final rules required by this section by April 30, 2013.

SECTION 2.(c) The State Board of Education shall adopt the rules required by this section by April 30, 2013, and local boards of education shall implement these rules by the beginning of the 2013-2014 school year.

SECTION 3.(a) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(h1) **Food and Beverages Sold on Campus.** – A charter school participating in the National School Lunch Program shall comply with the rules regarding nutritional standards for all competitive foods or beverages sold to students, as adopted by the State Board of Education under G.S. 115C-264.4."

SECTION 3.(b) The charter schools shall implement the rules required by this section by the beginning of the 2013-2014 school year.

SECTION 4. G.S.110-91(2) reads as rewritten:

"(2) Health Related Activities.

a1. Nutrition Standards. The Commission shall adopt rules for child care facilities to ensure that food and beverages provided by a child care facility are nutritious and align with children's developmental needs. ~~all children receive nutritious food and beveragesaccording to their developmental needs.~~ The Commission shall consult with the Division of Child Development and Early Education of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:

~~a. Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.~~

~~b. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.~~

~~c. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.~~

~~d. Limiting or prohibiting the serving of juice from a bottle.~~

~~e. Creating an exception from the rules for parents of children who have medical needs, special diets, or food allergies.~~

~~f. Creating an exception from the rules to allow a parent or guardian, or to allow the center upon the request of a parent or guardian, to provide to a child food and beverages that may not meet the nutrition standards.~~

1. Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.
2. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age,
3. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.
4. Limiting or prohibiting the serving of juice from a bottle.

b1. Parental Exceptions.

1. Parents or guardians of a child enrolled in a child care facility may (i) provide food and beverages to their child that may not meet the nutrition standards adopted by the Commission and (ii) opt out of any supplemental food program provided by the child care facility. The child care facility shall not provide food or beverages to a child whose parent or guardian has opted out of any supplemental food program provided by the child care facility and whose parent or guardian is providing food and beverages for the child.

2. The Commission, the Division of Child Development and Early Education of the Department of Health and Human Services, or any State agency or contracting entity with a State agency shall not evaluate the nutritional value or adequacy of the components of food and beverages provided by a parent or guardian to their child enrolled in a child care facility as an indicator of environmental quality ratings.

c1. Rest Time. Each child care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit."

SECTION 5. Section 10.7(f) of S.L. 2011-145 is rewritten to read:

"**SECTION 10.7.(f)** ~~The prekindergarten program may continue to serve at risk children identified through the existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at-risk children regardless of income. However, the total number of at-risk children served shall constitute no more than twenty percent (20%) of the four-year-olds served within the prekindergarten program. Any~~ The Division of Child Development and Early Education shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships."

SECTION 6. Section 10.7(h) of S.L. 2011-145 is repealed.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 503:
Nutrition Stds./All Foods Sold at School

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 10, 2012
Introduced by:	Reps. Insko, LaRoque	**Prepared by:**	Patsy Pierce*
Analysis of:	PCS to Third Edition H503-CSTL-23		Legislative Analyst

SUMMARY: ***The third edition of House Bill 503 would require the State Board of Education and charter schools participating in the National School Lunch Program to:***

- ***Adopt nutritional rules for all competitive foods and beverages sold to students by April 30, 2012, with implementation by local boards of education and charter schools for the beginning of the 2012-2013 school year. The State Board shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee on the status of the final rules by April 30, 2012.***
- ***Periodically review the nutritional rules for competitive foods and beverages to ensure they are current and science-based.***

The Senate Proposed Committee Substitute (PCS) makes technical and conforming changes including updating required implementation and reporting dates and adds a section to (i) allow parents of children in child care facilities to opt out of supplemental food programs; (ii) provide food and beverages to their child that may not meet nutrition standards; and (iii) prohibit using food and beverages provided by parents as a component of environmental quality ratings. The PCS also revises 2011 Budget language to clarify eligibility standards and remove parent co-payment requirements for the NC Pre-K program.

CURRENT LAW: G.S. 115C-264.2 allows for schools to sell snacks and beverages to students, with the following guidelines:

- **Beverages:**
  - Soft drinks cannot be sold (i) during breakfast and lunch periods, (ii) contrary to the requirements of the National School Lunch Program, and (iii) at elementary schools.
  - Sugared carbonated soft drinks may not be sold in a middle school.
  - When sold in high school, soft drinks are limited to a maximum of 50% of the offerings.
  - Diet carbonated soft drinks are not in the same category as sugared carbonated soft drinks.
  - Bottled water products must be available in all schools that have beverage vending.
- **Snack vending:**
  - No snack vending available to students in elementary schools.
  - 75% of the snack vending products available in middle and high schools must have no more than 200 calories per portion or package.

BILL ANALYSIS:

Section 1. G.S. 115C-264.2, the current statute regarding vending machine sales, would be repealed.

Section 2. G.S. 115C-264.4 would be created, requiring that the State Board of Education adopt nutritional rules for all competitive foods and beverages sold to students.

- The rules must include, but are not limited to, standards for calorie, fat, sugar, and sodium content.
- "Competitive food" is defined as any food or beverage sold to students on school grounds that is not part of the school breakfast or school lunch program.
    - This includes vending machines, school stores, snack bars, fund-raisers, and other informal food and beverage sales to students.
    - This excludes food and beverages sold during culinary and other curricular programs, fund-raisers conducted after the last lunch period of the day, and extracurricular activities.
- The rules would be implemented by the beginning of the 2013-2014 school year and periodically reviewed to ensure they remain current, science-based, and revised when federal law for competitive food changes.
- No food vending or soft drinks shall be available to elementary school students.
- The rules must be reported to the Joint Legislative Health Care Oversight Committee and the Joint Legislative Education Oversight Committee by April 30, 2013.

Section 3. Amends G.S. 115C-238.29F to require charter schools participating in the National School Lunch Program to comply with the nutritional standards for competitive food and beverages sold to students as adopted by the State Board of Education by the beginning of the 2013-2014 school year.

Section 4. CURRENT LAW: G.S. 110-91(2) directs the NC Child Care Commission to adopt nutrition rules and standards for child care facilities while considering limiting servings of sweetened beverages, juice, whole or flavored milk, and creating exceptions from the rules for parents of children with special diets and who want to provide foods that may not meet nutrition standards.

BILL ANALYSIS: Amends G.S. 110-91(2) to require the Child Care Commission to adopt rules to allow parents or guardians of children in child care facilities to provide food and beverages that may not meet nutrition standards and to opt out of any supplemental food programs. Child care facilities would be prohibited from providing foods or beverages to children whose parent or guardian is providing food and beverages for their child. Agencies would be prohibited from including food or beverages provided by a parent or guardian as a component of environmental quality ratings.

Sections 5 and 6. CURRENT LAW: Section 10.7(f) of S.L. 2011-145 (Budget) states that the NC prekindergarten program (NC Pre-K) may continue to serve at-risk children identified through existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development is directed to serve a-risk children regardless of income. However, the total number of at-risk children can constitute no more than twenty percent (20%) of the four-year olds served within the NC Pre-K program. Section 10.7(h) requires parent co-payments for the NC Pre-K program which are the same as those required of parents receiving regular child care subsidy.

BILL ANALYSIS: Clarifies the relevant section of S.L. 2011-145 (Budget) regarding NC Pre-K eligibility standards and removes the parent co-pay requirement for the NC Pre-K program.

EFFECTIVE DATE: This act is effective when it becomes law.

SENATE BILL 795

Short Title:	Excellent Public Schools Act.	(Public)
Sponsors:	Senators Apodaca, P. Berger, Tillman; Allran, Bingham, Blake, Brock, Brown, Carney, Daniel, Davis, East, Goolsby, Gunn, Harrington, Hartsell, Hise, Hunt, Meredith, Newton, Pate, Rabon, Rouzer, Rucho, Soucek, and Stevens.	
Referred to:	Education/Higher Education.	

April 25, 2012

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO IMPROVE K-3 LITERACY; PROVIDE LITERACY VOLUNTEER LEAVE TIME; ASSIGN SCHOOL PERFORMANCE GRADES; MAXIMIZE INSTRUCTIONAL TIME; ADJUST SCHOOL CALENDAR START AND END DATES; FUND FIVE ADDITIONAL INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR; ESTABLISH AN NC TEACHER CORPS; STRENGTHEN TEACHER LICENSURE REQUIREMENTS; PROVIDE PROOF OF STATE-FUNDED LIABILITY INSURANCE; ESTABLISH PLANS FOR PAY FOR EXCELLENCE; END TENURE; AND ELIMINATE PUBLIC FINANCING FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

PART I. IMPROVE K-3 LITERACY

SECTION 1.(a) G.S. 115C-81.2 is repealed.

SECTION 1.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1A. North Carolina Read to Achieve Program.

"**§ 115C-83.1A. State goal.**

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success.

"**§ 115C-83.1B. Purposes.**

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading.

"**§ 115C-83.1C. Definitions.**

The following definitions apply in this Part:

(1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.

(2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State approved standardized test of reading comprehension administered to third grade students.

(3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.

(4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.

(5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

(6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.

(9) "Summer reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's summer camp attendance. Summer camps shall (i) be six to eight weeks long, four or five days per week; (ii) include at least five and one-half hours of instructional time per day; (iii) be taught by compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency; and (iv) allow volunteer mentors to read with students.

(10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth

grade performance standards while continuing to remediate areas of reading deficiency.

"**§ 115C-83.1D. Comprehensive plan for reading achievement.**

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 1 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development.

"**§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

(1) The status of children's learning at kindergarten entry.

(2) Instruction of each child.

(3) Efforts to reduce the achievement gap at kindergarten entry.

(4) Continuous improvement of the early childhood system.

"**§ 115C-83.1F. Facilitating early grade reading proficiency.**

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. To the greatest extent possible, kindergarten through third grade reading assessments shall yield data that can be used with the Education Value Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance reading development and proficiency.

"**§ 115C-83.1G. Elimination of social promotion.**

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be re-administered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

(1) Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

(2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

(3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education. Teachers may administer the alternative assessment following the administration of the State-approved standardized test of reading comprehension typically given to third grade students at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp.

(4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Teachers may submit the student reading portfolio at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp. The student reading portfolio and review process shall be established by the State Board of Education.

(5) Students who have (i) received reading intervention and (ii) previously been retained more than once.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

(1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's personal education plan, individual education program, if applicable, alternative assessment, or student reading portfolio.

(2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final

determination. The superintendent's acceptance or rejection of the recommendation shall be in writing.

"**§ 115C-83.1H. Successful reading development for retained students.**

(a) Students not demonstrating reading proficiency shall be enrolled in a summer reading camp provided by the local school administrative unit prior to being retained. Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided with the instruction listed in subsection (b) of this section during the retained year.

(b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension, or student reading portfolio review.

(d) Parents or guardians of students who have been retained once under the provisions of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day.

"**§ 115C-83.1I. Notification requirements to parents and guardians.**

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second or third grade student (i) is demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has a personal education plan under G.S. 115C-105.41.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at least monthly written reports on student progress towards reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities to discuss with parents and guardians the notifications listed in this section.

"**§ 115C-83.1J. Accountability measures.**

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

(1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

(2) The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

(3) The number and percentage of third grade students retained for not demonstrating reading proficiency.

(4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b).

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year a description of all reading interventions provided to students who have been retained under G.S. 115C-83.1G(a).

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by October 1 of each year, beginning with the 2014-2015 school year.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part."

SECTION 1.(c) G.S. 115C-105.27(b)(1a) is repealed.

SECTION 1.(d) G.S. 115C-105.41 reads as rewritten:

"**§ 115C-105.41. Students who have been placed at risk of academic failure; personal education plans.**

In order to implement Part 1A of Article 8 of this Chapter, ~~Local~~ local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning ~~no later than the fourth grade.~~ in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading ~~intervention~~ interventions and accelerated activities should include ~~research-based best~~ evidence-based practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically

review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

SECTION 1.(e) G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for ~~First and Second Grades.~~Kindergarten, First, Second, and Third Grades. – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program and Part 1A of Article 8 of this Chapter for the ~~first and second grades, rather than standardized tests.~~ kindergarten, first, second, and third grades. Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for ~~first and second grade students,~~ kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and to inform instruction and remediation needs. ~~and~~ Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants."

SECTION 1.(f) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.

d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.

e. Students who have received reading interventions and have previously been retained more than once.

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and

guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.

c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

d. The number and percentage of third grade students retained for not demonstrating reading proficiency.

e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection."

SECTION 1.(g) G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils~~pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

SECTION 1.(h) G.S. 130A-440(b) reads as rewritten:

"(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may also include dental screening and developmental screening for cognition, language, and motor function. The developmental screening of cognition and language abilities may be conducted in accordance with G.S. 115C-83.1E(a)."

SECTION 1.(i) There is appropriated from the General Fund to the Department of Public Instruction the sum of thirty-four million eighty-seven thousand six hundred fifty dollars ($34,087,650) for the 2012-2013 fiscal year to implement the requirements of this section. It is the intent of the General Assembly to increase this appropriation for the 2013-2014 fiscal year to implement additional requirements in that fiscal year.

SECTION 1.(j) This section is effective when it becomes law and applies beginning with the 2013-2014 school year. The kindergarten entry assessment required by this section shall be administered beginning with the 2014-2015 school year.

PART II. STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 2.(a) G.S. 126-4 reads as rewritten:

"**§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

...."

SECTION 2.(b) This section is effective when it becomes law.

PART III. SCHOOL PERFORMANCE GRADES

SECTION 3.(a) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall school performance grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance grade shall reflect student performance on annual subject specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance grades shall also be awarded based on the school performance in literacy and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b)."

SECTION 3.(b) G.S. 115C-47(58) reads as rewritten:

"(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or ~~otherwise.~~is otherwise provided to the public. Each local board of education shall ensure that the overall school performance grade earned by each school in the local school administrative unit is prominently displayed on the Web site of the local school administrative unit. If any school in the local school administrative unit is awarded a grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(c) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance grade earned by the charter school is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance grade earned by the regional school is prominently displayed on the school Web site. If a regional school is awarded a grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(e) The State Board of Education shall award school performance grades as required by G.S. 115C-12(9)c1. based on the following criteria.

(1) The overall school performance grade earned by schools serving students in kindergarten through eighth grade shall be calculated based on the sum of three school performance grade point elements.

a. The grade shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
2. One point for each percent of students who score at or above proficient on annual assessments for English Language Arts in grades three through eight.
3. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

b. The following scale shall be applied for award of grades:

1. At least 270 performance grade points for an overall school performance grade of A.
2. At least 240 performance grade points for an overall school performance grade of B.
3. At least 210 performance grade points for an overall school performance grade of C.
4. At least 180 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 180 points shall be assigned an overall school performance grade of F.

(2) The school performance grades in literacy and mathematics, respectively, for schools serving students in kindergarten through eighth grade shall be earned as follows:

a. The literacy school performance grade shall be based on the percent of students who score at or above proficient on annual assessments for English Language Arts assessments in grades three through eight.

b. The mathematics school performance grade shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

c. The school performance grades awarded for literacy and mathematics, respectively, shall be awarded on the following scale:

1. At least 90 performance grade points for an overall school performance grade of A.
2. At least 80 performance grade points for an overall school performance grade of B.
3. At least 70 performance grade points for an overall school performance grade of C.
4. At least 60 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 60 points shall be assigned an overall school performance grade of F.

(3) The overall school performance grade earned by schools serving students in ninth through twelfth grade shall be calculated based on the sum of seven school performance grade point elements.

a. The grade shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
2. One point for each percent of students who score at or above proficient on annual assessments for English.
3. One point for each percent of students who score at or above proficient on annual assessments for biology.
4. One point for each percent of students who complete a higher-level mathematics class with a passing grade.
5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
6. One point for each percent of students who graduate within four years of entering high school.
7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.

b. The following scale shall be applied for award of grades:

1. At least 630 performance grade points for an overall school performance grade of A.
2. At least 560 performance grade points for an overall school performance grade of B.
3. At least 490 performance grade points for an overall school performance grade of C.
4. At least 420 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 420 points shall be assigned an overall school performance grade of F.

(4) In calculating the overall school performance grade earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance grade element for award of grades to a school that does not have a measure of one of the school performance grade elements annually assessed for the grades taught at that school.

(5) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade point elements and scale for award of grades.

SECTION 3.(f) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART IV. MAXIMIZE INSTRUCTIONAL TIME

SECTION 4.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school ~~year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~year.

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the school year for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of ~~children~~ students with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for students with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 4.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART V. ADJUSTMENTS TO SCHOOL CALENDAR START AND END DATES

SECTION 5.(a) G.S. 115C-84.2(d) reads as rewritten:

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall not be before ~~August 25,~~the next to the last Monday in August, and the closing date for students shall not be after ~~June 10.~~the second Friday in June. On a showing of good cause, the State Board of Education may waive this requirement to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means either that:

(1) Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or

(2) Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.

The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.

~~The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.~~"

SECTION 5.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART VI. FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR

SECTION 6.(a) To fully provide for the expansion of five additional instructional days in accordance with S.L. 2011-145, Section 7.29:

(1) There is appropriated from the General Fund to the Department of Public Instruction the sum of one million two hundred thousand dollars ($1,200,000) for the 2012-2013 fiscal year to increase the amount appropriated for the noninstructional support personnel allotment.

(2) There is appropriated from the General Fund to the Department of Public Instruction the sum of ten million one hundred fifty thousand dollars ($10,150,000) for the 2012-2013 fiscal year to increase the amount appropriated for the transportation allotment.

SECTION 6.(b) This section becomes effective July 1, 2012.

PART VII. ESTABLISH NC TEACHER CORPS

SECTION 7.(a) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-296.7. North Carolina Teacher Corps.**

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies, and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

SECTION 7.(b) This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

PART VIII. STRENGTHEN TEACHER LICENSURE

SECTION 8.(a) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education may require an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination

appropriate and adequate for that purpose. Elementary Education (K-6) teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to Reading and Language Arts and Mathematics. 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 licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high quality academic and professional preparation to ~~teach.~~teach effectively.

...

(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 licensed 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 licensure 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 licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

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 local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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 licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least three continuing education credits related to literacy for elementary and middle school teachers. Literacy renewal credits shall include assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to certification renewal for elementary school teachers.

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 licenses. The State Board shall consider modifications in the license 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 licenses by May 15, 1998.~~

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification

and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The standards for approval of institutions of teacher education shall require that elementary teacher education programs include demonstrated competencies in (i) teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies; and (iii) appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students. 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, the 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. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

...."

SECTION 8.(b) This section is effective when it becomes law and applies beginning with the 2013-2014 school year.

PART IX. PROOF OF STATE-FUNDED LIABILITY INSURANCE

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

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

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

...

f. To annually notify public school employees of the availability and coverage of professional liability insurance.

...."

SECTION 9.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART X. PAY FOR EXCELLENCE

SECTION 10.(a) Each local board of education shall establish a system of performance pay for all licensed personnel employed by the local board, beginning with the 2013-2014 fiscal year. Under the performance pay system, licensed employees shall be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. Criteria for award of bonuses or adjustments to base salary shall include, but are not limited to, the following factors:

(1) Annual growth in student achievement of students assigned to a teacher's classroom, when applicable.
(2) Annual growth in student achievement of students assigned to a specific school.
(3) Assignment of additional academic responsibilities.
(4) Assignment to a hard-to-staff school.
(5) Assignment to a hard-to-staff subject area.

Local boards of education shall submit plans to the State Board of Education no later than March 1, 2013. The State Board shall submit for consultation the plans submitted by local boards in compliance with this section to the Fiscal Research Division and to the Joint Legislative Commission on Governmental Operations no later than April 15, 2013.

SECTION 10.(b) This section is effective when it becomes law.

PART XI. END TENURE

SECTION 11.(a) G.S. 115C-325 is repealed.

SECTION 11.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"**§ 115C-325.1. Definitions.**

As used in this Part, the following definitions apply:

(1) "Annual contract" means an employment contract for a period of no longer than one school year.
(2) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.
(3) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.
(4) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).
(5) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program as provided in G.S. 115C-287.1(a)(3).
(6) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:
1. A current standard professional educator's license.
2. A current lateral entry teaching license.
3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

"**§ 115C-325.2. Personnel files.**

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"**§ 115C-325.3. Annual contracts.**

(a) Annual Contract. – Local boards of education shall employ teachers through an annual contract upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed annual contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the teacher a new or renewed annual contract.

(b) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(c) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed annual contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than May 15.

(d) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than June 1. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed annual contract. The board shall notify a teacher whose contract will not be renewed

for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification by July 1 or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed annual contract shall not be on any basis prohibited by State or federal law.

(e) Local boards of education and teachers employed by the local board may mutually modify the terms of the annual contact to permit part-time employment.

"**§ 115C-325.4. Dismissal or demotion for cause.**

(a) Grounds. – No teacher shall be dismissed or demoted or reduced to employment on a part-time basis for disciplinary reasons during the term of the annual contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

(5) Physical or mental incapacity.

(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.

(7) Conviction of a felony or a crime involving moral turpitude.

(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.

(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.

(10) Failure to comply with such reasonable requirements as the board may prescribe.

(11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.

(12) Failure to maintain his or her license in a current status.

(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.

(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"**§ 115C-325.5. Teacher suspension.**

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated

immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(1) Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325.8 shall apply if any of the following circumstances exist:

a. The recommended disciplinary suspension without pay is for more than 10 days; or

b. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the revocation of the teacher's or school administrator's license, or providing false information.

(2) Board hearing for disciplinary suspensions of no more than 10 days. – The procedures for a board hearing under G.S. 115C-325.7 shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in G.S. 115C-325.5(b)(1).

(c) Suspension with Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request. However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension.

"**§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the annual contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under

G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay.

"**§ 115C-325.7. Hearing before board.**

(a) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

(1) The hearing shall be private.

(2) The board shall receive the following:

a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the teacher seven days before the hearing.

b. Any documentary evidence the teacher intends to use to rebut the superintendent's recommendation. The teacher shall provide the superintendent with the documentary evidence three days before the hearing.

c. The superintendent's recommendation and the grounds for the recommendation.

(3) The superintendent and teacher may submit a written statement not less than three days before the hearing.

(4) The superintendent and teacher shall be permitted to make oral arguments to the board based on the record before the board.

(5) The board shall make findings of fact based upon a preponderance of the evidence.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the teacher and the superintendent.

(7) If the board elects to make a transcript, the teacher may request and shall receive at no charge a transcript of the proceedings. A teacher may have the hearing transcribed by a court reporter at the teacher's expense.

(b) The procedures of this section shall not apply to board hearings for disciplinary suspensions without pay. Board hearings for G.S. 115C-325.5(b), disciplinary suspensions without pay, shall be conducted as provided in G.S. 115C-325.8.

"**§ 115C-325.8. Board hearing for certain disciplinary suspensions.**

(a) The following procedures shall apply for a board hearing under G.S. 115C-325.5(b), disciplinary suspensions without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least eight days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least six days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings.

"**§ 115C-325.9. Teacher resignation.**

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) 30 Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the annual contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the annual contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, Correction, or the Division of Juvenile Justice of the Department of Public Safety, regardless of the age of the students.

"**§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.**

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall

prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.12. Procedure for dismissal of Principals employed in low-performing schools.**

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

CONFORMING CHANGES

SECTION 11.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;

(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;

(3) The terms or conditions of employment or employment status of a school employee; and

(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State 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. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee.~~"

SECTION 11.(d) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325,~~in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 11.(e) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational

management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 11.(f) G.S. 115C-105.38A(d) reads as rewritten:

"(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the certified staff member shall take the general knowledge test a second time. If the certified staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a).~~G.S. 115C-325.13."

SECTION 11.(g) G.S. 115C-105.38A(f) reads as rewritten:

"(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under ~~G.S. 115C-325(q)(1);~~G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2);~~G.S. 115C-325.13.

(3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e);~~G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment; or~~employment.

~~(5) The decision to grant career status.~~"

SECTION 11.(h) G.S. 115C-105.39 reads as rewritten:

"**§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.**

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325,~~G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote

the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1).~~G.S. 115C-325.12.

(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2)~~G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2).~~G.S. 115C-325.13.

...."

SECTION 11.(i) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).~~"

SECTION 11.(j) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before

the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).~~"

SECTION 11.(k) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 11.(l) G.S. 115C-285(7) reads as rewritten:

"(7) All persons employed as principals in the schools and institutions listed in ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education."

SECTION 11.(m) G.S. 115C-287.1 reads as rewritten:

"**§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.**

(a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators shall be employed pursuant to this section.

~~(2) Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators shall be employed pursuant to G.S. 115C-325:~~

~~a. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position with career status in that position; and~~

~~b. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position and who are eligible to achieve career status on or before June 30, 1997.~~

~~A school administrator shall cease to be employed pursuant to G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career status or the opportunity to achieve career status through promotion, resignation, or otherwise; or (ii) is dismissed or demoted or whose contract is not renewed pursuant to G.S. 115C-325.~~

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

~~(4) Nothing in this section shall be construed to confer career status on any assistant principal or director, or to make an assistant principal eligible for career status as an assistant principal or a director eligible for career status as a director.~~

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

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause as set forth in ~~G.S. 115C-325.~~G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision ~~and the reasons for his or her decision~~ no later than May 1 of the final year of the contract. ~~The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, or political.~~ No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision.~~ If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may not be for any cause ~~that is not arbitrary, capricious, discriminatory, personal, or political.~~ prohibited by State or federal law. ~~The local board's decision not to offer the school administrator a new, renewed, or extended school administrator's contract is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.~~

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

~~(g) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is employed as a school administrator, a school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished that right or is dismissed or demoted pursuant to G.S. 115C-325.~~

(h) An individual who holds a provisional assistant principal's certificate and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's certificate. ~~If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's certificate."

SECTION 11.(n) G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal knowledge, a reasonable belief, or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

A principal who willfully fails to make a report to law enforcement required by this subsection may be subject to demotion or dismissal pursuant to ~~G.S. 115C-325.~~G.S. 115C-325.4.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by this subsection.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students."

SECTION 11.(o) G.S. 115C-304 is repealed.

SECTION 11.(p) G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to

provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(6), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have ~~not attained career status~~been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

(1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

(2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's ~~performance or~~ performance, (ii) the superintendent recommend to the local board that the ~~employee be dismissed or demoted.~~employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make ~~either~~ any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate

dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that the ~~employee~~ employee's contract not be renewed, or that the employee be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~for any reason~~for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under ~~G.S. 115C-325 except for a reduction in force.~~ G.S. 115C-325.4.

...."

SECTION 11.(q) G.S. 115C-333.1 reads as rewritten:

"§ 115C-333.1. **Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status~~who have been employed for three or more years who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status~~employed for three or more years to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan

shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) 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 of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the teacher's contract not be renewed, or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325.~~G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (d) of this section, ~~for any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under ~~G.S. 115C-325~~G.S. 115C-325.4. ~~except for a reduction in force.~~ If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, if the local board elects to renew the teacher's annual contract and ~~the teacher shall have one more year to bring the rating to proficient. If,~~ by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

...."

SECTION 11.(r) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 11.(s) Article 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-344. Employment benefits for exchange teachers.**

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For

purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week."

SECTION 11.(t) G.S. 115C-404(b) reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal ~~of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee,~~ in accordance with ~~G.S. 115C-325(e)(1)i.~~G.S. 115C-325.4(a)(9)."

SECTION 11.(u) G.S. 143B-146.7(b) reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the ~~Secretary~~ State Board shall proceed under ~~G.S. 115C-325(p1)~~G.S. 115C-325.11 for the dismissal of certificated instructional personnel assigned to that school."

SECTION 11.(v) G.S. 143B-146.8 reads as rewritten:

"**§ 143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all ~~certificated~~ licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(6), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have ~~not attained career status.~~been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under ~~G.S. 115C-325(a)(6)~~G.S. 115C-325.1(6) who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the Secretary adopts rules that allow specified categories of teachers with ~~career status~~three or more years of employment to be evaluated more or less frequently. The Secretary also may adopt rules requiring the annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.

(b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee

receive an action plan designed to improve the employee's performance; (ii) the employee's contract not be recommended for renewal, or (iii) if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. ~~or (ii) the principal recommend to the Secretary that the employee be dismissed or demoted.~~ The principal shall determine whether to develop an action ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board, in consultation with the Secretary, shall develop guidelines that include strategies to assist in evaluating ~~certificated~~ licensed personnel and developing effective action plans within the time allotted under this section. The Secretary may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee's contract not be renewed, or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If the Secretary dismisses an employee for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ the Secretary shall notify the State Board of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

...."

SECTION 11.(w) This section becomes effective July 1, 2012, and applies to all school employees employed on or after that date.

PART XII. ELIMINATION OF PUBLIC FINANCING FOR SUPERINTENDENT OF PUBLIC INSTRUCTION

SECTION 12.(a) G.S. 163-278.95 reads as rewritten:

"**§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.**

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of

qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~Auditor and Commissioner of Insurance in elections to be held in 2008 and thereafter."

SECTION 12.(b) G.S. 163-278.96(12) reads as rewritten:

"(12) Office. – The Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~ Auditor and Commissioner of Insurance."

SECTION 12.(c) Within five business days of the effective day of this act, the State Board of Elections shall notify any individual who is a candidate for Superintendent of Public Instruction and who has filed a declaration of intent to participate in the program for public financing through the North Carolina Voter-Owned Elections Fund that the candidate is no longer eligible to participate in the program.

SECTION 12.(d) This section is effective when it becomes law and applies to elections held on or after that date.

PART XIII. EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 795:
Excellent Public Schools Act

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 23, 2012
Introduced by:	Sens. Apodaca, P. Berger, Tillman	**Prepared by:**	Drupti Chauhan, Patsy Pierce, and Kara McCraw, Legislative Staff
Analysis of:	First Edition		

SUMMARY: SB 795 would: (i) enact the "North Carolina Read to Achieve Program" which makes numerous changes regarding K-3 literacy; (ii) provide volunteer leave time for State employees to help with literacy; (iii) assign "A-F" grades to schools based on performance; (iv) require annual assessments and final exams to be given within a certain time frame at the end of the course or school year; (v) make adjustments to the school calendar start and end dates; (vi) provide funding for five additional instructional days within the existing school calendar; (vii) establish the NC Teacher Corps; (viii) set additional standards for teacher licensure; (ix) require notice of proof of State funded liability insurance; (x) require local boards of education to establish systems of performance pay; (xi) eliminate career status; and (xii) eliminate public financing for candidates for the Office of Superintendent of Public Instruction.

BILL ANALYSIS:

Part I: K-3 Literacy

Section 1.(a)

Current Law: The State Board of Education (SBE) is charged with developing a comprehensive reading achievement plan. The SBE can require modifications to the standard course of study, teacher licensure and teacher education program standards.

Analysis: Repeals the current statute requiring the SBE to develop a comprehensive reading achievement plan.

Section 1.(b) North Carolina Read to Achieve Program

Analysis:

- Goal, Purposes, and Definitions: Creates "NC Read to Achieve Program" to ensure every child reads at or above grade level by 3rd grade through early identification and services for reading difficulties, increased parental notification of academic need and progress, and grade promotion based partly on reading proficiency.
- Comprehensive Plan for Reading Achievement: Requires the SBE to develop, implement and evaluate a comprehensive reading achievement plan including research-based practices, appropriate modification of the standard course of study, and teacher licensure and education program standards. Requires SBE to report biennially on plan and recommended legislative changes to the Joint Legislative Education Oversight Committee (JLEOC) by October 1.
- Developmental Screening and Kindergarten Entry Assessment: Requires the SBE to ensure that each kindergarten student's language, literacy, and math skills be screened within 30 days of enrollment and kindergarten entry assessment be completed within 60 days of enrollment. Results must be used to inform children's instruction, reduction of the achievement gap, and improvement of the early childhood system.
- Facilitating Early Grade Reading Proficiency: Mandates that K-3 students be assessed to determine difficulty with reading development, and requires difficulties be addressed with instructional supports and services. Local school administrative units (LEAs) are encouraged to partner with community organizations and businesses for volunteers to help enhance reading development and proficiency.
- Elimination of Social Promotion: Requires the SBE to mandate students be retained in 3rd grade if the student fails to demonstrate 3rd grade reading proficiency on a State-approved standardized test of reading comprehension. The local superintendent may determine that a student meets one of the good cause exemptions to the retention requirement (limited English proficiency, disability, demonstrated proficiency on alternative measures, or multiple retentions).

- Successful Reading Development For Retained Students: Requires enrollment of retained students in summer reading camps. Students showing reading proficiency on an alternative assessment after completing the camp would be promoted to 4th grade. Students not demonstrating proficiency must be retained and provided with a successful reading teacher in an accelerated or transitional classroom where specific reading instruction takes place. The SBE must establish a mid-year promotion policy for students demonstrating reading proficiency by November 1. Parents of retained students will be provided with reading training and supplemental tutoring for the student.
- Notification Requirements To Parents: Requires that K-3 parents receive written notification that a student will be retained if the student is not demonstrating reading proficiency by the end of the 3rd grade, absent a good cause exemption. For retained students, parents must be given monthly written reports regarding student progress.
- Accountability Measures: Directs local boards of education to annually report to the SBE and publish on their websites information about numbers and percentages of 3rd graders demonstrating reading proficiency, retained, or exempt from retention for good cause.

  The SBE shall submit a summary of this information to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the JLEOC by October 1, beginning with the 2014-2015 school year. The SBE and the Department of Public Instruction must provide technical assistance as needed to assist LEAs to implement the provisions of this Part.

Section 1.(c): School Improvement Plans

Current Law and Analysis: Repeals current requirement that school improvement plans for schools serving kindergarten and 1st grade must include a reading plan to prepare students to read at grade level by 2nd grade.

Section 1.(d): Risk of Academic Failure

Current Law and Analysis: Requires identification of students who are at risk of academic failure and not progressing toward grade promotion beginning in kindergarten. Current law requires identification by 4th grade.

Section 1.(e): K-3 Assessments

Current Law: Optional developmentally appropriate assessments must be provided to LEAs for 1st and 2nd grades. Standardized tests cannot be used except as required as a condition of a federal grant.

Analysis: Requires LEAs to use SBE provided reading assessments for K-3 students to assess progress, diagnose difficulties, and inform instruction and remediation needs. LEAs would be prohibited from using standardized tests for summative assessments in grades K-3, except as required as a condition of a federal grant.

Section 1.(f): New K-3 Literacy Requirements for Charter Schools

Analysis:

- Requires charter schools to retain students in 3rd grade if the student fails to demonstrate 3rd grade reading proficiency on a State approved test of reading comprehension unless the student meets a good cause exemption.
- Requires charter schools to provide notice to parents that a student will be retained if not demonstrating reading proficiency by the end of 3rd grade, unless there is a good cause exemption. Parents must be given information on reading interventions to be provided.
- Requires charter schools to publish annually on their websites and report to the SBE the number and percentage of 3rd graders who are reading proficiently, who are not reading proficiently who do not return during the following year, and who were exempt from retention for good cause.

Section 1.(g): Principal's Authority to Grade and Classify Students

Current Law: Principals have the authority to grade and classify students.

Analysis: Limits principals authority to grade and classify students when a student must be mandatorily retained in the 3rd grade for failing to demonstrate 3rd grade reading proficiency.

Sections 1.(h) and 1.(i): Conforming Changes and Appropriations

Analysis: Makes conforming changes regarding the kindergarten developmental screenings. Appropriates $34,087,650 to the Department of Public Instruction for 2012-2013 to implement the new requirements and states that it is the intent of the General Assembly to increase the appropriation in 2013-2014.

Effective Date: Section 1 would be effective when it becomes law and would apply beginning with the 2013-2014 school year. The kindergarten entry assessment would be administered beginning with the 2014-2015 school year.

Part II: State Employee Literacy Volunteer Leave Time

Current Law: Under the Community Service Leave Policy, employees may use one hour of leave each week for helping in a school, up to 36 hours for the weeks that schools are in session.

Analysis: Directs the State Personnel Commission to establish a leave program that allows employees to volunteer in a literacy program in a public school for up to 5 hours each month.

Effective Date: This section would become effective when it becomes law.

Part III: School Performance Grades

Sections 3.(a) and 3.(b): Annual Report Cards

Current Law: The SBE must issue an annual "report card" for the State and each LEA. Local boards of education must ensure that their report cards are distributed widely to the local press and public.

Analysis: Directs the SBE to award to each school an overall performance grade of A, B, C, D, or F as a part of the annual LEA's report card. These performance grades must be placed on the LEA's website. The grades must reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. The annual report card for schools with 3rd grade students must include information about reading proficiency and retention. Written notice must be provided to parents of students enrolled in schools that obtain a D or F grade.

Sections 3.(c) and 3.(d): Charter Schools and Regional Schools

Analysis: Requires charter schools and regional schools to ensure that the report cards issued to them by the SBE are publicized widely. The performance grades must be placed prominently on each school's website and if a school receives a D or F, written notice must be provided to parents of all enrolled students.

Section 3.(e): Calculation of School Performance Grades

Analysis:

- For schools serving grades K-8, the ***overall*** school performance grade would be calculated based on the sum of the percentage of students scoring at or above proficient on annual assessments in math, reading, and science. Reading and math grades would be separately reported.
- For schools serving grades 9-12, the ***overall*** school performance grade would be calculated based on a number of measures including measures of math, English, biology, college/workplace readiness, higher level math completers, and graduation rates.

A scale of points yielding letter grades is provided. The SBE would be required to make proportional adjustments to account for the absence of a school performance grade element if the school does not have a measure for that element. The SBE must annually report to the JLEOC by January 15 on recommended adjustments to the school performance grade elements and scale.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part IV: Instructional Time and Testing

Current Law: The SBE must establish a policy to minimize time spent taking tests through State and local testing programs, including limits on practice and field tests. Schools can participate in no more than 2 field tests

in any one grade level in a school year unless the school improvement teams vote to participate in an expanded number of field tests.

Analysis: Prohibits schools from participating in more than 2 field tests. Annual tests adopted by the SBE and all final exams for courses must be administered within the final 10 instructional days of the school year for year-long courses and within the final 5 instructional days of the semester for semester courses. Exceptions would be allowed for individualized education plans and Section 504 plans.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part V: Adjustments to School Calendar Start and End Dates

Current Law: Except for certain limited exceptions, the opening date for students cannot be before August 25 and the closing date cannot be after June 10.

Analysis: Prohibits schools from setting an opening date for students before the next to last Monday in August and a closing date after the second Friday in June.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part VI: Funding for Addition of 5 Instructional Days Within the Existing School Calendar

Current Law: S.L. 2011-145 added five additional instructional days to the school calendar, resulting in a requirement for 185 days and 1025 hours of instruction.

Analysis: Appropriates $1,200,000 for the 2012-2013 fiscal year to increase the non-instructional support personnel allotment and $10,150,000 for the 2012-2013 fiscal year to increase the transportation allotment.

Effective Date: This section would become effective July 1, 2012.

Part VII: NC Teacher Corps

Analysis: Establishes the NC Teacher Corps (Corps) to recruit and place recent college graduates and mid-career professionals as teachers in high-needs public schools. The SBE would be directed to develop and administer the Corps including provision of an intensive summer training institution, ongoing support and professional development. Corps members would be given lateral entry teaching licenses.

Effective Date: This section would become effective when it becomes law and the SBE must recruit and place an initial cohort of Corps members no later than the 2012-2013 school year.

Part VIII: Teacher Licensure

Current Law: The SBE sets the licensure requirements for teaching position applicants and may require a minimum score on a standard exam. The SBE, collaborating with the Board of Governors of The University of North Carolina, must develop requirements for continuing licensure, align them with quality professional development programs, and sets the standards for approval for teacher education programs.

Analysis: Provides that elementary education (K-6) teachers be required to achieve a prescribed minimum score on subtests or standard exams specific to reading and language arts and mathematics. For continuing licensure, at least 3 continuing education credits related to literacy must be taken by elementary and middle school teachers. Teacher education program approval standards would require elementary education program completers to demonstrate competencies in assessment and intervention strategies to teach all children to read.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2013-2014 school year.

Part IX: Proof of State-Funded Liability Insurance

Current Law: Professional liability insurance coverage is provided to all public school employees.

Analysis: Directs the SBE to annually notify public school employees of the availability and coverage of the professional liability insurance.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part X: Performance Pay

Analysis: Directs local boards of education to establish a system of performance pay for all licensed personnel. The licensed employees would be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. The plans must be submitted to the SBE no later than March 1, 2013. The SBE must submit these plans for consultation to the Fiscal Research Division and to the Joint Legislative Commission on Governmental Operations by April 15, 2013.

Effective Date: This section would become effective when it becomes law.

Part XI: Eliminate Career Status

Current Law: In North Carolina, teachers are eligible for career status when they have been employed by a local board of education for four consecutive years. Obtaining career status provides that the career employee may not be dismissed or demoted except if one or more statutory grounds are found. Certain procedures must be followed to dismiss or demote a career status teacher, including a right to a hearing in front of the local board of education with a further right of appeal to superior court. The procedure for the dismissal of career status teachers in schools that have been identified as low-performing by the SBE and that have been assigned assistance teams varies in that the SBE has the authority to dismiss career status teachers due to inadequate performance. Hearings must still be granted by the SBE in these cases and there are further rights to judicial review under Chapter 150B of the General Statutes.

Analysis: Eliminates career status in North Carolina. All teachers would be employed by their local boards of education through an annual contract upon recommendation of the superintendent. Teachers could not be dismissed or demoted during the term of the contract except for one of the statutorily listed grounds. If the superintendent decides against recommending a renewal of a contract, the teacher would have the right to petition the local board of education for a hearing but whether to grant the hearing would be in the local board's discretion.

- Procedure for Dismissal or Demotion for Cause During the Contract Term:
  - Notice: The superintendent must give written notice to the teacher of his or her intention to recommend to the local board of education that teacher be dismissed or demoted and provide the grounds upon which the recommendation is being made. The superintendent must also meet with the teacher and (i) give written notice of the charges against the teacher; (ii) an explanation of the basis for the charges; and (iii) an opportunity to respond. The notice must also inform the teacher that he or she may request a hearing before the local board of education within 14 days of the receipt of the notice.
  - Request for a Hearing: The teacher may file a written request for a hearing before the local board of education within 14 days after receipt of the notice of recommendation of the superintendent. The board shall set a time and place for the hearing which is not less than 10 days nor more than 30 days after notification is given to the teacher unless the parties agree to an extension.
  - No Request for Hearing: If the teacher does not request a hearing before the board within 14 days of receipt of the recommendation, the superintendent may submit his or her recommendation to the board. The board may (i) reject the recommendation or (ii) accept or modify the recommendation.
- Hearing Before the Local Board of Education: The hearing must be private and the board must receive documentary evidence that will be used to support the recommendation from both the superintendent and teacher, who must provide the evidence to each other within certain time frames. Written statements may be provided to the board and both the superintendent and the teacher may make oral arguments before the board based on the record before the board. The board must make findings of fact based upon the

preponderance of the evidence and must send a written copy of its findings and determinations within 2 days of the hearing to the teacher and the superintendent.

- Hearing for Disciplinary Suspension Without Pay: The hearing must be private and conducted according to reasonable rules adopted by the SBE governing such a hearing. Both the teacher and superintendent have the right to be present and represented by counsel and to present witnesses. The rules of evidence to not apply. The superintendent must give the teacher 8 days before the hearing, a list of witnesses who will be presented and a statement of the nature of each witness' testimony and copy of any documentary evidence that will be presented. The teacher must provide this same information to the superintendent 6 days before the hearing. New evidence may not be presented at the hearing unless the board finds that it is critical and could not have been found earlier.

- No Appeal of Local Board of Education's Decision: The bill would eliminate the right to appeal to superior court decisions of a local board of education regarding the terms or conditions of employment or employment status of a school employee.

- Teacher Resignation Following Recommendation for Dismissal: If a teacher has been recommended for dismissal and chooses to resign without the written consent of the superintendent: (i) the superintendent must report the matter to the SBE; (ii) the teacher is deemed to have consented to the placement in his or her personnel file of the written notice of the superintendent's intention to recommend dismissal and the release of this fact that the teacher has been reported to the SBE to prospective employers upon request; and (iii) the teacher is deemed to have voluntarily surrendered his or her license pending an investigation by the SBE in determination of whether to seek action against the teacher's license.

- 30 Days' Notice Required for Resignation: If a teacher who has not been recommended for dismissal decides to resign during the term of the contract without the consent of the superintendent, then he or she should give at least 30 days' notice. If the teacher does resign without giving this notice, then the board may request that the SBE revoke the teacher's license for the remainder of the school year.

- Dismissal of School Administrators and Teachers Employed in Low-Performing Residential Schools: The procedure would remain substantially the same as it is under current law but would make the following changes:

  - Clarify that it is the SBE (rather than the Secretary of Health and Human Services) that has the authority to dismiss school administrators and teachers in residential schools that have been identified as low-performing by the SBE and have been assigned assistance teams by the SBE.

  - Eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

- Dismissal of School Administrators and Teachers Employed in Low-Performing Schools: The procedure would remain substantially the same as it is under current law but the bill would eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

School Administrators

Current Law: Most school administrators are employed through contracts with their local boards of education. Some school administrators who had or were eligible to receive career status in 1995 are employed pursuant to the teacher career status law. For those employed by contract, school administrators cannot be dismissed or demoted during the term of the contract except for cause for one of the statutorily listed grounds. Superintendents recommend new, renewed, or extended contracts for school administrators to their local boards of education which may approve the recommendations or not. If a superintendent decides against recommending that the local board of education offer a new, renewed, or extended contract to a school administrator, then written notice of this decision and the reasons for it must be given to the school administrator. The reasons may not be arbitrary, capricious, discriminatory, personal, or political. The school administrator may file a written request for a hearing before the local board and failure to file a timely request results in a waiver of the right of appeal of the

superintendent's decision. If a timely request is filed, the local board of education must conduct a hearing on the matter and its decision is subject to judicial review under Chapter 150B of the General Statutes.

Analysis: Eliminates career status for all school administrators. Eliminates the current requirement that the superintendent's and local board of education's decisions to not offer a new, renewed, or extended contract to a school administrator may not be arbitrary, capricious, discriminatory, personal or political. Also eliminates the right to judicial review under Chapter 150B of the General Statutes of the decision of the local board of education.

Non-Licensed Employees

Current Law: Non-licensed employees may appeal a decision of the local board of education to superior court regarding decisions concerning dismissal, demotion or suspension without pay. The non-licensed employee may request and be entitled to receive written notice as to the reasons for the employee's dismissal, demotion or suspension without pay and it must be provided to the employee prior to any local board of education hearing on the issue.

Analysis: Eliminates this right of appeal to superior court and would eliminate the right to written notice for the reasons for the non-licensed employee's dismissal, demotion or suspension without pay.

Section 11.(d) through Section 11.(l) and Section 11.(n) through Section 11.(w): Conforming statutory changes regarding the elimination of career status.

Effective Date: These sections would become effective July 1, 2012 and would apply to all school employees employed on or after that date.

Part XII: Eliminate Public Financing for Superintendent of Public Instruction

Current Law: North Carolina currently provides a program called the North Carolina Voter Owned Election Fund for public financing of elections for 3 of the 10 Council of State races (Auditor, Superintendent of Public Instruction and Commissioner of Insurance).

Candidates must file declaration of intent to participate before collecting qualifying contributions, and must then collect qualifying contributions from a certain number of registered voters during the qualifying period. The State Board of Elections "certifies" that the candidate has filed a declaration of intent, collected the appropriate contributions, and filed a notice of candidacy. Once certified, the candidate is entitled to receive distributions from the public financing fund. Distributions are as follows: none for an uncontested primary or general election; an initial distribution within 5 business days of certification by the State Board for a candidate in a contested general election; and matching funds upon trigger.

The money for the distributions to the candidates is taken from the North Carolina Voter Owned Election Fund. The program is funded by voluntary check-off donations on personal income tax and appropriations.

Analysis: Eliminates the Superintendent of Public Instruction as one of the three Council of State offices that may participate in public financing through the North Carolina Voter Owned Election Fund.

Effective Date: This section would become effective when it becomes law and applies to elections held on or after that date.

S795-SMTL-56(e1) v7

Revisions to G.S. 115C-325 and -333; Establishes new G.S. 115C-333.1
Teacher Performance and Dismissal

- **Streamlines teacher dismissal hearings by hearing officers (formerly, case managers)**
  - Revises G.S. 115C-325 to address current problems with unrealistic timelines, selection of qualified individuals, accountability and efficiency.
  - A hearing officer must be a North Carolina attorney who has demonstrated expertise and experience in specific areas of law, such as education and employment.
  - The largest statewide education associations will jointly recommend individuals to the State Board for selection for the master list. This will increase the likelihood of mutually agreed upon hearing officers by both parties in the initial stage of selection.
  - The State Board has the authority to remove individuals from the master list or reduce compensation for failure to perform as required by the statute and the State Board's terms and conditions.
  - The total time for conducting the hearing and submitting the hearing officer's report is extended to give the parties adequate time, yet extensions of the deadlines are no longer permissible, except upon a showing of extraordinary cause and a written agreement of the parties.
  - The role of the hearing officer is clarified to be limited to that of factfinder. Hearing officers are prohibited from making recommendations regarding conclusions of law or the disposition of the case.
  - A three work day limit is imposed on conducting the hearing, unless extended by the hearing officer upon a showing of extraordinary cause.

- **Clarifies what constitutes inadequate teacher performance**
  - Revises G.S. 115C-325 to define inadequate performance of a teacher by incorporating language from the Department of Public Instruction's new evaluation instrument and retaining the current measure of below standard performance.

- **Provides an optional, additional tool for administrators to effectively remove poor performing teachers from the classroom**
  - Revises G.S. 115C-333 to clarify the evaluation of teachers in low performing schools and the use of mandatory improvement plans (formerly, action plans). Mandatory improvement plans target deficiencies in teacher performance that are not adequately addressed by a DPI professional growth plan. The reassessment of employees upon completion of a mandatory improvement plan is focuses on areas of deficiency rather than requiring a full year long evaluation under DPI's current evaluation instrument.
  - Establishes new G.S. 115C-333.1, which provides an optional method for school administrators to expedite the dismissal process for poor performing teachers similar to the process used in low performing schools.
  - A qualified observer is available to a teacher placed on a mandatory improvement plan to provide supplemental observation regarding one or more areas of concern in the plan.
  - After reassessment of the teacher on the areas of deficiency in a plan, the superintendent may recommend demotion or dismissal.
  - School administrators who follow the procedures of G.S. 115C-333.1 will establish substantial evidence of the teacher's inadequate performance if recommending dismissal or demotion of the teacher. Nothing in G.S. 115C-333.1 prohibits the superintendent from proceeding for demotion or dismissal under the existing procedures in G.S. 115C-325.

Supported by the N.C. School Boards Assn., the N.C. Assn. of School Administrators, and the N.C. Association of Educators.

NC Justice Center

Opportunity
and prosperity for all

Senate Bill 795: Don't Implement Reforms Based on a Struggling Model

The North Carolina Justice Center's Education and Law Project advocates for and represents students and their families with the goal of improving education for all students in North Carolina. The Education and Law Project has a strong interest in Senate Bill 795 (The Excellent Public Schools Act) because the bill includes policies that would adversely affect the quality of education that these students receive.

Senate Bill 795 would unfairly retain students solely on the basis of standardized test scores, label schools as failing without providing adequate support to help them succeed, and make North Carolina less attractive to highly qualified teachers.

Legislators' plan for public school reform is based on a series of reforms adopted in Florida beginning in 2002. While these reforms showed some initial gains on standardized test scores for students, recent events in Florida have shown that these reforms are deeply flawed and that the initial gains were illusory. Florida is now paying a serious price for pursuing this shortsighted policy.

Emerging Problems with Florida's Retention and School Grading Policies

- ❖ In the first year that Florida's retention policy operated, 13.2% of 3rd graders were retained.[1]
  - Virtually all empirical studies on retention demonstrate that students who are retained are more likely to drop out of school, creating a tremendous burden on public structures.[2]
  - The American Educational Research Association, the American Psychological Association, the National Council on Measurement in Education, and the Department of Education all agree that no decision of serious consequence in a child's life, including retention, should be made on the basis of a single test score.[3]

[1] "Florida Formula for Student Achievement: Lessons for the Nation". Foundation for Excellence in Education. Presentation given by Patricia Levasque to the NCGA House Education Committee, February 8, 2012.
[2] "Why Students Drop Out and What Can Be Done", Paper prepared for the Conference, "Dropouts in America: How Severe is the Problem? What Do We Know about Intervention and Prevention?" Harvard University, January 13, 2001.
[3] "The Grade Retention Fallacy", Harvard/UCLA Civil Rights Project. Available at http://civilrightsproject.ucla.edu/research/k-12-education/testing-and-assessment/the-grade-retention-fallacy/?searchterm=retention%20drop%20out.

- ❖ Florida's proficiency scores are currently plummeting at an alarming rate.
  - 4th grade writing proficiency rates have declined from 81% last year to 27% this year.[4]
  - Less than half of students in all grades were proficient in writing.
  - Florida's State Superintendent predicts further declines in test scores because they were previously not including all students in their testing regime.
- ❖ Florida is planning on lowering its proficiency standards and changing its school grading system as a result of declining standardized test scores.
  - According to projections from state education administrators, the number of 'A' schools is expected to drop from 1,636 to 1,086, and the number of 'F' schools will more than triple from 38 to over 130.[5]
  - To cope with this emerging crisis, Florida is currently lowering state standards to make it easier to demonstrate proficiency and will not allow schools to fall more than one letter grade in its grading system to avoid chaos.

Doing Away with Career Status

Senate Bill 795 makes attracting highly qualified teachers more difficult by doing away with career status for teachers and indiscriminately placing all teachers, even the very best teachers, on a series of one year contracts. Given that teachers earn about 15% less than other members of the work force with similar education and work experience,[6] policies such as career status for teachers are needed to recruit the best and brightest to the profession.

Conclusion

While Senate Bill 795 takes the necessary step of addressing the importance of literacy in early grades and alludes to necessary alternative assessments such as student portfolios and personal education plans, the reforms pursued in Florida are a poor model for improving our schools. Florida's policies employ more sleight of hand to improve test scores on paper than they do substance to improve the quality of instruction that students receive in the classroom. North Carolina should forge its own path based on policies from states with demonstrated track records of success, and any reforms should be about improving the quality of education for our youngest students so that they can succeed throughout school and in their lives and careers beyond.

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[4] Florida Department of Education, Division of Accountability, Research, and Measurement. Available at http://www.fldoe.org/arm/.
[5] "After FCAT Scores Plunge, State Quickly Lowers the Passing Grade", Miami Herald, May 15th, 2012 available at http://www.miamiherald.com/2012/05/15/2800698/schools-wont-be-held-accountable.html.
[6] "The Teaching Penalty", Economic Policy Institute, 2008. Available at http://www.procon.org/sourcefiles/epi-teacher-pay.pdf

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May 22, 2012

To: Senate Education Chair Jerry Tillman, Jean Preston, Dan Soucek, Vice Chair Tom Apodaca, Senator Chris Carney, Senator Austin M. Allran, Senator Andrew C. Brock, Senator Harry Brown, Senator Charlie S. Dannelly, Senator Warren Daniel, Senator Linda Garrou, Senator Thom Goolsby, Senator Malcolm Graham, Senator Ralph Hise, Senator Floyd B. McKissick, Jr., Senator Martin L. Nesbitt, Jr., Senator Buck Newton, Senator Louis Pate, Senator Bill Purcell, Senator Gladys A. Robinson, Senator Bob Rucho, Senator Josh Stein, Senator Richard Stevens, Senator Tommy Tucker, and Senator Stan White

From: Elic Senter, NCAE Center for Teaching & Learning

Date: May 23, 2012

Re: Senate Bill 795 (1st Edition)

NCAE and its members appreciate the Senate Education Committee chairs requesting professional feedback from teachers and educators on Senate Bill 795 (Excellent Public Schools Act). NCAE will assist the General Assembly with any legislation, including budget proposals and reform ideas, affecting public education. NCAE believes legislation can improve public education without undermining due process rights or pitting groups of teachers against each other for limited pay.

NCAE also appreciates any legislation with an intention of improving public education, and looks forward to working with the Senate and House today and in the future.

Improve K3 Literacy (page 1)

NCAE agrees literacy needs attention from policymakers. Unfortunately, proven programs that improved literacy over the last decade were cut or eliminated, including literacy coaches, teacher assistants, and specified trainings at the NC Teacher Academy. (The entire NC Teacher Academy program was eliminated in the 2011 budget.)

NCAE suggests the General Assembly provide K-3 classrooms with full time teacher assistants to support teachers needing to provide one-on-one support for struggling readers. Utilizing the Office of Early Learning, which has a proven curriculum to support disadvantage readers and struggling pre-K students, would also take advantage of current systems already in place. It is important to understand that not all teachers need the same literacy professional development.

Elimination of social promotion (page 4)

NCAE suggests the General Assembly encourage local school systems to adopt a creative school calendar. For example, a year round calendar would allow teachers to intervene with students during the school year. This provides flexible scheduling for Title 1 schools needing diverse leaning styles and staggered work schedules. Similar to School Improvement Grant Schools under the Federal SIG program, each school system needs local control over calendars.

School Performance Grades (page 9)

DPI and the State Board of Education recently transitioned the ABCs of Accountability to create a new labeling system for schools connecting to the US Department of Education. The new labeling system will provide real data to communities, including: state indicators, progress indicators and growth indicators showing student performance within a school and to comparable schools.

Funding for the addition of five instructional days within the existing school calendar

(page 13)

NCAE requests the General Assembly restore the five workdays teachers are not required to attend workshops and trainings. Teachers also want local control of the calendar returned to school systems. School schedules can, and should, meet the needs of communities and not necessarily the immediate needs of coastal tourist interests. NCAE also requests the General Assembly fully fund the 180 days of the school calendar before it adds five instructional days.

Establish a NC Teacher Corps (page 14)

The NC Race to the Top plan has as teacher corps in low performing, high needs communities. The applicants go through a similar process outlined on page 14 lines 1-38. The program is similar to the Teach for America model based on a mentor/coach. NCAE encourages the state to continue support the NC Teacher Cadet Program.

Pay for Excellence (page 17)

Teachers deserve a new and professional salary schedule. It should include a professional wage and pay models based on student growth, professional development, experience, credentials, hard-to-staff schools and other multiple measures. Teachers want to help you achieve this, and they have innovative and exciting ideas. However, teachers are hesitant to embrace a bonus plan coming from a General Assembly that cannot pay owed bonuses to educators since 2009, a plan that was initially sold to educators as rewarding excellence. Teachers are also hesitant to go along with a bonus pay plan when paying base pay seems to be a challenge for the General Assembly.

NCAE encourage the General Assembly to create a better salary schedule to attract professionals into the profession. Teachers also point out that line 10 in the bill is a concern. The words "but are not limited to" used to outline the criteria by which teacher bonuses will be determined allows a local school system to use a single test score as the bonus pay factor. Relying on a single test score is disallowed by the Race to the Top application and is no way to measure performance in the classroom. NCAE encourages the General Assembly to at least reconcile any alternative pay plan with the Race to the Top initiative.

End Tenure (page 17)

North Carolina teachers do not have tenure, at least not in the sense a university professor has tenure or even a teacher from a state with collective bargaining. North Carolina teachers simply have due process rights that guarantee after four consecutive years of service, a teacher will be appropriately informed of performance issues and given an opportunity to make needed improvements. Tenure does not prevent dismissal of poor performing teachers. In fact, North Carolina's tenure law, or career status law, outlines exactly how simple it is to dismiss a poor performing teacher. Just this past legislative session, NCAE worked with Senators Fletcher Harstell and Jerry Tillman (along with the NC School Boards Association and NC Association of School Administrators) to streamline the teacher dismissal hearings, clarify even further what constituted an inadequate teacher, and provided an optional tool for administrators to effectively remove poor performing teachers. The law has been in effect for less than one school year and NCAE requests that you at least hear from school boards and administrators on the Hartsell-Tillman law's effectiveness. Teachers have written to many of you since Senate Bll 795 was filed, and many legislators have learned that teachers renew their licenses every five years using a professional growth plan to address areas of concern, need, or growth.

Thank you for the opportunity to provide this memorandum and for the opportunity to address the Senate Education Committee. If I can be of assistance to you, please contact me at (919) 832-3000 x227.

Review & Recommendations Re: Senate Bill 795 Excellent Public Schools Act

Introduction

The N.C. Association of School Administrators (NCASA) supports the intent of many components of the proposed "Excellent Public Schools Act," which is a comprehensive public school reform package contained in Senate Bill 795. The proposals aimed at improving student achievement, ensuring that public schools are recruiting and retaining the highest-performing teachers, and making other adjustments to laws and policies to enhance each Local Education Agency's ability to operate in an efficient manner all are consistent with the goals and mission of NCASA, which is "to ensure quality learning experiences for all students through visionary and effective leadership."

NCASA has conducted a thorough review of all components of Senate Bill 795 and offered all our members an opportunity to share their viewpoint on each proposal through unbiased and non-leading questions contained in an online survey conducted April 27 through May 7. The 463 responses to that survey helped guide a focus group of superintendents, personnel directors and principals who participated in a full-day discussion on each component identify specific points that should be addressed by lawmakers as before this legislation becomes law.

The following information reflects the outcome of this two-pronged effort by NCASA to collect the viewpoint of the school administrators who ultimately will be implementing the various components of Senate Bill 795, if enacted into law. The recommendations outlined for each component are intended to improve and strengthen each proposal by highlighting issues that should be addressed to eliminate unintended consequences and facilitate implementation in schools and school districts statewide.

NCASA appreciates the opportunity to provide this feedback on behalf of our members and looks forward to being part of the discussion on each component of Senate Bill 795 as it moves forward for consideration.

K-3 Literacy Changes

PART I: IMPROVE K-3 LITERACY

Brief Summary: *Part I would establish the N.C. Read to Achieve Program by (i) requiring a developmental screening and kindergarten entry assessment before children enter kindergarten; (ii) requiring students to demonstrate third grade reading proficiency on a state-approved standardized reading comprehension test administered at the end of third grade; (iii) if this proficiency is not demonstrated, requiring end-of-grade retention and a summer reading camp; (iv) requiring Personalized Education Plans for students beginning in kindergarten; (v) limiting the principal's authority to grade and classify students under this Program; (vi) directing the State Board of Education to develop and adopt assessment instruments that must be used for students in grades K-3; (vii) prohibiting the use of standardized tests for summative assessments in grades K-3,*

unless required under a federal grant; (viii) and appropriating $34.1M for the 2012-2013 fiscal year. This Part would apply beginning with the 2013-2014 school year; however, the kindergarten assessment would begin with the 2014-2015 school year.

Points to Consider:

- **The proposed requirement to retain students at the end of third grade if they do not demonstrate proficiency on a reading test, effective with third graders in the 2013-2014 school year, may result in timely and costly litigation against school districts to challenge whether retained students had adequate notice of the promotion requirement, whether remediation and additional opportunities to take the reading test were provided, and whether alternatives to the reading assessment were allowed. This proposal, if implemented, should be phased in to take effect with the kindergarten class of 2012-2013 to ensure those students and families have adequate notice of the new promotion requirements before any students are retained as third-graders in 2015-2016.**
- **The proposed mandate to retain a third-grader who fails to demonstrate proficiency on a single state-approved reading comprehension test appears to preclude a student's individual academic growth as an important factor in promotion standards. The proposed retention requirement should be revised to allow consideration of a student's performance on multiple achievement indicators rather than being based solely on one assessment, which may proliferate efforts to "teach to the test," a practice that school districts statewide are seeking to limit.**
- **The authority of the principal to grade and classify students should not be diminished by the proposed retention requirement for third-graders with reading deficiencies, since the principal may be aware of extenuating circumstances that provide valid reasons for promotion apart from any of the proposed exceptions that have been outlined.**
- **The proposed directive for establishing a mid-year promotion policy for retained third-graders who demonstrate grade-level reading proficiency by November 1 should be revised to encourage principals to move students to the next grade level when they demonstrate readiness and subject to the availability of necessary staffing and facility space.**
- **The proposed reporting requirements about retained third-graders could force small schools to disclose personally identifiable student information that must be kept confidential under both federal and state law and should be adjusted to accommodate this mandated confidentiality.**
- **Specific funding should be provided to cover transportation and other costs associated with operating both the proposed summer reading camps and the tutoring services that would be mandated outside the regular instructional day. In addition, the compulsory attendance laws should be strengthened as part of this proposal to ensure that families do not view their child's participation in these supplemental remediation services as optional.**
- **The proposal to require Personalized Education Plans (PEPs) for students beginning in kindergarten should be revised to allow current information that school districts maintain (including but not limited to the support, strategies and interventions provided to individual students) to fulfill that requirement rather than requiring a separate document that would create burdensome and duplicative paperwork for teachers and detract from time they have available to focus on instruction.**
- **The proposed focus on literacy in third grade should be accompanied by enhanced literacy interventions in the earlier phases of student development, including but not limited to increased investments in an educationally sound Pre-Kindergarten program, to minimize the number of students retained.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the intent of this proposal to improve literacy in Grades K-3 to ensure each student has an opportunity to achieve in higher grades in preparation for career- and college-readiness. The proposal should be strengthened by addressing the issues above before plementation and ensuring that each Local Education Agency has the adequate flexibility needed to mplement necessary policies and procedures for enhancing K-3 literacy in a manner best-suited for that school district.***

PART II: STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

Brief Summary: *Part II would amend G.S. 126-4 to require the State Personnel Commission, subject to the Governor's approval, to establish rules and policies allowing State employees to volunteer in a literacy program in a public school (traditional and charter) for up to five hours each month, effective when signed into law.*

Points to Consider:

- **Not all individuals who want to volunteer in a school are well-suited to do so, and school districts should not be forced to accept every volunteer who expresses interest.**
- **The time and cost associated with conducting the necessary background checks on potential volunteers could be overly burdensome to school districts, especially in light of budget cuts the past few years.**
- **School districts lack adequate time and staffing levels for training volunteers, which would be essential to ensure their time with students is helpful in, rather than detracting from, their learning process.**
- **If all eligible state employees take advantage of the proposed volunteer leave time, other services provided by state government would suffer from the lost work time.**
- **State employees and school personnel already are eligible for community involvement leave, which may be used for volunteering in public schools if they are approved, so this proposal appears to be an unnecessary duplication of existing laws and policies.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the intent of this proposal to enhance the pool of adults who can work with students in Grades K-3 to enhance literacy skills; however, due to the time, staffing and cost concerns that would accompany mandated acceptance of state employee volunteers in schools, and since these employees already have a leave time option for volunteering, this proposal should be dropped from the bill.***

School Performance Grades

PART III: SCHOOL PERFORMANCE GRADES

Brief Summary: *Part III would amend G.S. 115C-12(9)c1 to require the State Board of Education's annual report card, which assesses each school system's efforts to improve student performance, to include a letter grade rned by each school that reflects student performance on annual subject-specific assessments, college and rkplace readiness measures, and graduation rates. Separate letter grades for a school's performance in literacy and mathematics must be given to each school serving students in kindergarten to eighth grade. The*

annual report card for schools serving third graders must include the number and percentage of these students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained for failing to demonstrate third grade reading proficiency; and (iii) were exempt from mandatory third grade retention. It also would require local boards of education, charter schools, and regional schools to prominently display on their Web sites each school's overall letter grade and to provide written notice to parents and guardians of all students enrolled in each school that receives a grade of D or F. Finally, it would establish detailed criteria the State Board must use to award these letter grades, and it would take effect when it becomes law and would apply beginning with the 2012-2013 school year.

Points to Consider:

- **North Carolina pioneered the growth-model accountability system that assesses gains in individual student performance from year to year. This model not only has won the state national acclaim, but also is being adopted by other states and is part of the proposed revisions to the federal No Child Left Behind law that has been criticized for not acknowledging student growth. North Carolina should retain the growth component in its accountability system to ensure ongoing compliance with the federal law that is now moving to embrace this year-to-year comparison of academic achievement by individual students.**
- **The proposed "A-F" grading system would assign a letter grade to a school based largely on test performance, which is contrary to evidence-based research indicating that multiple achievement indicators are needed for assessing performance, whether for an individual student or an entire school.**
- **The proposed reporting requirements about retained third-graders could force small schools to disclose personally identifiable student information that must be kept confidential under both federal and state law and should be adjusted to accommodate this mandated confidentiality.**
- **Implementation of the letter grading system for schools will likely encourage "teaching to the test," which is a practice that North Carolina school districts are trying to eliminate.**
- **Each of North Carolina's schools should be valued for the efforts they make to educate every child, regardless of the challenges that each brings to the classroom, and for the vast array of support services they provide, particularly in small, rural communities. Assigning letter grades to schools largely on test performance will be misleading to the public, overly-punitive to the schools, and ultimately will erode the parental and community support that is crucial for the continuing viability of a school.**

RESPONSE & RECOMMENDATIONS: ***NCASA opposes the proposed new labeling system for North Carolina's schools and requests the elimination of this section of the bill.***

School Calendar Adjustments

PART IV: MAXIMIZE INSTRUCTIONAL TIME

Brief Summary: *Part IV would amend G.S. 115C-74.12(a) to require the following tests and assessments must be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days for semester courses: (i) annual tests required by federal law or as a condition of a federal grant to be administered in grades 3-12; (ii) assessments deemed necessary by the State Board of*

Education to assess student achievement on the Common Core State standards; and (iii) all final exams. An exception would be allowed to accommodate a student's IEP or Section 504 Plan, and these requirements would take effect when signed into law and would apply beginning with the 2012-2013 school year.

ɔints to Consider:

- **Clarification is needed on when and how retests would be conducted if this testing timetable is implemented statewide, including whether retests could occur after the end of either the semester or the school year.**
- **Specific exceptions would be needed for Advanced Placement (AP) and International Baccalaureate (IB) exams, which now can count for the final exam and are taken on dates that are part of a nationwide schedule that cannot be altered at the local or state level.**
- **Exceptions may be needed for year-round schools due to staffing and facility constraints that impact available dates for testing.**
- **The proposal should be revised to encourage school districts to conduct tests during the final days of instruction but still allow flexibility to adjust that schedule as specific needs arise.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the intent of maximizing instructional time by ensuring that the majority of end-of-grade and end-of-course tests are conducted during the final days of instruction and requests that the issues above be addressed before implementation.***

PART V: ADJUSTMENTS TO SCHOOL CALENDAR START AND END DATES

ief Summary: *Part V would amend G.S. 115C-84.2(d) to: (i) change the mandatory school start date from no sooner than August 25 to the next to the last Monday in August; (ii) change the mandatory school end date from no later than June 10 to the second Friday in June; and (iii) repeal the exceptions from the mandatory school start and end dates currently available to schools designated as having a modified calendar as of the 2003-2004 school year. These requirements would take effect when signed into law and would apply beginning with the 2012-2013 school year.*

Points to Consider:

- **A Monday start for the school year is an improvement from the current law that has caused many school districts to hold their first instructional day either mid-week or even on Friday in recent school years.**
- **Moving the earliest start date to next to the last Monday in August would only be one or two days earlier than the current earliest start date of August 25 in many years, since it would allow for start dates between August 20 and 24. Moving the start date to the second Monday in August would allow districts to open school on August 9-11 in most years and address two key instructional needs: aligning with community colleges to allow for cooperative arrangements for higher-level courses for high school students and completing first-semester exams before the winter break.**
- **Any calendar adjustments that are approved should become effective with the 2013-2014 school year, since the majority of school districts already have set their calendar for 2012-2013 and parents have started planning based on that schedule.**

- **Removing start-date exceptions that currently exist for schools that operate on a modified year-round calendar would cause several school districts to go through a cumbersome and unnecessary process of seeking State Board of Education approval for educational purpose waivers.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports restoring local flexibility in setting school calendars. If providing school districts with complete autonomy to set an instructionally sound calendar that best meets the needs of their students and communities is not feasible, then the issues above should be addressed in any adjustments that are made to the calendar's start and end dates.***

PART VI: FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR

Brief Summary: *Part VI would, effective July 1, 2012, appropriate (i) $1.2M for the 2012-2013 fiscal year to increase funding appropriated for the non-instructional support personnel allotment, and (ii) $10,150,000 for the 2012-2013 fiscal year to increase the funding appropriated for the transportation allotment.*

Points to Consider:

- **The proposed additional funding is needed in 2012-2013 in the indicated allotments that have faced large-scale reductions during the last few years even while student enrollment has increased.**
- **Even more funding will be needed in the indicated allotments to cover increased costs for employing non-instructional support personnel and transporting students, when five additional days of instruction are implemented.**
- **The vast majority of the state's 115 school districts already have received State Board of Education approval to waive one or more of the five additional days of instruction for 2012-2013. Those waivers should remain in place, since adjusting the school calendar at this late date is problematic for school districts and disruptive to parents who already are making family plans based on the locally approved schedule.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the additional funding proposed for the non-instructional support and transportation allotments in 2012-2013 and requests that the waivers for additional instructional days for that school year remain in place.***

Establish N.C. Teacher Corps

PART VII: ESTABLISH N.C. TEACHER CORPS

Brief Summary: *Part VII would create a new G.S. 115C-296.7 to establish the N.C. Teacher Corps program to recruit and place recent graduates with a minimum of a bachelor's degree from an accredited college or university and mid-career professionals as teachers in school systems with "unmet recruitment needs and high needs schools," as identified by the State Board of Education. The State Board, in consultation with UNC's Board of Governors and the N.C. Independent Colleges and Universities, shall develop and administer the program. The State Board, in consultation with the Board of Governors, shall develop an intensive summer training institute for the recruits and shall provide ongoing support to these individuals, who will be granted lateral entry teaching*

licenses for up to three years. This mandate would be effective when it becomes law, and the State Board will be required to recruit and place the first cohort of teachers by the 2012-2013 school year.

Points to Consider:

- **The proposal for establishing the N.C. Teacher Corps to recruit and place recent college graduates and mid-career professionals as teachers in high-needs schools holds potential for supplementing the state's current teacher preparation programs.**
- **The proposed new teacher preparation program should not be implemented in lieu of existing teacher preparation programs that are successful, such as the highly effective N.C. Teaching Fellows program that has helped develop North Carolina teachers for more than 25 years.**
- **The timetable for implementing the new Teacher Corps should be adjusted to allow adequate time for establishing the program; recruiting and evaluating applicants; evaluating and selecting schools where applicants would be placed; and training the applicants to ensure readiness for placement.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the creation of the new N.C. Teacher Corps if its creation does not preclude the restoration of funding for the successful N.C. Teaching Fellows Program. In addition, NCASA encourages changing the implementation date to 2013-2014 to allow adequate time for start-up of the program.***

Teacher Licensure Changes

PART VIII: STRENGTHEN TEACHER LICENSURE

Brief Summary: *Part VIII would amend G.S. 115C-296 to "require" applicants for the Elementary Education (K-6) initial certificate to achieve a prescribed minimum score on subtests or standard examinations specific to Reading, Language Arts and Mathematics. Currently, the State Board "may" require applicants for initial certificates to demonstrate teacher preparation by achieving a prescribed minimum score on a standard examination. It also would require that the standards for a continuing teacher license must include at least three continuing education credits related to literacy for elementary and middle school teachers. These requirements would take effect when signed into law and would apply beginning with the 2013-2014 school year.*

Points to Consider:

- **Since law changes in 2011 already adjusted the teacher licensure requirements for many current teachers who are mid-stream in their five-year renewal process, additional adjustments at this time would be disruptive.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the intent of ensuring that all beginning teachers demonstrate proficiency for teaching Reading, Language Arts and Mathematics and all continuing teachers to receive renewal credits in literacy. However, NCASA requests that this change any other that might be considered for teacher licensure not move forward at this time due to 2011 licensure changes that already are impacting the five-year renewal process for current teachers.***

Liability Insurance For School Personnel

PART IX: PROOF OF STATE-FUNDED LIABILITY INSURANCE

Brief Summary: *Part IX would require the State Board of Education annually to notify public school employees of the availability and coverage of professional liability insurance. This Part is effective when it becomes law and would apply beginning with the 2012-2013 school year.*

RESPONSE & RECOMMENDATIONS: ***NCASA has no position on this proposal.***

Performance-Based Pay

PART X: PAY FOR EXCELLENCE

Brief Summary: *Part X, effective when it becomes law, would direct local boards of education to establish a system of performance pay for all licensed school employees. Employees under this system would be eligible for bonuses or adjustments to base salaries by meeting criteria that, at a minimum, must include: (i) annual achievement growth for students assigned to a teacher's classroom; (ii) annual achievement growth for students assigned to a specific school; (iii) assignment of additional academic responsibilities; (iv) assignment to a hard-to-staff school; and (v) assignment to a hard-to-staff subject area. Local boards must submit their plans to the State Board of Education by March 1, 2013, and the State Board must submit them for consultation to the General Assembly's Fiscal Research Division and the Joint Legislative Commission on Governmental Operations by April 15, 2013.*

Points to Consider:

- **Clarification is needed about which state funds could be used and how salary schedules and the automatic salary adjustments commensurate with certification and longevity would be addressed in conjunction with any performance-based pay plan to be implemented.**
- **Requiring 115 school districts to implement their own performance-based pay plan will create vast inequities in pay for comparable positions across the state and lead to bidding wars for top-performing employees and may increase school-finance litigation.**
- **Many small and rural school districts do not have adequate staffing levels or the necessary expertise to be able to design and implement their own performance-based pay plan by 2013-2014.**
- **Many school districts will need to pay for an outside consultant to create a performance-based pay plan, and this is an expense that will be difficult for many to cover.**
- **Numerous states, and even some North Carolina school districts, have experimented with various performance-based pay plans and none has proven ideal. For this reason, North Carolina should pilot one or more performance-based pay plans in school districts of varying sizes and demographics before moving forward with one cohesive plan to be implemented by all school districts to ensure equity in employee pay and to ensure that larger districts with more resources are not the only ones that can attract and retain high-performing employees.**
- **The General Assembly should convene a task force to develop one or more performance-based pay plans to be tested in a pilot program in a few school districts that reflect geographic and size**

diversity from across the state. The task force should include representatives from all affected segments of the public school community – superintendents, principals, personnel directors, teachers, school boards and others – and should consider the numerous and diverse needs of school districts and their employees in developing the performance pay model(s) for the pilot program. NCASA would like to have representation on the task force, since our members include all facets of school administration and can help identify policies and procedures for overcoming logistical hurdles to implementing the performance pay model(s).

- **One approach that the task force mentioned above could consider for a pilot program would be limiting the performance-based pay plan to districts or schools identified as having the most needs in terms of academic achievement, teacher turnover and inadequate financial resources.**
- **The state should appropriate adequate resources to implement one or more performance-based pay plans first in identified pilot districts that express an interest in participating and then expand that appropriation equitably to all school districts only after one uniform and acceptable model has been piloted, revised as needed, and made ready for use statewide.**

RESPONSE & RECOMMENDATIONS: ***NCASA supports the intent of paying licensed school personnel for excellent performance but requests that a deliberative, thorough study occur first to develop a uniform performance-based pay model that proves effective through a pilot program in a variety of school districts and then is adjusted as needed before statewide implementation. The timeline for this effort should include a task force to work on developing the model during the 2012-2013 school year, selection of districts from all geographic regions and differing in size to pilot the model in 2013-2014 and 2014-2015, and then implementation of the model statewide in 2015-2016, following any necessary improvements that are identified ring the pilot phase.***

Tenure & School Employment Law Changes

PART XI: END TENURE

Brief Summary: *Part XI would, effective July 1, 2012, eliminate career status (commonly known as tenure) for school personnel employed on or after that date and substitute the use of annual employment contracts. Significantly, Part XI would: (i) retain most of the grounds and procedures under G.S. 115C-325 for dismissal or demotion to be used during the term of the annual contract; (ii) eliminate RIF provisions; (iii) eliminate the requirement for providing a teacher or administrator with reasons for not renewing a contract; (iv) remove the prohibition that non-renewals must not be "arbitrary, capricious, discriminatory, or political," and substitute the requirement that non-renewals may not be for any cause that violates State or federal law; (v) eliminate hearings before independent hearing officers; (vi) eliminate the statutory right for further judicial appeal from employment decisions; and (vii) eliminate employment priority for teachers when they return to the school system following a leave of absence to teach in a charter or regional school.*

Points to Consider:

- **Since court opinions across the country have differed in their finding on whether tenure is a property right provided to an eligible employee, any change should be prospective, rather than retroactive, to prevent long and costly lawsuits for school districts that would be challenged for violating contractual obligations.**

- **The logistics of handling evaluations and re-contracting for almost 100,000 teachers each year are unmanageable and will detract from time that should be devoted to students.**
- **Annual contracts for teachers are even more unmanageable given the recent reductions in the numbers of assistant principals and central office directors who are needed to help facilitate the review and contracting process.**
- **A majority of school administrators surveyed by NCASA support moving teachers to a system of renewable contracts that is similar to the one that currently exists for principals.**
- **Tenure is a recruitment tool, and complete elimination of tenure is likely to create more turn-over in school districts and discourage individuals from going through teacher preparation programs and entering the teaching profession.**
- **Law changes approved under Senate Bill 466 in 2011 have created an expedited process for removing ineffective teachers from the classroom, and this process should be given an opportunity to work before other changes regarding tenure are implemented.**
- **School counselors, media specialists and related groups of employees should be treated the same as teachers with regards to eligibility for tenure and all other terms of employment.**
- **"Reduction in Force" should be retained as a valid basis for dismissing, suspending or demoting teachers or school administrators during their contracted term of employment because it improves future employment opportunities for individuals whose contracts are non-renewed due to budgetary constraints rather than job performance.**
- **The state should retain the prohibition against employment decisions that are "arbitrary, capricious, discriminatory or political," since this provision underscores a federal prohibition that should not be violated.**
- **Any changes to tenure and other school employment laws should include protections for honoring existing employment contracts to help school districts head off timely and costly litigation.**
- **The state should also repeal the current restrictions on a school district's ability to assign duties to initially licensed teachers.**

RESPONSE & RECOMMENDATIONS: ***NCASA has concerns about the current proposal for completely eliminating tenure. The organization believes the changes to the career-status process that were approved in 2011 should have time to work before additional changes are implemented. If changes occur, NCASA encourages the General Assembly to provide a grandfathering provision allowing teachers who currently are tenured to retain it and to grant tenure to those who are completing eligibility requirements in the current school year. NCASA believes a probationary period with yearly contracts should remain in effect for beginning teachers during their first four years of employment, and then school districts should have the flexibility to offer teachers subsequent contracts of one, two or four years. In addition, NCASA requests that the General Assembly address each of the issues that have been highlighted above before any changes to tenure or other school employment laws are implemented.***

Public Financing for State Superintendent's Campaign

PART XII: ELIMINATION OF PUBLIC FINANCING FOR SUPERINTENDENT OF PUBLIC INSTRUCTION

Brief Summary: *Part XII would remove the Superintendent of Public Instruction from the list of candidates for Council of State offices currently eligible to participate in the program for public campaign financing. Participation in this program is voluntary and requires participants to accept strict fundraising and spending limits. This change would take effect when it becomes law and would apply to elections held on or after that date.*

Points to Consider:

- **There should be no differentiation between any Council of State candidates. If public funding is provided to candidates of one Council of State post, then it should remain available to candidates of other Council of State positions, including the State Superintendent of Public Instruction.**
- **Elimination of the option of State Superintendent candidates to access public funding for their campaigns could prevent individuals who are highly qualified for the position from entering the race solely due to their inability to raise large amounts of funds for a campaign. Conversely, eliminating that public funding option could provide wealthy candidates and/or campaign donors with an unfair advantage in elections for State Superintendent.**

RESPONSE & RECOMMENDATIONS: *NCASA believes the current option for State Superintendent candidates who meet stringent requirements to access public funding for their campaigns should remain in place, and this section of the bill should be deleted.*

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Pam Kearman	OSBM
Christopher Jones	OSBM
Elizabeth Greenstein	OSBM
Bri Lewis	NCAE
Annaliese Dolph	Covenant
Carol Vandenbergh	PENC
Evelyn Hawthorne	PENC; CSNC
Alex Rector	Civitas
Scott Blankenship	Civitas
Karen Doucette	Civitas
Julie Emmrich	ARWNC
Jackie Kane	ARWNC
Pat Pelz	ARWNC
Evonne Parker	ARWNC
Emily M. Dickens	Fayetteville State Univ
Rebecca Battista	App State
Hillary Fleig	App State

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID RICE	MFS
Jaime King	NCEL
Pam Seamans	NC Alliance for Health
Cindy Thomas	NCAR
Amy Hedgecock	NCAR
Steve Chandler	Brunswick Co. Assoc. REALTORS
Mary Freeman	NCAE
Eric [illegible]	NCAE
Stephanie Whitfield	Bayada Home Health
Judy Jackson	P.O. Box 1117 Bayada Home Health Care Yanceville, NC 27379
Zoe Tasker	Bayada Home Health Care
Mary Leslie Yount	Bayada Home Health Care
Shelly Carver	Sen. Hise
[illegible]	Intern Rep Inc.
Sheree Vodicka	Advocates for Health in Action
Kari N Harris	Advocates for Health in Action
Amber Pulaski	Advocates for Health in Action

09-21-201

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Christopher Hill	NC Justice Center
Matt Ellinwood	NC Justice Center
Dick Culpepper	[illegible]
[illegible]	[illegible]
[illegible]	MLC
Bob Luebke	Civitas Inst.
[illegible]	American Heart Assn
[illegible]	NCTIA
Andy Strecker	N.C. Center for Public Policy Research
Katherine Joyce	NCASA
Ashley Perkins	Parliman Law Firm
Rebecca Troutman	NCACC
Dewey Harris	Catawba County Gov
Gena M. Edelman	Sen. Jenkins
Lynn Harvey	NCDPI
M. Hill	SBE
[illegible]	DPI

09-21-201

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	Wellness & TI C
Andrew Meehan	Capstrat
Butch Gunnells	NCBC
Whitney Christensen	NCRLA
Kara Weishaar	NCTTC
Ben Schamberg	NCSBA
Cheryl Pooser-Cahill	NC School Psych Assoc
[signature]	NCSCNA
[signature]	NCICU
Geri Coverly	NCSNA
John Cashion	NC Chamber
JOHN GOODMAN	"
Ken Melton	K.M.A.
[signature]	505-NC
Jimmy Broughton	Womble Carlyle
Annette Etheridge	NCCC

09-21-201

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matt Gross	NCPC
John Tucker	Moore & Van Allen
Amanda Dixon	Sen. Hise's Office
Alex Masciarelli	Haywood County Resident
Jen DeNeal	DPI
Dayne Batten	DPI
Lauren Hales	DPI
CHRISTOPHER BRITT	DPI
Doug Heron	WM
Heather Barnett	WM
Eric Moore	DPI
Jane Murray	NC Youth Camp Assn.
Kris Horton	DHHS
Susanna Davis	Gov Office
Asher Spiller	Womble Carlyle
Jessica Burgess	Womble Carlyle
Sarah Cone	Womble Carlyle

09-21-201

VISITOR REGISTRATION SHEET

Senate Education/Higher Education
(Committee Name)

May 23, 2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sandra Wilburn	Womble Carlyle
Laura DeVan	WCSR
Marilyn Moody	SNA-NC
Meredith Swindell	The Policy Group
Jordan McBride	The Policy Group
Daughn Baker	SNA-NC
Rebecca Garland	NCDPI
K. Bestman	TS3
[illegible]	SBE
Erin Leyson	NC Public School Forum
[illegible]	Public Sch Forum of NC
[illegible]	Ed Consultant
William Li	

09-21-201

SENATE EDUCATION/HIGHER EDUCATION COMMITTEE
Tuesday, May 29, 2012 at 1:00-3:00 pm
Room 544, Legislative Office Building

MINUTES

The Senate Education/Higher Education Committee met at 1:00 PM on May 29, 2012, in Room 544 of the Legislative Office Building. 21 members of the committee were present. Senator Dan Soucek presided.

Chairman Soucek called the meeting to order and recognized the sergeants-at-arms and the pages.

Senator Brock moved for adoption of the Proposed Committee Substitute for discussion purposes on Senate Bill 805.

Chairman Soucek acknowledged Senator Westmoreland to explain the bill.

Following his explanation, Senator Stein was recognized and inquired of staff as to whether this bill had previously been vetoed by the Governor.

Sara Kamprath of the Research Division explained that this bill had not been vetoed, noted the bill which had been vetoed and outlined the similar other bills.

Chairman Soucek recognized Senator McKissick who asked for clarification on the previous bills and asked about the intent of the trustees.

Senator Westmoreland responded that the bill would allow the trustees to opt out only if they choose. He referred the committee to Dr. Myra Johnson, President of Isothermal Community College, who was recognized and elaborated on the reasons her institution was interested in this legislation.

Senator Newton was recognized and moved for a favorable report.

Chairman Soucek recognized Senators Purcell and Stein who asked about the rules regarding how many counties would have to be affected for a bill to become a statewide bill as opposed to a local bill.

Senator Tillman was recognized and commented that he felt that there had been enough discussion on the bill and asked for a vote to be taken on Senator Newton's motion for a favorable report.

Chairman Soucek recognized Senator Nesbitt who opined that he felt that this bill would be harmful to students who would no longer have access to these federal loans.

Chairman Soucek then called for a vote on Senator Newton's motion for a favorable report. A vote was taken and the motion passed.

Senator Brock moved for adoption of the Proposed Committee Substitute for discussion purposes on House Bill 503.

Senator Tillman was recognized to explain the bill.

Following his explanation, Senator Purcell was recognized and questioned Senator Tillman on the rationale for removing the previous language from the bill.

Senator Tillman responded that he believed that schools were capable of determining what the appropriate nutrition standards should be.

Chairman Soucek recognized Senator Rucho, who thanked Senator Tillman for his clear explanation of the bill and moved for a favorable report.

Senator Stein was then recognized and commented on his disappointment with the bill and opined that the legislation moved in the wrong direction.

Chairman Soucek recognized Senator Nesbitt, who asked for clarification on the incident that brought about this bill.

Senator Robinson was recognized and stated that for many children, school meals are the only meals they get during the week and added that many go through the entire weekend without food. She expressed her concern that the bill would eliminate standards for the school breakfast and lunch programs and would put those students at risk.

Chairman Soucek recognized Senator Daniel who asked Senator Tillman for clarification that the bill had no effect whatsoever on school meals, only meals sent to school by parents.

Senator Tillman agreed with Senator Daniel and clarified that the bill would not affect school-provided meals in any way.

Chairman Soucek recognized McKissick, who sought clarification on the existing law.

Patsy Pierce of the Research Division answered regarding the existing law and elaborated on its history.

Senator Stevens was recognized and asked Senator Tillman about the impact of Section 2 of the bill and its fiscal impact.

Kris Nordstrom of the Fiscal Research Division answered that there would be no fiscal impact in the bill.

Chairman Soucek called for a vote on Senator Rucho's motion for a favorable report. A vote was taken and the motion passed.

Senator Tillman moved for adoption of the Proposed Committee Substitute for discussion purposes on Senate Bill 795.

Chairman Soucek then called on Senator Phil Berger to explain the bill. Kara McGraw of the Research Division was recognized to explain the modifications made in the PCS. Senator Berger added that most of the changes were made to the calendar laws and the career status changes.

Senator Newton was recognized, expressed his appreciation for the changes made to the bill and asked about schedule changes.

Chairman Soucek recognized Senator Stein for a follow-up on Senator Newton's question.

Senator Purcell was recognized for questions and expressed concerns over what powers rest with the local level and which do not.

Chairman Soucek recognized Senator Tillman, who discussed what the current law states.

Senator Brown was recognized and asked for clarification on the grading scale for schools.

Senator Berger explained the grading scale and its purposes.

Senator Hise was recognized and asked about the school calendar provisions of the bill.

Chairman Soucek recognized Senator Nesbitt who expressed concerns over the calendar waivers and what had actually been changed.

Senator Berger explained what counts as a full day and not as a day missed.

Chairman Soucek recognized Senator Rucho, who expressed his appreciation on the effort to measure teacher performance.

Senator Stein was recognized and questioned the current method of evaluating schools.

Senator Berger explained about the State Board of Education's report card.

Senator Stein expressed agreement that the State needs to measure before it can improve our schools; however, he opined that schools should be rewarded rather than risk having them labeled as failing or bad.

Senator McKissick was recognized and questioned the teacher tenure provisions in the bill and teacher preparedness and testing.

Senators Stevens and Robinson were recognized for additional questions.

Senator Carney was recognized and expressed his desire to hold teachers accountable and expressed appreciation for the effort put forth in this bill.

Senator Tillman was recognized and introduced an amendment (see attachment). He explained that the amendment clarified a drafting error.

Senator Nesbitt was recognized and opined that children need to be in school for at least 180 days.

Chairman Soucek expressed that his constituents in Wilkes County had worked to make best use of the calendar flexibility to deal with weather challenges.

Senator Hise was recognized and commented on the requirements relative to days in school.

Chairman Soucek recognized Senator Newton, who moved for adoption of the amendment.

Senator Stein was recognized and opined that education of children is a greater priority than preserving a summer break and mentioned that global competitors are in school for as many as 220 days each year.

Chairman Soucek ruled that the discussion had moved beyond the scope of the technical corrections made in the amendment. He called for a vote and the amendment passed.

Chairman Soucek then recognized speakers from the public:

Louise Lee of Save our Summers, Matt Ellinwood of the North Carolina Justice Center, Leanne Winner of the North Carolina State Board Association, Katherine Joyce of the North Carolina Association of School Administrators, Carol Vandenbergh of Professional Educators of North Carolina and Brian Lewis of the North Carolina Association of Educators were all recognized and spoke on the bill.

Senator Rucho was recognized and moved for a favorable report on the PCS.

Chairman Soucek recognized Senator Nesbitt who asked about the steps left for the bill. Senator Berger explained that the bill would be referred next to Finance and Appropriations. Senator Nesbitt then outlined his objections to the bill.

Chairman Soucek then called for a vote on Senator Rucho's motion for a favorable report. A vote was taken and the motion passed.

Chairman Soucek thanked the members and adjourned the meeting.

The meeting adjourned at 3:00 PM.

Senator Dan Soucek, Presiding

John Clark, Committee Clerk

Senate Education/Higher Education Committee
Tuesday, May 29, 2012, 1:00-3:00 pm
544 LOB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 503	Nutrition Stds./All Foods Sold at School.	Representative LaRoque Representative Insko
SB 795	Excellent Public Schools Act.	Senator Tillman Senator Berger Senator Apodaca
SB 805	Isothermal Comunity College Fed Loan Program.	Senator Westmoreland

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY

SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Senator Jean Preston, Co-Chair

Senator Dan Soucek, Co-Chair

Senator Jerry W. Tillman, Co-Chair

CORRECTED REPORT

Tuesday, May 29, 2012

Senator SOUCEK,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **795** Excellent Public Schools Act.

Draft Number:	65125
Sequential Referral:	None
Recommended Referral:	Appropriations/Base Budget
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY

SENATE

EDUCATION/HIGHER EDUCATION COMMITTEE REPORT

Senator Jean Preston, Co-Chair

Senator Dan Soucek, Co-Chair

Senator Jerry W. Tillman, Co-Chair

CORRECTED REPORT

Wednesday, May 30, 2012

Senator SOUCEK,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **805** Isothermal Community College Fed Loan Program.

Draft Number:	65126
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1) **503** Nutrition Stds./All Foods Sold at School.

Draft Number:	80360
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

Senator Tillman will handle HB 503 on the Senate Floor.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 3

HOUSE BILL 503
Committee Substitute Favorable 5/18/11
Third Edition Engrossed 6/1/11

Short Title: Nutrition Stds./All Foods Sold at School. (Public)

Sponsors:

Referred to:

March 30, 2011

A BILL TO BE ENTITLED

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ADOPT RULES FOR OTHER FOOD SALE OPERATIONS ON THE SCHOOL CAMPUS AND TO REQUIRE CHARTER SCHOOLS PARTICIPATING IN THE NATIONAL SCHOOL LUNCH PROGRAM AND LOCAL BOARDS OF EDUCATION TO IMPLEMENT THESE RULES BY THE 2012-2013 SCHOOL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-264.2 is repealed.

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-264.4. Other foods and beverages sold on campus.**

(a) The State Board of Education shall adopt nutritional rules for all competitive foods and beverages sold to students. In promulgating its rules pursuant to this act, the State Board of Education shall adopt either the Alliance for a Healthier Generation's Competitive Foods and Beverage Guidelines or the National Academy of Sciences, Institute of Medicine's Recommended Standards for Competitive Foods and Beverages in Schools as the initial statewide standard for competitive foods and beverages. The rules shall include, but not be limited to, standards for calorie, fat, sugar, and sodium content. The State Board of Education shall report to the Joint Legislative Health Care Oversight Committee and the Joint Legislative Education Oversight Committee on the status of the final rules by April 30, 2012.

(b) For the purposes of this section, "competitive food" means any food or beverage sold to students on school grounds that is not part of the school breakfast or school lunch program. This includes, but is not limited to, vending, school stores, snack bars, fund-raisers, and other informal food sales to students on the school campus, with the exception of child nutrition programs, culinary and other curriculum programs, fund-raisers conducted after the end of the last lunch period of the day, and extracurricular events.

(c) The State Board of Education shall periodically review the nutritional rules for competitive foods and beverages to ensure that they remain current and science-based and shall also review the nutritional rules upon changes to federal law or regulations for competitive foods.

(d) Nothing in subsection (a) of this section shall prohibit a school from adopting stricter rules with respect to snack and beverage vending.

(e) No snack vending or soft drinks shall be available to elementary school students.

(f) The State Board of Education shall adopt these rules by April 30, 2012, and local boards of education shall implement these rules by the beginning of the 2012-2013 school year."

SECTION 3. G.S. 115C-238.29F is amended by adding a new subsection to read:

"(h1) Food and Beverages Sold on Campus. – A charter school participating in the National School Lunch Program shall comply with the nutritional rules for all competitive foods or beverages sold or served to students, as adopted by the State Board of Education under G.S. 115C-264.4. The charter school shall implement those rules by the beginning of the 2012-2013 school year."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H D

HOUSE BILL 503
Committee Substitute Favorable 5/18/11
Third Edition Engrossed 6/1/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H503-CSTL-23 [v.13]

5/18/2012 3:27:50 PM

Short Title: Nutr. Stds./Parent Choice/Clarify Pre-K. (Public)

Sponsors:

Referred to:

March 30, 2011

A BILL TO BE ENTITLED

AN ACT TO (1) DIRECT THE STATE BOARD OF EDUCATION TO ADOPT RULES FOR OTHER FOOD SALE OPERATIONS ON THE SCHOOL CAMPUS; (2) REQUIRE CHARTER SCHOOLS PARTICIPATING IN THE NATIONAL SCHOOL LUNCH PROGRAM AND LOCAL BOARDS OF EDUCATION TO IMPLEMENT THESE RULES BY THE 2013-2014 SCHOOL YEAR; (3) ALLOW PARENTAL CHOICE IN FOOD PROVISION IN CHILD CARE FACILITIES; (4) CLARIFY ELIGIBILITY AND REPEAL CO-PAY REQUIREMENTS FOR THE NC PRE-K PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-264.2 is repealed.

SECTION 2.(a) Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-264.4. Other foods and beverages sold on campus.**

(a) The State Board of Education shall adopt rules regarding nutritional standards for all competitive foods and beverages sold to students. In promulgating its rules pursuant to this section, the State Board of Education shall adopt either the Alliance for a Healthier Generation's Competitive Foods and Beverage Guidelines or the National Academy of Sciences, Institute of Medicine's Recommended Standards for Competitive Foods and Beverages in Schools as the initial Statewide standards for competitive foods and beverages. The rules shall include, but not be limited to, standards for calorie, fat, sugar, and sodium content.

(b) For the purposes of this section, "competitive food" means any food or beverage sold to students on school grounds that is not part of the School Breakfast or School Lunch Programs. This includes, but is not limited to, vending machines, school stores, snack bars, fund-raisers, and other informal food sales to students on the school campus. However, it does not include food or beverages sold to students in culinary and other curriculum programs, fund-raisers conducted after the end of the last lunch period of the day, and extracurricular activities.

(c) The State Board of Education shall periodically review the rules regarding nutritional standards for competitive foods and beverages to ensure that they remain current, science-based, and in compliance with federal law and regulations on competitive foods.

(d) Nothing in subsection (a) of this section shall prohibit a school from adopting stricter rules with respect to food and beverage vending.

(e) No food vending or soft drinks shall be available to elementary school students."

SECTION 2.(b) The State Board of Education shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee on the status of the final rules required by this section by April 30, 2013.

SECTION 2.(c) The State Board of Education shall adopt the rules required by this section by April 30, 2013, and local boards of education shall implement these rules by the beginning of the 2013-2014 school year.

SECTION 3.(a) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(h1) **Food and Beverages Sold on Campus.** – A charter school participating in the National School Lunch Program shall comply with the rules regarding nutritional standards for all competitive foods or beverages sold to students, as adopted by the State Board of Education under G.S. 115C-264.4."

SECTION 3.(b) The charter schools shall implement the rules required by this section by the beginning of the 2013-2014 school year.

SECTION 4. G.S.110-91(2) reads as rewritten:

"(2) Health Related Activities.

a1. Nutrition Standards. The Commission shall adopt rules for child care facilities to ensure that food and beverages provided by a child care facility are nutritious and align with children's developmental needs. ~~all children receive nutritious food and beveragesaccording to their developmental needs.~~ The Commission shall consult with the Division of Child Development and Early Education of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:

~~a. Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.~~

~~b. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.~~

~~c. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.~~

~~d. Limiting or prohibiting the serving of juice from a bottle.~~

~~e. Creating an exception from the rules for parents of children who have medical needs, special diets, or food allergies.~~

~~f. Creating an exception from the rules to allow a parent or guardian, or to allow the center upon the request of a parent or guardian, to provide to a child food and beverages that may not meet the nutrition standards.~~

1. Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.
2. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age,
3. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.
4. Limiting or prohibiting the serving of juice from a bottle.

b1. Parental Exceptions.

1. Parents or guardians of a child enrolled in a child care facility may (i) provide food and beverages to their child that may not meet the nutrition standards adopted by the Commission and (ii) opt out of any supplemental food program provided by the child care facility. The child care facility shall not provide food or beverages to a child whose parent or guardian has opted out of any supplemental food program provided by the child care facility and whose parent or guardian is providing food and beverages for the child.

2. The Commission, the Division of Child Development and Early Education of the Department of Health and Human Services, or any State agency or contracting entity with a State agency shall not evaluate the nutritional value or adequacy of the components of food and beverages provided by a parent or guardian to their child enrolled in a child care facility as an indicator of environmental quality ratings.

c1. Rest Time. Each child care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit."

SECTION 5. Section 10.7(f) of S.L. 2011-145 is rewritten to read:

"**SECTION 10.7.(f)** ~~The prekindergarten program may continue to serve at-risk children identified through the existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at-risk children regardless of income. However, the total number of at-risk children served shall constitute no more than twenty percent (20%) of the four-year-olds served within the prekindergarten program. Any~~ The Division of Child Development and Early Education shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships."

SECTION 6. Section 10.7(h) of S.L. 2011-145 is repealed.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 503:
Nutrition Stds./All Foods Sold at School

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 29, 2012
Introduced by:	Reps. Insko, LaRoque	**Prepared by:**	Patsy Pierce
Analysis of:	PCS to Third Edition H503-CSTL-24		Legislative Analyst

SUMMARY: ***The third edition of House Bill 503 would direct the State Board of Education to adopt rules related to nutritional standards for competitive food and beverages sold to students before or during lunch and in school stores. Charter schools participating in the National School Lunch Program would implement the same standards. The rules would be revised to remain current and to meet federal law and regulations.***

The Senate Proposed Committee Substitute (PCS) deletes the sections related to nutritional standards for competitive foods. The PCS would allow parents to provide food and beverages for their child in a childcare setting that may not meet nutrition standards and to opt out of supplemental food programs. Parentally supplied food and beverages could not be evaluated as an indicator of child care environmental quality. Relevant sections of S.L. 2011-147 (Budget) would be revised to clarify income eligibility for the NC Pre-K program and repeal the parent co-payment requirement.

CURRENT LAW: G.S. 115C-264.2 allows schools to sell snacks and beverages with certain restrictions including prohibiting the sale of soft drinks during breakfast and lunch and in elementary schools. Snack vending is also prohibited in elementary schools, and the caloric content of snack vending is limited in middle and high schools.

BILL ANALYSIS: The Proposed Committee Substitute (PCS) deletes the language from the third edition of H503 related to nutrition standards for competitive foods sold to students in traditional public schools and in charter schools. Current nutrition standards for competitive food and beverages would remain in effect.

The PCS includes the following sections:

Section 1.

CURRENT LAW: G.S. 110-91(2) directs the NC Child Care Commission to adopt nutrition rules and standards for child care facilities while considering limiting servings of sweetened beverages, juice, whole or flavored milk, and creating exceptions from the rules for parents of children with special diets and who want to provide foods that may not meet nutrition standards.

BILL ANALYSIS: Amends G.S. 110-91(2) to require the Child Care Commission to adopt rules to allow parents or guardians of children in child care facilities to provide food and beverages that may not meet nutrition standards and to opt out of any supplemental food programs. Child care facilities would be prohibited from providing foods or beverages to children whose parent or guardian is providing food and beverages for their child. Agencies would be prohibited from including food or beverages provided by a parent or guardian as a component of environmental quality ratings.

Sections 2-3.

CURRENT LAW: Section 10.7(f) of S.L. 2011-145 (Budget) states that the NC prekindergarten program (NC Pre-K) may continue to serve at-risk children identified through existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The

Division of Child Development is directed to serve a-risk children regardless of income. However, the total number of at-risk children can constitute no more than twenty percent (20%) of the four-year olds served within the NC Pre-K program. Section 10.7(h) requires parent co-payments for the NC Pre-K program which are the same as those required of parents receiving regular child care subsidy.

BILL ANALYSIS: Clarifies the relevant section of S.L. 2011-145 (Budget) regarding NC Pre-K eligibility standards and removes the parent co-pay requirement for the NC Pre-K program.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The federal Healthy Hunger-Free Kids Act of 2010 includes a provision that nutritional standards for competitive foods sold on school campuses will be published in 2012.

NC Child Care Commission rules slated for implementation in July, 2012 include an exception for parents to provide food that "may reflect cultural and ethnic preferences such as a vegetarian diet."

H503-SMTL-59(CSTL-24) v4

SENATE BILL 795

Short Title:	Excellent Public Schools Act.	(Public)
Sponsors:	Senators Apodaca, P. Berger, Tillman; Allran, Bingham, Blake, Brock, Brown, Carney, Daniel, Davis, East, Goolsby, Gunn, Harrington, Hartsell, Hise, Hunt, Meredith, Newton, Pate, Rabon, Rouzer, Rucho, Soucek, and Stevens.	
Referred to:	Education/Higher Education.	

April 25, 2012

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO IMPROVE K-3 LITERACY; PROVIDE LITERACY VOLUNTEER LEAVE TIME; ASSIGN SCHOOL PERFORMANCE GRADES; MAXIMIZE INSTRUCTIONAL TIME; ADJUST SCHOOL CALENDAR START AND END DATES; FUND FIVE ADDITIONAL INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR; ESTABLISH AN NC TEACHER CORPS; STRENGTHEN TEACHER LICENSURE REQUIREMENTS; PROVIDE PROOF OF STATE-FUNDED LIABILITY INSURANCE; ESTABLISH PLANS FOR PAY FOR EXCELLENCE; END TENURE; AND ELIMINATE PUBLIC FINANCING FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

PART I. IMPROVE K-3 LITERACY

SECTION 1.(a) G.S. 115C-81.2 is repealed.

SECTION 1.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1A. North Carolina Read to Achieve Program.

"**§ 115C-83.1A. State goal.**

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success.

"**§ 115C-83.1B. Purposes.**

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading.

"**§ 115C-83.1C. Definitions.**

The following definitions apply in this Part:

(1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.

(2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State approved standardized test of reading comprehension administered to third grade students.

(3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.

(4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.

(5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

(6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.

(9) "Summer reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's summer camp attendance. Summer camps shall (i) be six to eight weeks long, four or five days per week; (ii) include at least five and one-half hours of instructional time per day; (iii) be taught by compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency; and (iv) allow volunteer mentors to read with students.

(10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth

grade performance standards while continuing to remediate areas of reading deficiency.

"**§ 115C-83.1D. Comprehensive plan for reading achievement.**

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 1 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development.

"**§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

(1) The status of children's learning at kindergarten entry.

(2) Instruction of each child.

(3) Efforts to reduce the achievement gap at kindergarten entry.

(4) Continuous improvement of the early childhood system.

"**§ 115C-83.1F. Facilitating early grade reading proficiency.**

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. To the greatest extent possible, kindergarten through third grade reading assessments shall yield data that can be used with the Education Value Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance reading development and proficiency.

"**§ 115C-83.1G. Elimination of social promotion.**

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be re-administered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

(1) Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

(2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

(3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education. Teachers may administer the alternative assessment following the administration of the State-approved standardized test of reading comprehension typically given to third grade students at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp.

(4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Teachers may submit the student reading portfolio at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp. The student reading portfolio and review process shall be established by the State Board of Education.

(5) Students who have (i) received reading intervention and (ii) previously been retained more than once.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

(1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's personal education plan, individual education program, if applicable, alternative assessment, or student reading portfolio.

(2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final

determination. The superintendent's acceptance or rejection of the recommendation shall be in writing.

"**§ 115C-83.1H. Successful reading development for retained students.**

(a) Students not demonstrating reading proficiency shall be enrolled in a summer reading camp provided by the local school administrative unit prior to being retained. Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided with the instruction listed in subsection (b) of this section during the retained year.

(b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension, or student reading portfolio review.

(d) Parents or guardians of students who have been retained once under the provisions of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day.

"**§ 115C-83.1I. Notification requirements to parents and guardians.**

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second or third grade student (i) is demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has a personal education plan under G.S. 115C-105.41.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at least monthly written reports on student progress towards reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities to discuss with parents and guardians the notifications listed in this section.

"**§ 115C-83.1J. Accountability measures.**

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

(1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

(2) The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

(3) The number and percentage of third grade students retained for not demonstrating reading proficiency.

(4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b).

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year a description of all reading interventions provided to students who have been retained under G.S. 115C-83.1G(a).

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by October 1 of each year, beginning with the 2014-2015 school year.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part."

SECTION 1.(c) G.S. 115C-105.27(b)(1a) is repealed.

SECTION 1.(d) G.S. 115C-105.41 reads as rewritten:

"**§ 115C-105.41. Students who have been placed at risk of academic failure; personal education plans.**

In order to implement Part 1A of Article 8 of this Chapter, ~~Local~~ local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning ~~no later than the fourth grade.~~ in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading ~~intervention~~ interventions and accelerated activities should include ~~research-based best~~ evidence-based practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically

review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

SECTION 1.(e) G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for ~~First and Second Grades.~~Kindergarten, First, Second, and Third Grades. – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program and Part 1A of Article 8 of this Chapter for the ~~first and second grades, rather than standardized tests.~~ kindergarten, first, second, and third grades. Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for ~~first and second grade students,~~ kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and to inform instruction and remediation needs. ~~and~~ Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants."

SECTION 1.(f) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.

d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.

e. Students who have received reading interventions and have previously been retained more than once.

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and

guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.

c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

d. The number and percentage of third grade students retained for not demonstrating reading proficiency.

e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection."

SECTION 1.(g) G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils~~pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

SECTION 1.(h) G.S. 130A-440(b) reads as rewritten:

"(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may also include dental screening and developmental screening for cognition, language, and motor function. The developmental screening of cognition and language abilities may be conducted in accordance with G.S. 115C-83.1E(a)."

SECTION 1.(i) There is appropriated from the General Fund to the Department of Public Instruction the sum of thirty-four million eighty-seven thousand six hundred fifty dollars ($34,087,650) for the 2012-2013 fiscal year to implement the requirements of this section. It is the intent of the General Assembly to increase this appropriation for the 2013-2014 fiscal year to implement additional requirements in that fiscal year.

SECTION 1.(j) This section is effective when it becomes law and applies beginning with the 2013-2014 school year. The kindergarten entry assessment required by this section shall be administered beginning with the 2014-2015 school year.

PART II. STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 2.(a) G.S. 126-4 reads as rewritten:

"**§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

...."

SECTION 2.(b) This section is effective when it becomes law.

PART III. SCHOOL PERFORMANCE GRADES

SECTION 3.(a) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall school performance grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance grade shall reflect student performance on annual subject specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance grades shall also be awarded based on the school performance in literacy and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b)."

SECTION 3.(b) G.S. 115C-47(58) reads as rewritten:

"(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or ~~otherwise.~~ is otherwise provided to the public. Each local board of education shall ensure that the overall school performance grade earned by each school in the local school administrative unit is prominently displayed on the Web site of the local school administrative unit. If any school in the local school administrative unit is awarded a grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(c) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance grade earned by the charter school is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance grade earned by the regional school is prominently displayed on the school Web site. If a regional school is awarded a grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(e) The State Board of Education shall award school performance grades as required by G.S. 115C-12(9)c1. based on the following criteria.

(1) The overall school performance grade earned by schools serving students in kindergarten through eighth grade shall be calculated based on the sum of three school performance grade point elements.

a. The grade shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
2. One point for each percent of students who score at or above proficient on annual assessments for English Language Arts in grades three through eight.
3. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

b. The following scale shall be applied for award of grades:

1. At least 270 performance grade points for an overall school performance grade of A.
2. At least 240 performance grade points for an overall school performance grade of B.
3. At least 210 performance grade points for an overall school performance grade of C.
4. At least 180 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 180 points shall be assigned an overall school performance grade of F.

(2) The school performance grades in literacy and mathematics, respectively, for schools serving students in kindergarten through eighth grade shall be earned as follows:

a. The literacy school performance grade shall be based on the percent of students who score at or above proficient on annual assessments for English Language Arts assessments in grades three through eight.

b. The mathematics school performance grade shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

c. The school performance grades awarded for literacy and mathematics, respectively, shall be awarded on the following scale:

1. At least 90 performance grade points for an overall school performance grade of A.
2. At least 80 performance grade points for an overall school performance grade of B.
3. At least 70 performance grade points for an overall school performance grade of C.
4. At least 60 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 60 points shall be assigned an overall school performance grade of F.

(3) The overall school performance grade earned by schools serving students in ninth through twelfth grade shall be calculated based on the sum of seven school performance grade point elements.

a. The grade shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
2. One point for each percent of students who score at or above proficient on annual assessments for English.
3. One point for each percent of students who score at or above proficient on annual assessments for biology.
4. One point for each percent of students who complete a higher-level mathematics class with a passing grade.
5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
6. One point for each percent of students who graduate within four years of entering high school.
7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.

b. The following scale shall be applied for award of grades:

1. At least 630 performance grade points for an overall school performance grade of A.
2. At least 560 performance grade points for an overall school performance grade of B.
3. At least 490 performance grade points for an overall school performance grade of C.
4. At least 420 performance grade points for an overall school performance grade of D.
5. A school that accumulates less than 420 points shall be assigned an overall school performance grade of F.

(4) In calculating the overall school performance grade earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance grade element for award of grades to a school that does not have a measure of one of the school performance grade elements annually assessed for the grades taught at that school.

(5) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade point elements and scale for award of grades.

SECTION 3.(f) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART IV. MAXIMIZE INSTRUCTIONAL TIME

SECTION 4.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school ~~year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~year.

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the school year for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of ~~children~~ students with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for students with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 4.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART V. ADJUSTMENTS TO SCHOOL CALENDAR START AND END DATES

SECTION 5.(a) G.S. 115C-84.2(d) reads as rewritten:

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall not be before ~~August 25,~~the next to the last Monday in August, and the closing date for students shall not be after ~~June 10~~ the second Friday in June. On a showing of good cause, the State Board of Education may waive this requirement to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means either that:

(1) Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or

(2) Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.

The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.

~~The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.~~"

SECTION 5.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART VI. FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR

SECTION 6.(a) To fully provide for the expansion of five additional instructional days in accordance with S.L. 2011-145, Section 7.29:

(1) There is appropriated from the General Fund to the Department of Public Instruction the sum of one million two hundred thousand dollars ($1,200,000) for the 2012-2013 fiscal year to increase the amount appropriated for the noninstructional support personnel allotment.

(2) There is appropriated from the General Fund to the Department of Public Instruction the sum of ten million one hundred fifty thousand dollars ($10,150,000) for the 2012-2013 fiscal year to increase the amount appropriated for the transportation allotment.

SECTION 6.(b) This section becomes effective July 1, 2012.

PART VII. ESTABLISH NC TEACHER CORPS

SECTION 7.(a) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-296.7. North Carolina Teacher Corps.**

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies, and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

SECTION 7.(b) This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

PART VIII. STRENGTHEN TEACHER LICENSURE

SECTION 8.(a) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education may require an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination

appropriate and adequate for that purpose. Elementary Education (K-6) teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to Reading and Language Arts and Mathematics. 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 licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high quality academic and professional preparation to ~~teach.~~teach effectively.

...

(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 licensed 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 licensure 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 licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

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 local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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 licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least three continuing education credits related to literacy for elementary and middle school teachers. Literacy renewal credits shall include assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to certification renewal for elementary school teachers.

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 licenses. The State Board shall consider modifications in the license 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 licenses by May 15, 1998.~~

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification

and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The standards for approval of institutions of teacher education shall require that elementary teacher education programs include demonstrated competencies in (i) teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies; and (iii) appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students. 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, the 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. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

...."

SECTION 8.(b) This section is effective when it becomes law and applies beginning with the 2013-2014 school year.

PART IX. PROOF OF STATE-FUNDED LIABILITY INSURANCE

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

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

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

...

f. To annually notify public school employees of the availability and coverage of professional liability insurance.

...."

SECTION 9.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART X. PAY FOR EXCELLENCE

SECTION 10.(a) Each local board of education shall establish a system of performance pay for all licensed personnel employed by the local board, beginning with the 2013-2014 fiscal year. Under the performance pay system, licensed employees shall be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. Criteria for award of bonuses or adjustments to base salary shall include, but are not limited to, the following factors:

(1) Annual growth in student achievement of students assigned to a teacher's classroom, when applicable.
(2) Annual growth in student achievement of students assigned to a specific school.
(3) Assignment of additional academic responsibilities.
(4) Assignment to a hard-to-staff school.
(5) Assignment to a hard-to-staff subject area.

Local boards of education shall submit plans to the State Board of Education no later than March 1, 2013. The State Board shall submit for consultation the plans submitted by local boards in compliance with this section to the Fiscal Research Division and to the Joint Legislative Commission on Governmental Operations no later than April 15, 2013.

SECTION 10.(b) This section is effective when it becomes law.

PART XI. END TENURE

SECTION 11.(a) G.S. 115C-325 is repealed.

SECTION 11.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"**§ 115C-325.1. Definitions.**

As used in this Part, the following definitions apply:

(1) "Annual contract" means an employment contract for a period of no longer than one school year.
(2) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.
(3) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.
(4) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).
(5) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program as provided in G.S. 115C-287.1(a)(3).
(6) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:
1. A current standard professional educator's license.
2. A current lateral entry teaching license.
3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

"**§ 115C-325.2. Personnel files.**

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"**§ 115C-325.3. Annual contracts.**

(a) Annual Contract. – Local boards of education shall employ teachers through an annual contract upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed annual contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the teacher a new or renewed annual contract.

(b) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(c) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed annual contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than May 15.

(d) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than June 1. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed annual contract. The board shall notify a teacher whose contract will not be renewed

for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification by July 1 or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed annual contract shall not be on any basis prohibited by State or federal law.

(e) Local boards of education and teachers employed by the local board may mutually modify the terms of the annual contact to permit part-time employment.

"**§ 115C-325.4. Dismissal or demotion for cause.**

(a) Grounds. – No teacher shall be dismissed or demoted or reduced to employment on a part-time basis for disciplinary reasons during the term of the annual contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

(5) Physical or mental incapacity.

(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.

(7) Conviction of a felony or a crime involving moral turpitude.

(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.

(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.

(10) Failure to comply with such reasonable requirements as the board may prescribe.

(11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.

(12) Failure to maintain his or her license in a current status.

(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.

(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"**§ 115C-325.5. Teacher suspension.**

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated

immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(1) Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325.8 shall apply if any of the following circumstances exist:

a. The recommended disciplinary suspension without pay is for more than 10 days; or

b. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the revocation of the teacher's or school administrator's license, or providing false information.

(2) Board hearing for disciplinary suspensions of no more than 10 days. – The procedures for a board hearing under G.S. 115C-325.7 shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in G.S. 115C-325.5(b)(1).

(c) Suspension with Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request. However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension.

"**§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the annual contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under

G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay.

"**§ 115C-325.7. Hearing before board.**

(a) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

(1) The hearing shall be private.

(2) The board shall receive the following:

a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the teacher seven days before the hearing.

b. Any documentary evidence the teacher intends to use to rebut the superintendent's recommendation. The teacher shall provide the superintendent with the documentary evidence three days before the hearing.

c. The superintendent's recommendation and the grounds for the recommendation.

(3) The superintendent and teacher may submit a written statement not less than three days before the hearing.

(4) The superintendent and teacher shall be permitted to make oral arguments to the board based on the record before the board.

(5) The board shall make findings of fact based upon a preponderance of the evidence.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the teacher and the superintendent.

(7) If the board elects to make a transcript, the teacher may request and shall receive at no charge a transcript of the proceedings. A teacher may have the hearing transcribed by a court reporter at the teacher's expense.

(b) The procedures of this section shall not apply to board hearings for disciplinary suspensions without pay. Board hearings for G.S. 115C-325.5(b), disciplinary suspensions without pay, shall be conducted as provided in G.S. 115C-325.8.

"**§ 115C-325.8. Board hearing for certain disciplinary suspensions.**

(a) The following procedures shall apply for a board hearing under G.S. 115C-325.5(b), disciplinary suspensions without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least eight days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least six days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings.

"**§ 115C-325.9. Teacher resignation.**

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) 30 Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the annual contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the annual contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, Correction, or the Division of Juvenile Justice of the Department of Public Safety, regardless of the age of the students.

"**§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.**

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall

prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.12. Procedure for dismissal of Principals employed in low-performing schools.**

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

CONFORMING CHANGES

SECTION 11.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;

(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;

(3) The terms or conditions of employment or employment status of a school employee; and

(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State 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. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee.~~"

SECTION 11.(d) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325,~~in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 11.(e) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational

management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 11.(f) G.S. 115C-105.38A(d) reads as rewritten:

"(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the certified staff member shall take the general knowledge test a second time. If the certified staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a).~~G.S. 115C-325.13."

SECTION 11.(g) G.S. 115C-105.38A(f) reads as rewritten:

"(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under ~~G.S. 115C-325(q)(1);~~G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2);~~G.S. 115C-325.13.

(3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e);~~G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment; or~~employment.

~~(5) The decision to grant career status.~~"

SECTION 11.(h) G.S. 115C-105.39 reads as rewritten:

"**§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.**

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325,~~G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote

the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1).~~G.S. 115C-325.12.

(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2)~~G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2).~~G.S. 115C-325.13.

...."

SECTION 11.(i) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).~~"

SECTION 11.(j) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before

the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).~~"

SECTION 11.(k) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 11.(l) G.S. 115C-285(7) reads as rewritten:

"(7) All persons employed as principals in the schools and institutions listed in ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education."

SECTION 11.(m) G.S. 115C-287.1 reads as rewritten:

"**§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.**

(a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators shall be employed pursuant to this section.

~~(2) Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators shall be employed pursuant to G.S. 115C-325:~~

~~a. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position with career status in that position; and~~

~~b. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position and who are eligible to achieve career status on or before June 30, 1997.~~

~~A school administrator shall cease to be employed pursuant to G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career status or the opportunity to achieve career status through promotion, resignation, or otherwise; or (ii) is dismissed or demoted or whose contract is not renewed pursuant to G.S. 115C-325.~~

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

~~(4) Nothing in this section shall be construed to confer career status on any assistant principal or director, or to make an assistant principal eligible for career status as an assistant principal or a director eligible for career status as a director.~~

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

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause as set forth in ~~G.S. 115C-325.~~G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision ~~and the reasons for his or her decision~~ no later than May 1 of the final year of the contract. ~~The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, or political.~~ No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision.~~ If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may not be for any cause ~~that is not arbitrary, capricious, discriminatory, personal, or political.~~ prohibited by State or federal law. ~~The local board's decision not to offer the school administrator a new, renewed, or extended school administrator's contract is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.~~

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

~~(g) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is employed as a school administrator, a school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished that right or is dismissed or demoted pursuant to G.S. 115C-325.~~

(h) An individual who holds a provisional assistant principal's certificate and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's certificate. ~~If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's certificate."

SECTION 11.(n) G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal knowledge, a reasonable belief, or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

A principal who willfully fails to make a report to law enforcement required by this subsection may be subject to demotion or dismissal pursuant to ~~G.S. 115C-325.~~G.S. 115C-325.4.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by this subsection.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students."

SECTION 11.(o) G.S. 115C-304 is repealed.

SECTION 11.(p) G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to

provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(6), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have ~~not attained career status~~been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

(1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

(2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's ~~performance or~~ performance, (ii) the superintendent recommend to the local board that the ~~employee be dismissed or demoted.~~employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make ~~either~~ any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate

dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that the ~~employee~~ employee's contract not be renewed, or that the employee be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~for any reason~~for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under ~~G.S. 115C-325 except for a reduction in force.~~ G.S. 115C-325.4.

...."

SECTION 11.(q) G.S. 115C-333.1 reads as rewritten:

"§ 115C-333.1. **Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status~~who have been employed for three or more years who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status~~employed for three or more years to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan

shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) 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 of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the teacher's contract not be renewed, or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325.~~G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (d) of this section, ~~for any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under ~~G.S. 115C-325~~G.S. 115C-325.4. ~~except for a reduction in force.~~ If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, if the local board elects to renew the teacher's annual contract and ~~the teacher shall have one more year to bring the rating to proficient. If,~~ by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

...."

SECTION 11.(r) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 11.(s) Article 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-344. Employment benefits for exchange teachers.**

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For

purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week."

SECTION 11.(t) G.S. 115C-404(b) reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal ~~of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee,~~ in accordance with ~~G.S. 115C-325(e)(1)i.~~G.S. 115C-325.4(a)(9)."

SECTION 11.(u) G.S. 143B-146.7(b) reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the ~~Secretary~~ State Board shall proceed under ~~G.S. 115C-325(p1)~~G.S. 115C-325.11 for the dismissal of certificated instructional personnel assigned to that school."

SECTION 11.(v) G.S. 143B-146.8 reads as rewritten:

"**§ 143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all ~~certificated~~ licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(6), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have ~~not attained career status.~~been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under ~~G.S. 115C-325(a)(6)~~G.S. 115C-325.1(6) who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the Secretary adopts rules that allow specified categories of teachers with ~~career status~~three or more years of employment to be evaluated more or less frequently. The Secretary also may adopt rules requiring the annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.

(b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee

receive an action plan designed to improve the employee's performance; (ii) the employee's contract not be recommended for renewal, or (iii) if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. ~~or (ii) the principal recommend to the Secretary that the employee be dismissed or demoted.~~ The principal shall determine whether to develop an action ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board, in consultation with the Secretary, shall develop guidelines that include strategies to assist in evaluating ~~certificated~~ licensed personnel and developing effective action plans within the time allotted under this section. The Secretary may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee's contract not be renewed, or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If the Secretary dismisses an employee for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ the Secretary shall notify the State Board of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

...."

SECTION 11.(w) This section becomes effective July 1, 2012, and applies to all school employees employed on or after that date.

PART XII. ELIMINATION OF PUBLIC FINANCING FOR SUPERINTENDENT OF PUBLIC INSTRUCTION

SECTION 12.(a) G.S. 163-278.95 reads as rewritten:

"**§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.**

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of

qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~Auditor and Commissioner of Insurance in elections to be held in 2008 and thereafter."

SECTION 12.(b) G.S. 163-278.96(12) reads as rewritten:

"(12) Office. – The Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~ Auditor and Commissioner of Insurance."

SECTION 12.(c) Within five business days of the effective day of this act, the State Board of Elections shall notify any individual who is a candidate for Superintendent of Public Instruction and who has filed a declaration of intent to participate in the program for public financing through the North Carolina Voter-Owned Elections Fund that the candidate is no longer eligible to participate in the program.

SECTION 12.(d) This section is effective when it becomes law and applies to elections held on or after that date.

PART XIII. EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S D

SENATE BILL 795
PROPOSED COMMITTEE SUBSTITUTE S795-PCS65125-TC-38

Short Title: Excellent Public Schools Act. (Public)

Sponsors:

Referred to:

April 25, 2012

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO IMPROVE K-3 LITERACY; PROVIDE LITERACY VOLUNTEER LEAVE TIME; ASSIGN SCHOOL PERFORMANCE GRADES; MAXIMIZE INSTRUCTIONAL TIME; ADJUST SCHOOL CALENDAR; FUND FIVE ADDITIONAL INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR; ESTABLISH AN NC TEACHER CORPS; STRENGTHEN TEACHER LICENSURE REQUIREMENTS; PROVIDE PROOF OF STATE-FUNDED LIABILITY INSURANCE; ESTABLISH PLANS FOR PAY FOR EXCELLENCE; CLARIFY NC PRE-K PROGRAM ELIGIBILITY AND ADD SLOTS; REPEAL PROHIBITION ON TEACHER PREPAYMENT; PROVIDE A TAX DEDUCTION FOR EDUCATIONAL SUPPLIES; ESTABLISH TEACHER CONTRACTS; AND ELIMINATE PUBLIC FINANCING FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

PART I. IMPROVE K-3 LITERACY

SECTION 1.(a) G.S. 115C-81.2 is repealed.

SECTION 1.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1A. North Carolina Read to Achieve Program.

"**§ 115C-83.1A. State goal.**

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success.

"**§ 115C-83.1B. Purposes.**

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading.

"**§ 115C-83.1C. Definitions.**

The following definitions apply in this Part:

(1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.

(2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State approved standardized test of reading comprehension administered to third grade students.

(3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.

(4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.

(5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

(6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.

(9) "Summer reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's summer camp attendance. Summer camps shall (i) be six to eight weeks long, four or five days per week; (ii) include at least three hours of instructional time per day; (iii) be taught by

compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency; and (iv) allow volunteer mentors to read with students.

(10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth grade performance standards while continuing to remediate areas of reading deficiency.

"**§ 115C-83.1D. Comprehensive plan for reading achievement.**

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 1 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development.

"**§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

(1) The status of children's learning at kindergarten entry.

(2) Instruction of each child.

(3) Efforts to reduce the achievement gap at kindergarten entry.

(4) Continuous improvement of the early childhood system.

"**§ 115C-83.1F. Facilitating early grade reading proficiency.**

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. To the greatest extent possible, kindergarten through third grade reading assessments shall yield data

that can be used with the Education Value Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance reading development and proficiency.

"**§ 115C-83.1G. Elimination of social promotion.**

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be re-administered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

(1) Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

(2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

(3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education. Teachers may administer the alternative assessment following the administration of the State-approved standardized test of reading comprehension typically given to third grade students at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp.

(4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Teachers may submit the student reading portfolio at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp. The student reading portfolio and review process shall be established by the State Board of Education.

(5) Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second or third grades.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

(1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's personal education plan, individual education program, if applicable, alternative assessment, or student reading portfolio.

(2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final determination. The superintendent's acceptance or rejection of the recommendation shall be in writing.

"**§ 115C-83.1H. Successful reading development for retained students.**

(a) Students not demonstrating reading proficiency shall be enrolled in a summer reading camp provided by the local school administrative unit prior to being retained. Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided with the instruction listed in subsection (b) of this section during the retained year.

(b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension, or student reading portfolio review.

(d) Parents or guardians of students who have been retained once under the provisions of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day.

"**§ 115C-83.1I. Notification requirements to parents and guardians.**

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second or third grade student (i) is demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has a personal education plan under G.S. 115C-105.41.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at least monthly written reports on student progress towards reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities to discuss with parents and guardians the notifications listed in this section.

"**§ 115C-83.1J. Accountability measures.**

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

(1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

(2) The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

(3) The number and percentage of third grade students retained for not demonstrating reading proficiency.

(4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b).

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year a description of all reading interventions provided to students who have been retained under G.S. 115C-83.1G(a).

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by October 1 of each year, beginning with the 2014-2015 school year.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part."

SECTION 1.(c) G.S. 115C-105.27(b)(1a) is repealed.

SECTION 1.(d) G.S. 115C-105.41 reads as rewritten:

"**§ 115C-105.41. Students who have been placed at risk of academic failure; personal education plans.**

In order to implement Part 1A of Article 8 of this Chapter, ~~Local~~ local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning ~~no later than the fourth grade.~~ in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading ~~intervention~~ interventions and accelerated activities should include ~~research-based best~~ evidence-based practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

SECTION 1.(e) G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for ~~First and Second Grades.~~Kindergarten, First, Second, and Third Grades. – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program and Part 1A of Article 8 of this Chapter for the ~~first and second grades, rather than standardized tests.~~ kindergarten, first, second, and third grades. Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for ~~first and second grade students,~~ kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and to inform instruction and remediation needs. ~~and~~ Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants."

SECTION 1.(f) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.

d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.

e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second or third grades.

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the

student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.

c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

d. The number and percentage of third grade students retained for not demonstrating reading proficiency.

e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection."

SECTION 1.(g) G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils~~pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

SECTION 1.(h) G.S. 130A-440(b) reads as rewritten:

"(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may also include dental screening and developmental screening for cognition, language, and motor function. The developmental screening of cognition and language abilities may be conducted in accordance with G.S. 115C-83.1E(a)."

SECTION 1.(i) There is appropriated from the General Fund to the Department of Public Instruction the sum of thirty-four million eighty-seven thousand six hundred fifty dollars ($34,087,650) for the 2012-2013 fiscal year to implement the requirements of this section. It is the intent of the General Assembly to increase this appropriation for the 2013-2014 fiscal year to implement additional requirements in that fiscal year.

SECTION 1.(j) This section is effective when it becomes law and applies beginning with the 2013-2014 school year. The developmental screening and kindergarten

entry assessment required by this section shall be administered beginning with the 2014-2015 school year

PART II. STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 2.(a) G.S. 126-4 reads as rewritten:

"**§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

...."

SECTION 2.(b) This section is effective when it becomes law.

PART III. SCHOOL PERFORMANCE GRADES

SECTION 3.(a) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b)."

SECTION 3.(b) G.S. 115C-47(58) reads as rewritten:

"(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or ~~otherwise.~~ is otherwise provided to the public. Each local board of education shall ensure that the overall school performance score and grade earned by each school in the

local school administrative unit for the current and previous four school years is prominently displayed on the Web site of the local school administrative unit. If any school in the local school administrative unit is awarded a grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(c) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance score and grade earned by the regional school for the current and previous four school years is prominently displayed on the school Web site. If a regional school is awarded a grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 3.(e) The State Board of Education shall award school performance scores and grades as required by G.S. 115C-12(9)c1. as follows:

(1) The State Board of Education shall calculate school performance scores by totaling the sum of points earned by the school and converting the sum of points to a 100 point scale. Subsections (2) and (3) of this section provide the school performance elements for schools serving students in kindergarten through eighth grade. Subsection (4) of this section provides the school performance elements for schools serving grades nine through twelve. The school performance score shall be used to determine the school performance grade based on the following scale:
   a. At least 90 performance grade points for an overall school performance grade of A.
   b. At least 80 performance grade points for an overall school performance grade of B.
   c. At least 70 performance grade points for an overall school performance grade of C.
   d. At least 60 performance grade points for an overall school performance grade of D.
   e. A school that accumulates less than 60 points shall be assigned an overall school performance grade of F.

(2) For schools serving students in kindergarten through eighth grade the overall school performance score shall be calculated based on the sum of three school performance elements.
   a. The score shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
2. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.
3. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

(3) For schools serving students in kindergarten through eighth grade, the school performance scores in reading and mathematics, respectively, shall be earned as follows:

a. The literacy school performance score shall be based on the percent of students who score at or above proficient on annual assessments for reading assessments in grades three through eight.

b. The mathematics school performance score shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

(4) The school performance score earned by schools serving students in ninth through twelfth grade shall be calculated based on the sum of seven school performance elements.

a. The score shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
2. One point for each percent of students who score at or above proficient on annual assessments for English.
3. One point for each percent of students who score at or above proficient on annual assessments for biology.
4. One point for each percent of students who complete a higher-level mathematics class with a passing grade.
5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
6. One point for each percent of students who graduate within four years of entering high school.
7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.

(5) In calculating the overall school performance score earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance element for award of scores to a school that does not have a measure of one of the school performance elements annually assessed for the grades taught at that school.

(6) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade elements and scales for award of scores and grades.

SECTION 3.(f) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART IV. MAXIMIZE INSTRUCTIONAL TIME

SECTION 4.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school ~~year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~year.

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans, and for the administration of final exams for courses with national or international curriculums required to be held at designated times.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of ~~children~~ students with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for students with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 4.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART V. ADJUSTMENTS TO SCHOOL CALENDAR

SECTION 5.(a) G.S. 115C-84.2 reads as rewritten:

"**§ 115C-84.2. School calendar.**

(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 185 days ~~and~~ or 1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the ~~185~~ 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.

...

(4a) Three days, as designated by the local board, for use as teacher workdays. These days shall be protected to allow teachers to complete instructional and classroom administrative duties. The local school administrative unit shall not impose any additional tasks on these days. The local board shall schedule at least one of these days at the beginning of the school year and at least one at the end of the school year.

(5) The remaining 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. Before consulting with the local board, each principal shall work with the school improvement team to determine the days to be scheduled and the purposes for which they should be scheduled. Days may be scheduled and planned for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel. In order to make up days for school closing because of inclement weather, the local board may designate any of the days in this subdivision as additional make-up days to be scheduled after the last day of student attendance.

~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a local board of education a waiver to use up to five of the instructional days required by subdivision (1) of this subsection as teacher workdays. For each instructional day waived, the State Board shall waive an equivalent number of instructional hours.~~

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards shall designate at least two days scheduled under subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of these days. A teacher may elect to waive this notice requirement for one or more of these days.

...

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall ~~not be before August 25,~~be no earlier than the Monday closest to August 26, and the closing date for students shall ~~not be after June 10.~~be no later than the Friday closest to June 11. On a showing of good cause, the State Board of Education may waive ~~this requirement~~ the requirement that the opening date for students be no earlier than the Monday closest to August 26 and may allow the local board of education to set an opening data no earlier than the Monday closest to August 19, to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to

school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means ~~either that:~~that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

~~(1) Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or~~

~~(2) Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.~~

~~The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.~~

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.

..."

SECTION 5.(b) G.S. 115C-238.29F(d)(1) reads as rewritten:

"(1) The school shall provide instruction each year for at least 185 ~~days.~~days or 1,025 hours over nine calendar months. ~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a charter school a waiver to use up to five of these instructional days as teacher workdays.~~"

SECTION 5.(c) G.S. 115C-238.53 is amended by adding a new subsection to read:

"(g) The requirements of G.S. 115C-84.2 shall not apply to a program approved under this Part, however, the program shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months."

SECTION 5.(d) G.S. 115C-238.66(1)(d) reads as rewritten:

"d. The board of directors shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months."

SECTION 5.(e) This section is effective when it becomes law and applies beginning with the 2013-2014 school year.

PART VI. funding for the addition of five instructional days within the existing school calendar

SECTION 6.(a) To fully provide for the expansion of five additional instructional days in accordance with S.L. 2011-145, Section 7.29 for those days for which a local school administrative unit has not requested and received a waiver from the State Board of Education for the 2012-2013 school year:

(1) There is appropriated from the General Fund to the Department of Public Instruction the sum of forty thousand one hundred sixty-eight dollars ($40,168) for the 2012-2013 fiscal year to increase the amount appropriated for the noninstructional support personnel allotment.

(2) There is appropriated from the General Fund to the Department of Public Instruction the sum of three hundred fifty-one thousand four hundred sixty-nine dollars ($351,469) for the 2012-2013 fiscal year to increase the amount appropriated for the transportation allotment.

SECTION 6.(b) This section becomes effective July 1, 2012.

PART VII. ESTABLISH NC TEACHER CORPS

SECTION 7.(a) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-296.7. North Carolina Teacher Corps.**

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies, and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

SECTION 7.(b) This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

PART VIII. STRENGTHEN TEACHER LICENSURE

SECTION 8.(a) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education may require an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary Education (K-6) teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics. 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 licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high quality academic and professional preparation to ~~teach.~~teach effectively.

...

(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 licensed 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 licensure 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 licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

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 local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

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 licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that

reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least three continuing education credits related to literacy for elementary and middle school teachers. Literacy renewal credits shall include assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to certification renewal for elementary school teachers.

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 licenses. The State Board shall consider modifications in the license 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 licenses by May 15, 1998.~~

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The standards for approval of institutions of teacher education shall require that elementary teacher education programs include demonstrated competencies in (i) teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies; and (iii) appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students. 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, the 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. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

...."

SECTION 8.(b) This section is effective when it becomes law and applies beginning with the 2013-2014 school year.

PART IX. PROOF OF STATE-FUNDED LIABILITY INSURANCE

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

"**§ 115C-12. Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

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

...

f. To annually notify public school employees of the availability and coverage of professional liability insurance.

...."

SECTION 9.(b) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

PART X. PAY FOR EXCELLENCE

SECTION 10.(a) Each local board of education shall develop a plan of performance pay for all licensed personnel employed by the local board. Under the performance pay plan, licensed employees should be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. Criteria for award of bonuses or adjustments to base salary should include, but are not limited to, the following factors:

(1) Annual growth in student achievement of students assigned to a teacher's classroom, when applicable.

(2) Annual growth in student achievement of students assigned to a specific school.

(3) Assignment of additional academic responsibilities.

(4) Assignment to a hard-to-staff school.

(5) Assignment to a hard-to-staff subject area.

Local boards of education shall submit plans to the State Board of Education no later than March 1, 2013. The State Board of Education shall report on these plans and the achievement-based compensation models developed as part of the federal Race to the Top grant and shall submit the report and all plans to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives no later than April 15, 2013. Members of the public may also submit plans for performance pay no later than April 15, 2013 to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives.

SECTION 10.(b) This section is effective when it becomes law.

PART XI. CLARIFY NC PRE-K PROGRAM ELIGIBILITY

SECTION 11.(a) Section 10.7(f) of S.L. 2011-145 is rewritten to read:

"**SECTION 10.7.(f)** ~~The prekindergarten program may continue to serve at-risk children identified through the existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at-risk children regardless of income. However, the total number of at-risk children served shall constitute no more than twenty percent (20%) of the four-year-olds served within the prekindergarten program. Any~~ The Division of Child Development and Early

Education shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships."

SECTION 11.(b) Section 10.7(h) of S.L. 2011-145 is repealed.

SECTION 11.(c) There is appropriated from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, the sum of eleven million three hundred eight thousand three hundred sixty three dollars ($11,308,363) for the 2012-2013 fiscal year to add two thousand two hundred sixty one (2,261) slots to be used in the NC Pre-K program.

SECTION 11.(d) This section is effective when it becomes law.

PART XII. REPEAL PROHIBITION ON TEACHER PREPAYMENT

SECTION 12.(a) Section 5 of S.L. 2011-379 is repealed.

SECTION 12.(b) This section becomes effective July 1, 2012.

PART XIII. TAX DEDUCTION FOR EDUCATIONAL SUPPLIES

SECTION 13.(a) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct any of the following items to the extent those items are included in the taxpayer's adjusted gross income.

...

(23) An amount not to exceed two hundred fifty dollars ($250.00) paid or incurred by an eligible educator in connection with items listed in this subdivision. For purposes of this subdivision, the term "eligible educator" has the same meaning as defined in section 62 of the Code, as it existed on December 31, 2011. In the case of a married couple filing a joint return where both spouses are eligible educators, the maximum dollar amount is five hundred dollars ($500.00).

a. Books.

b. Supplies, other than nonathletic supplies for courses of instruction in health or physical education.

c. Computer equipment, including related software and services.

d. Supplementary materials used by the eligible educator in the classroom."

SECTION 13.(b) This section becomes effective for taxable years beginning on or after January 1, 2012.

PART XIV. TEACHER CONTRACTS

SECTION 14.(a) G.S. 115C-325 is repealed.

SECTION 14.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"**§ 115C-325.1. Definitions.**

As used in this Part, the following definitions apply:

(1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

(3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program as provided in G.S. 115C-287.1(a)(3).

(5) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:

1. A current standard professional educator's license.
2. A current lateral entry teaching license.
3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

"**§ 115C-325.2. Personnel files.**

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the

dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"**§ 115C-325.3. Teacher contracts.**

(a) Length of Contract. – A contract between the local board of education and a teacher who has been employed by the local board of education for less than three years shall be for a term of one school year. A contract or renewal of contract between the local board of education and a teacher who has been employed by the local board of education for three years or more shall be for a term of one, two, three, or four school years.

(b) Superintendent Recommendation to Local Board. – Local boards of education shall employ teachers upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed contract, the superintendent shall submit the recommendation to the local board for action and shall include in the recommendation the length of the term of contract. A superintendent shall only recommend a teacher for a contract of a term longer than one school year if the teacher has shown effectiveness as demonstrated on the teacher evaluation instrument. The local board may approve the superintendent's recommendation, may decide not to offer the teacher a new or renewed contract, or may decide to offer the teacher a renewed contract for a different term than recommended by the superintendent.

(c) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than May 15.

(e) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than June 1. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed contract. The board shall notify a teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification by July 1 or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed contract shall not be on any basis prohibited by State or federal law.

(f) Local boards of education and teachers employed by the local board may mutually modify the terms of the contract to permit part-time employment.

"**§ 115C-325.4. Dismissal or demotion for cause.**

(a) Grounds. – No teacher shall be dismissed or demoted or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.
(5) Physical or mental incapacity.
(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
(7) Conviction of a felony or a crime involving moral turpitude.
(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.
(10) Failure to comply with such reasonable requirements as the board may prescribe.
(11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.
(12) Failure to maintain his or her license in a current status.
(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.
(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"**§ 115C-325.5. Teacher suspension.**

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(1) Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325.8 shall apply if any of the following circumstances exist:

a. The recommended disciplinary suspension without pay is for more than 10 days; or

b. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the

revocation of the teacher's or school administrator's license, or providing false information.

(2) Board hearing for disciplinary suspensions of no more than 10 days. – The procedures for a board hearing under G.S. 115C-325.7 shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in G.S. 115C-325.5(b)(1).

(c) Suspension with Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request. However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension.

"**§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay.

"**§ 115C-325.7. Hearing before board.**

(a) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

(1) The hearing shall be private.

(2) The board shall receive the following:

a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the teacher seven days before the hearing.

b. Any documentary evidence the teacher intends to use to rebut the superintendent's recommendation. The teacher shall provide the superintendent with the documentary evidence three days before the hearing.

c. The superintendent's recommendation and the grounds for the recommendation.

(3) The superintendent and teacher may submit a written statement not less than three days before the hearing.

(4) The superintendent and teacher shall be permitted to make oral arguments to the board based on the record before the board.

(5) The board shall make findings of fact based upon a preponderance of the evidence.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the teacher and the superintendent.

(7) If the board elects to make a transcript, the teacher may request and shall receive at no charge a transcript of the proceedings. A teacher may have the hearing transcribed by a court reporter at the teacher's expense.

(b) The procedures of this section shall not apply to board hearings for disciplinary suspensions without pay. Board hearings for G.S. 115C-325.5(b), disciplinary suspensions without pay, shall be conducted as provided in G.S. 115C-325.8.

"**§ 115C-325.8. Board hearing for certain disciplinary suspensions.**

(a) The following procedures shall apply for a board hearing under G.S. 115C-325.5(b), disciplinary suspensions without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least eight days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least six days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered

and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings.

"**§ 115C-325.9. Teacher resignation.**

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) 30 Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, Correction, or the Division of Juvenile Justice of the Department of Public Safety, regardless of the age of the students.

"**§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.**

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive

evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.12. Procedure for dismissal of Principals employed in low-performing schools.**

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay

pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

SECTION 14.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;

(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;

(3) The terms or conditions of employment or employment status of a school employee; and

(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State 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. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee.~~"

SECTION 14.(d) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325,~~in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 14.(e) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 14.(f) G.S. 115C-105.38A(d) reads as rewritten:

"(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the certified staff member shall take the general knowledge test a second time. If the certified staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a).~~G.S. 115C-325.13."

SECTION 14.(g) G.S. 115C-105.38A(f) reads as rewritten:

"(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under ~~G.S. 115C-325(q)(1);~~G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2);~~G.S. 115C-325.13.

(3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e);~~G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment; or~~employment.

~~(5) The decision to grant career status.~~"

SECTION 14.(h) G.S. 115C-105.39 reads as rewritten:

"**§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.**

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325,~~G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1).~~G.S. 115C-325.12.

(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2)~~G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2).~~G.S. 115C-325.13.

...."

SECTION 14.(i) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).~~"

SECTION 14.(j) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).~~"

SECTION 14.(k) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 14.(l) G.S. 115C-285(7) reads as rewritten:

"(7) All persons employed as principals in the schools and institutions listed in ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education."

SECTION 14.(m) G.S. 115C-287.1 reads as rewritten:

"**§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.**

(a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators shall be employed pursuant to this section.

~~(2) Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators shall be employed pursuant to G.S. 115C-325:~~

~~a. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position with career status in that position; and~~

~~b. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position and who are eligible to achieve career status on or before June 30, 1997.~~

~~A school administrator shall cease to be employed pursuant to G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career status or the opportunity to achieve career status through promotion, resignation, or otherwise; or (ii) is dismissed or demoted or whose contract is not renewed pursuant to G.S. 115C-325.~~

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

~~(4) Nothing in this section shall be construed to confer career status on any assistant principal or director, or to make an assistant principal eligible for career status as an assistant principal or a director eligible for career status as a director.~~

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

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the

grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause as set forth in ~~G.S. 115C-325.~~G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision ~~and the reasons for his or her decision~~ no later than May 1 of the final year of the contract. ~~The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, or political.~~ No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision.~~ If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may not be for any cause ~~that is not arbitrary, capricious, discriminatory, personal, or political.~~ prohibited by State or federal law. ~~The local board's decision not to offer the school administrator a new, renewed, or extended school administrator's contract is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.~~

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

~~(g) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is employed as a school administrator, a school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished that right or is dismissed or demoted pursuant to G.S. 115C-325.~~

(h) An individual who holds a provisional assistant principal's certificate and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's certificate. ~~If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to

require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's certificate."

SECTION 14.(n) G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal knowledge, a reasonable belief, or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

A principal who willfully fails to make a report to law enforcement required by this subsection may be subject to demotion or dismissal pursuant to ~~G.S. 115C-325.~~G.S. 115C-325.4.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by this subsection.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students."

SECTION 14.(o) G.S. 115C-304 is repealed.

SECTION 14.(p) G.S. 115C-333 reads as rewritten:

"**§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(5), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have ~~not attained career status~~been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

(1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

(2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's ~~performance or~~ performance, (ii) the superintendent recommend to the local board that the ~~employee be dismissed or demoted.~~employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make ~~either~~ any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory

improvement plans and policies for the implementation of monitored and directed growth plans.

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that the ~~employee~~ employee's contract not be renewed, or that the employee be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~for any reason~~for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under ~~G.S. 115C-325 except for a reduction in force.~~ G.S. 115C-325.4.

...."

SECTION 14.(q) G.S. 115C-333.1 reads as rewritten:

"**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status~~who have been employed for three or more years who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status~~employed for three or more years to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and

prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) 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 of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the teacher's contract not be renewed, or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325.~~G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (d) of this section, ~~for any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently

dismissed under ~~G.S. 115C-325~~G.S. 115C-325.4. ~~except for a reduction in force.~~ If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, if the local board elects to renew the teacher's contract and ~~the teacher shall have one more year to bring the rating to proficient. If,~~ by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

...."

SECTION 14.(r) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 14.(s) Article 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-344. Employment benefits for exchange teachers.**

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week. An exchange teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System of North Carolina as provided in G.S. 135-1(25)."

SECTION 14.(t) G.S. 115C-404(b) reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal ~~of an employee who is not a career~~

~~employee and is grounds for dismissal of an employee who is a career employee,~~ in accordance with ~~G.S. 115C-325(e)(1)i.~~G.S. 115C-325.4(a)(9)."

SECTION 14.(u) G.S. 143B-146.7(b) reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the ~~Secretary~~ State Board shall proceed under ~~G.S. 115C-325(p1)~~G.S. 115C-325.11 for the dismissal of certificated instructional personnel assigned to that school."

SECTION 14.(v) G.S. 143B-146.8 reads as rewritten:

"**§ 143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all ~~certificated~~ licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~G.S. 115C-325.1(5), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have ~~not attained career status.~~been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under ~~G.S. 115C-325(a)(6)~~G.S. 115C-325.1(5) who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the Secretary adopts rules that allow specified categories of teachers with ~~career status~~three or more years of employment to be evaluated more or less frequently. The Secretary also may adopt rules requiring the annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.

(b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; (ii) the employee's contract not be recommended for renewal, or (iii) if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. ~~or (ii) the principal recommend to the Secretary that the employee be dismissed or demoted.~~ The principal shall determine whether to develop an action ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board, in consultation with the Secretary, shall develop guidelines that include strategies to assist in evaluating ~~certificated~~ licensed personnel and developing effective action plans within the time

allotted under this section. The Secretary may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee's contract not be renewed, or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If the Secretary dismisses an employee for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, ~~any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~ the Secretary shall notify the State Board of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

...."

SECTION 14.(w) Notwithstanding the requirements for terms of contracts in G.S. 115C-325.3, for the 2012-2013 school year all teachers shall be employed on a contract for a term of one year. This section becomes effective July 1, 2012, and applies to all school employees employed on or after that date.

PART XV. ELIMINATION OF PUBLIC FINANCING FOR SUPERINTENDENT OF PUBLIC INSTRUCTION

SECTION 15.(a) G.S. 163-278.95 reads as rewritten:

"**§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.**

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~Auditor and Commissioner of Insurance in elections to be held in 2008 and thereafter."

SECTION 15.(b) G.S. 163-278.96(12) reads as rewritten:

"(12) Office. – The Council of State offices of ~~Auditor, Superintendent of Public Instruction,~~ Auditor and Commissioner of Insurance."

SECTION 15.(c) Within five business days of the effective day of this act, the State Board of Elections shall notify any individual who is a candidate for Superintendent of Public Instruction and who has filed a declaration of intent to participate in the program for public financing through the North Carolina Voter-Owned Elections Fund that the candidate is no longer eligible to participate in the program.

SECTION 15.(d) This section is effective when it becomes law and applies to elections held on or after that date.

PART XVI. EFFECTIVE DATE

SECTION 16. Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 795

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

S795-ATL-13 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Date _____,2012

Senator Tillman

moves to amend the bill on page 14, lines 2 through 12, by rewriting the lines to read:

"comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means ~~either that:~~ that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

~~(1) Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or~~

~~(2) Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.~~".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 795:
Excellent Public Schools Act

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 29, 2012
Introduced by:	Sens. Apodaca, P. Berger, Tillman	**Prepared by:**	Drupti Chauhan, Kara McCraw, and Patsy Pierce Legislative Staff
Analysis of:	PCS to First Edition S795-CSTC-38		

SUMMARY: *SB 795 would: (i) enact the "North Carolina Read to Achieve Program" which makes numerous changes regarding K-3 literacy; (ii) provide volunteer leave time for State employees to help with literacy; (iii) assign "A-F" grades to schools based on performance; (iv) require annual assessments and final exams to be given within a certain time frame at the end of the course or school year; (v) make adjustments to the school calendar start and end dates; (vi) provide funding for five additional instructional days within the existing school calendar; (vii) establish the NC Teacher Corps; (viii) set additional standards for teacher licensure; (ix) require notice of proof of State funded liability insurance; (x) require local boards of education to establish systems of performance pay; (xi) eliminate career status; and (xii) eliminate public financing for candidates for the Office of Superintendent of Public Instruction.*

The Proposed Committee Substitute (PCS) makes the following changes:

- *Reduces summer camp instruction from 5 ½ instructional hours per day to 3 hours;*
- *Clarifies that a good cause exemption from retention can be given to students who have received reading intervention and previously been retained more than once in kindergarten, first, second or third grades;*
- *Clarifies that the developmental screening for kindergarten students would be administered beginning in the 2014-2015 school year;*
- *Requires that the State Board of Education award an overall numerical school performance score on scale of zero to 100 along with the corresponding letter grade and that information be placed on a local school administrative unit's website for the current and previous 4 school years;*
- *Exempt final exams for courses with national or international curriculums from being held at the same statutorily designated times required for other assessments;*
- *School calendar: (i) changes the school calendar to be a minimum of 185 days or 1025 hours; (ii) provides for 3 days to be designated as protected teacher workdays; (iii) eliminates the waiver option to use 5 instructional days for teacher workdays; (iv) changes the school start and stop dates; (v) modifies "good cause" weather waivers; and eliminates educational purpose waivers; and makes funding revisions;*
- *Clarifies that local boards must develop a plan for performance pay and requires State Board to report on achievement-based compensation models developed for Race to the Top, as well as allow public input on performance pay plans;*
- *Adds clarifications regarding the NC Pre-K program eligibility and adds slots to NC Pre-K;*
- *Repeals the prohibition on teacher prepayment;*
- *Provides a tax deduction for educators for the purchase of educational supplies; and*
- *Establishes teacher contracts that may be for up to 4 years.*

BILL ANALYSIS FOR THE PCS:

Part I: K-3 Literacy

Section 1.(a)

Current Law: The State Board of Education (SBE) is charged with developing a comprehensive reading achievement plan. The SBE can require modifications to the standard course of study, teacher licensure and teacher education program standards.

Analysis: Repeals the current statute requiring the SBE to develop a comprehensive reading achievement plan.

Section 1.(b) North Carolina Read to Achieve Program

Analysis:

- Goal, Purposes, and Definitions: Creates "NC Read to Achieve Program" to ensure every child reads at or above grade level by 3rd grade through early identification and services for reading difficulties, increased parental notification of academic need and progress, and grade promotion based partly on reading proficiency.
- Comprehensive Plan for Reading Achievement: Requires the SBE to develop, implement and evaluate a comprehensive reading achievement plan including research-based practices, appropriate modification of the standard course of study, and teacher licensure and education program standards. Requires SBE to report biennially on plan and recommended legislative changes to the Joint Legislative Education Oversight Committee (JLEOC) by October 1.
- Developmental Screening and Kindergarten Entry Assessment: Requires the SBE to ensure that each kindergarten student's language, literacy, and math skills be screened within 30 days of enrollment and kindergarten entry assessment be completed within 60 days of enrollment. Results must be used to inform children's instruction, reduction of the achievement gap, and improvement of the early childhood system.
- Facilitating Early Grade Reading Proficiency: Mandates that K-3 students be assessed to determine difficulty with reading development, and requires difficulties be addressed with instructional supports and services. Local school administrative units (LEAs) are encouraged to partner with community organizations and businesses for volunteers to help enhance reading development and proficiency.
- Elimination of Social Promotion: Requires the SBE to mandate students be retained in 3rd grade if the student fails to demonstrate 3rd grade reading proficiency on a State-approved standardized test of reading comprehension. The local superintendent may determine that a student meets one of the good cause exemptions to the retention requirement (limited English proficiency, disability, demonstrated proficiency on alternative measures, or multiple retentions).
- Successful Reading Development For Retained Students: Requires enrollment of retained students in summer reading camps. Students showing reading proficiency on an alternative assessment after completing the camp would be promoted to 4th grade. Students not demonstrating proficiency must be retained and provided with a successful reading teacher in an accelerated or transitional classroom where specific reading instruction takes place. The SBE must establish a mid-year promotion policy for students demonstrating reading proficiency by November 1. Parents of retained students will be provided with reading training and supplemental tutoring for the student.
- Notification Requirements To Parents: Requires that K-3 parents receive written notification that a student will be retained if the student is not demonstrating reading proficiency by the end of the 3rd grade, absent a good cause exemption. For retained students, parents must be given monthly written reports regarding student progress.
- Accountability Measures: Directs local boards of education to annually report to the SBE and publish on their websites information about numbers and percentages of 3rd graders demonstrating reading proficiency, retained, or exempt from retention for good cause.

  The SBE shall submit a summary of this information to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the JLEOC by October 1, beginning with the 2014-2015 school year. The SBE and the Department of Public Instruction must provide technical assistance as needed to assist LEAs to implement the provisions of this Part.

Section 1.(c): School Improvement Plans

Current Law and Analysis: Repeals current requirement that school improvement plans for schools serving kindergarten and 1st grade must include a reading plan to prepare students to read at grade level by 2nd grade.

Section 1.(d): Risk of Academic Failure

Current Law and Analysis: Requires identification of students who are at risk of academic failure and not progressing toward grade promotion beginning in kindergarten. Current law requires identification by 4th grade.

Section 1.(e): K-3 Assessments

Current Law: Optional developmentally appropriate assessments must be provided to LEAs for 1st and 2nd grades. Standardized tests cannot be used except as required as a condition of a federal grant.

Analysis: Requires LEAs to use SBE provided reading assessments for K-3 students to assess progress, diagnose difficulties, and inform instruction and remediation needs. LEAs would be prohibited from using standardized tests for summative assessments in grades K-3, except as required as a condition of a federal grant.

Section 1.(f): New K-3 Literacy Requirements for Charter Schools

Analysis:

- Requires charter schools to retain students in 3rd grade if the student fails to demonstrate 3rd grade reading proficiency on a State approved test of reading comprehension unless the student meets a good cause exemption.
- Requires charter schools to provide notice to parents that a student will be retained if not demonstrating reading proficiency by the end of 3rd grade, unless there is a good cause exemption. Parents must be given information on reading interventions to be provided.
- Requires charter schools to publish annually on their websites and report to the SBE the number and percentage of 3rd graders who are reading proficiently, who are not reading proficiently who do not return during the following year, and who were exempt from retention for good cause.

Section 1.(g): Principal's Authority to Grade and Classify Students

Current Law: Principals have the authority to grade and classify students.

Analysis: Limits principals' authority to grade and classify students when a student must be mandatorily retained in the 3rd grade for failing to demonstrate 3rd grade reading proficiency.

Sections 1.(h) and 1.(i): Conforming Changes and Appropriations

Analysis: Makes conforming changes regarding the kindergarten developmental screenings. Appropriates $34,087,650 to the Department of Public Instruction for 2012-2013 to implement the new requirements and states that it is the intent of the General Assembly to increase the appropriation in 2013-2014.

Effective Date: Section 1 would be effective when it becomes law and would apply beginning with the 2013-2014 school year. The developmental screening and kindergarten entry assessment would be administered beginning with the 2014-2015 school year.

Part II: State Employee Literacy Volunteer Leave Time

Current Law: Under the Community Service Leave Policy, employees may use one hour of leave each week for helping in a school, up to 36 hours for the weeks that schools are in session.

Analysis: Directs the State Personnel Commission to establish a leave program that allows employees to volunteer in a literacy program in a public school for up to 5 hours each month.

Effective Date: This section would become effective when it becomes law.

Part III: School Performance Grades

Sections 3.(a) and 3.(b): Annual Report Cards

Current Law: The SBE must issue an annual "report card" for the State and each LEA. Local boards of education must ensure that their report cards are distributed widely to the local press and public.

Analysis: Directs the SBE to award to each school an overall numerical school performance grade (on a scale of zero to 100) and corresponding letter grade of A, B, C, D, or F as a part of the LEA's annual report card. These performance grades must be placed on the LEA's website for the current year and the previous 4 years. The grades must reflect student performance on annual subject-specific assessments, college and workplace readiness

measures, and graduation rates. The annual report card for schools with 3rd grade students must include information about reading proficiency and retention. Written notice must be provided to parents of students enrolled in schools that obtain a D or F grade.

Sections 3.(c) and 3.(d): Charter Schools and Regional Schools

Analysis: Requires charter schools and regional schools to ensure that the report cards issued to them by the SBE are publicized widely. The performance scores and grades for the current year and previous 4 years must be placed prominently on each school's website and if a school receives a D or F, written notice must be provided to parents of all enrolled students.

Section 3.(e): Calculation of School Performance Grades

Analysis:

- For schools serving grades K-8, the ***overall*** school performance grade would be calculated based on the sum of the percentage of students scoring at or above proficient on annual assessments in math, reading, and science. Reading and math grades would be separately reported.
- For schools serving grades 9-12, the ***overall*** school performance grade would be calculated based on a number of measures including measures of math, English, biology, college/workplace readiness, higher level math completers, and graduation rates.

A scale of points yielding letter grades is provided. The SBE would be required to make proportional adjustments to account for the absence of a school performance grade element if the school does not have a measure for that element. The SBE must annually report to the JLEOC by January 15 on recommended adjustments to the school performance grade elements and scale.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part IV: Instructional Time and Testing

Current Law: The SBE must establish a policy to minimize time spent taking tests through State and local testing programs, including limits on practice and field tests. Schools can participate in no more than 2 field tests in any one grade level in a school year unless the school improvement teams vote to participate in an expanded number of field tests.

Analysis: Prohibits schools from participating in more than 2 field tests. Annual tests adopted by the SBE and all final exams for courses must be administered within the final 10 instructional days of the school year for year-long courses and within the final 5 instructional days of the semester for semester courses. Exceptions would be allowed for individualized education plans and Section 504 plans and final exams for courses with national or international curriculums given on a schedule set by a national organization.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part V: Adjustments to School Calendar Start and End Dates

Current Law: School calendars must include 185 instructional days and 1,025 instructional hours. The SBE may grant waivers to allow an LEA to use up to 5 instructional days and corresponding instructional hours as teacher workdays upon a finding that the waiver will enhance student performance. Current law does not require the inclusion of protected teacher workdays in the school calendar.

Except for certain limited exceptions, the opening date for students cannot be before August 25 and the closing date cannot be after June 10. The SBE may grant 2 types of waivers to the opening and closing date requirements. A "good cause" waiver may be granted to schools if the school either:

- Has been closed 8 days per year in 4 of the last 10 years due to severe weather, energy shortages, power failures, or other emergency situations, or

- Has been closed for all or part of 8 days per year in 4 of the last 10 years due to severe weather conditions. Schools are deemed closed part of a day if closed for 2 or more hours.

The SBE may also grant an educational purpose waiver to the start and close dates. An educational purpose is the need to adopt a different calendar for:

- A specific school to accommodate a special program for the student body of that school.
- A school primarily serving a special population of students.
- A defined program within a school.

The SBE may grant the waiver if it finds the educational purpose is reasonable, the accommodation is necessary for the educational purpose, and the request is not to circumvent the opening and close date requirements.

Analysis:

- Provides that a school calendar shall include a minimum of 185 days or 1025 hours of instruction.
- Designates 3 teacher workdays as "protected" for instructional and classroom administrative duties with at least 1 of the days at the beginning of the school year and at least 1 at the end.
- Eliminates the authority of the SBE to grant a waiver for up to 5 instructional days to be used as teacher workdays.
- Provides that opening dates for students cannot be earlier than the Monday closest to August 26 and the closing dates cannot be later than the Friday closest to June 11. On a showing of good cause, the SBE may allow a local board of education to set an opening date no earlier than the Monday closest to August 19.
- Allows the SBE to grant "good cause" waivers from the opening and closing dates for weather only when schools were closed for 8 days per year during any 4 of the last 10 years. Part day closures could not count in the calculation.
- Eliminates the SBE's authority to grant calendar waivers for educational purposes and clarifies that cooperative innovative high schools are not subject to the general calendar law.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2013-2014 school year.

Part VI: Funding for Addition of 5 Instructional Days Within the Existing School Calendar

Current Law: S.L. 2011-145 added five additional instructional days to the school calendar, resulting in a requirement for 185 days and 1025 hours of instruction.

Analysis: Revises funding for the additional instructional days to provide funding only for days for which schools have not received waivers from the SBE for the 2012-2013 school year. Appropriates $40,168 for the 2012-2013 fiscal year to increase the non-instructional support personnel allotment and $351,469 for the 2012-2013 fiscal year to increase the transportation allotment.

Effective Date: This section would become effective July 1, 2012.

Part VII: NC Teacher Corps

Analysis: Establishes the NC Teacher Corps (Corps) to recruit and place recent college graduates and mid-career professionals as teachers in high-needs public schools. The SBE would be directed to develop and administer the Corps including provision of an intensive summer training institution, ongoing support and professional development. Corps members would be given lateral entry teaching licenses.

Effective Date: This section would become effective when it becomes law and the SBE must recruit and place an initial cohort of Corps members no later than the 2012-2013 school year.

Part VIII: Teacher Licensure

Current Law: The SBE sets the licensure requirements for teaching position applicants and may require a minimum score on a standard exam. The SBE, collaborating with the Board of Governors of The University of North Carolina, must develop requirements for continuing licensure, align them with quality professional development programs, and sets the standards for approval for teacher education programs.

Analysis: Provides that elementary education (K-6) teachers be required to achieve a prescribed minimum score on subtests or standard exams specific to reading and language arts and mathematics. For continuing licensure, at least 3 continuing education credits related to literacy must be taken by elementary and middle school teachers. Teacher education program approval standards would require elementary education program completers to demonstrate competencies in assessment and intervention strategies to teach all children to read.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2013-2014 school year.

Part IX: Proof of State-Funded Liability Insurance

Current Law: Professional liability insurance coverage is provided to all public school employees.

Analysis: Directs the SBE to annually notify public school employees of the availability and coverage of the professional liability insurance.

Effective Date: This section would become effective when it becomes law and applies beginning with the 2012-2013 school year.

Part X: Performance Pay

Analysis: Directs local boards of education to develop a plan of performance pay for all licensed personnel. The licensed employees would be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. The plans must be submitted to the SBE no later than March 1, 2013. The SBE must report on these plans and the achievement-based compensation models developed as a part of RttT to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the House and Senate Subcommittees on Education Appropriations by April 15, 2013. Members of the public may also submit plans to these entities by April 15, 2013.

Effective Date: This section would become effective when it becomes law.

Part XI: Clarify NC Pre-K Program Eligibility

Current Law: Section 10.7(f) of S.L. 2011-145 (Budget) states that the NC prekindergarten program (NC Pre-K) may continue to serve at-risk children identified through existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development is directed to serve at-risk children regardless of income. However, the total number of at-risk children can constitute no more than twenty percent (20%) of the four-year olds served within the NC Pre-K program. Section 10.7(h) requires parent co-payments for the NC Pre-K program which are the same as those required of parents receiving regular child care subsidy.

Analysis: Clarifies the relevant section of S.L. 2011-145 (Budget) regarding NC Pre-K eligibility standards and removes the parent co-pay requirement for the NC Pre-K program. The PCS also appropriates $11,308,363 to the Department of Health and Human Services, Division of Child Development and Early Education, to add 2,261 slots to the NC Pre-K program for the 2012-2013 fiscal year.

Effective Date: This section would become effective when it becomes law.

Part XII: Repeal Prohibition on Teacher Prepayment

Current Law: G.S.115C-302.1(b) details how teachers are paid. Teachers may be prepaid on the monthly pay date for days not yet worked. However, if they fail to attend scheduled workdays, do not work the number of days for which they have been paid and resign, are dismissed, or do not receive a renewed contract, they must repay the local board any salary received for days not yet worked. Teachers who have been prepaid and continue

to work for a local board but fail to attend scheduled work days are subject to dismissal or other disciplinary actions.

Section 5 of S.L. 2011-379 (HB 720) removed the ability for local boards of education to pre-pay for days not yet worked and provided that teachers may only be paid for days employed as of the set pay date. Payment for a full month when days employed are less than a full month would be prohibited. This prohibition on prepayment will become effective July 1, 2012.

Analysis: Repeals the prohibition on teacher prepayment which was enacted by Section 5 of S.L. 2011-379 (HB 720). Under Section 5 of S.L. 2011-379, the prohibition on prepayment does not become effective until July 1, 2012. This section would allow prepayment as is currently allowed under G.S. 115C-302.1(b) to continue as it is currently being implemented by local boards of education without any changes.

Effective date: This section would become effective July 1, 2012.

Part XIII: Tax Deduction for Educational Supplies

Analysis: Allows an individual income tax deduction for teachers in elementary or secondary education of up to $250 for unreimbursed expenses paid or incurred for school supplies. Congress enacted a tax benefit to help K-12 teaches defray some of the expenditures they voluntarily make to enhance the quality of their students' education. The deduction has been available for tax years 2002-2011. Since North Carolina begins its calculation of taxable income with federal AGI, teachers in North Carolina have been allowed the deduction at the State level as well.

Congress has not extended the tax deduction beyond the 2011 taxable year. This section allows North Carolina teachers to continue deducting up to $250 for unreimbursed expenses paid or incurred for school supplies for taxable years beginning on or after January 1, 2012. If a taxpayer files a joint return and both spouses are eligible educators, then they both may claim up to $250 of expenses for a $500 total on a joint return. If Congress extends the federal tax deduction beyond taxable year 2011, then this provision will not be needed. However, if it does not, this provision ensures that North Carolina educators will continue to receive the same tax benefit they have received since 2002.

Effective Date: This section becomes effective for taxable years beginning on or after January 1, 2012.

Part XIV: Teacher Contracts

Current Law: In North Carolina, teachers are eligible for career status when they have been employed by a local board of education for four consecutive years. Obtaining career status provides that the career employee may not be dismissed or demoted except if one or more statutory grounds are found. Certain procedures must be followed to dismiss or demote a career status teacher, including a right to a hearing in front of the local board of education with a further right of appeal to superior court. The procedure for the dismissal of career status teachers in schools that have been identified as low-performing by the SBE and that have been assigned assistance teams varies in that the SBE has the authority to dismiss career status teachers due to inadequate performance. Hearings must still be granted by the SBE in these cases and there are further rights to judicial review under Chapter 150B of the General Statutes.

Analysis: Eliminates career status in North Carolina. Teachers employed by a local board of education for less than 3 years would be employed by 1 year contracts. Contracts or renewal of contracts between a local board of education and teachers who have been employed by that board for 3 years or more would be terms of 1, 2, 3, or 4 school years. For the 2012-2013 school year, all teachers would be employed on a 1 year contract. All teachers would be employed by their local boards of education upon recommendation of the superintendent. Superintendents must also recommend contract length (for those with 3 or more years of employment) but can only recommend contracts of more than 1 year for teachers who have shown effectiveness as documented by the teacher evaluation instrument. Local boards of education would be able to approve the recommendation, not approve it or decide on a different term of length for the contract. Teachers could not be dismissed or demoted during the term of the contract except for one of the statutorily listed grounds. If the superintendent decides against recommending a renewal of a contract, the teacher would have the right to petition the local board of education for a hearing but whether to grant the hearing would be in the local board's discretion.

- Procedure for Dismissal or Demotion for Cause During the Contract Term:
  - Notice: The superintendent must give written notice to the teacher of his or her intention to recommend to the local board of education that teacher be dismissed or demoted and provide the grounds upon which the recommendation is being made. The superintendent must also meet with the teacher and (i) give written notice of the charges against the teacher; (ii) an explanation of the basis for the charges; and (iii) an opportunity to respond. The notice must also inform the teacher that he or she may request a hearing before the local board of education within 14 days of the receipt of the notice.
  - Request for a Hearing: The teacher may file a written request for a hearing before the local board of education within 14 days after receipt of the notice of recommendation of the superintendent. The board shall set a time and place for the hearing which is not less than 10 days nor more than 30 days after notification is given to the teacher unless the parties agree to an extension.
  - No Request for Hearing: If the teacher does not request a hearing before the board within 14 days of receipt of the recommendation, the superintendent may submit his or her recommendation to the board. The board may (i) reject the recommendation or (ii) accept or modify the recommendation.
- Hearing Before the Local Board of Education: The hearing must be private and the board must receive documentary evidence that will be used to support the recommendation from both the superintendent and teacher, who must provide the evidence to each other within certain time frames. Written statements may be provided to the board and both the superintendent and the teacher may make oral arguments before the board based on the record before the board. The board must make findings of fact based upon the preponderance of the evidence and must send a written copy of its findings and determinations within 2 days of the hearing to the teacher and the superintendent.
- Hearing for Disciplinary Suspension Without Pay: The hearing must be private and conducted according to reasonable rules adopted by the SBE governing such a hearing. Both the teacher and superintendent have the right to be present and represented by counsel and to present witnesses. The rules of evidence to not apply. The superintendent must give the teacher 8 days before the hearing, a list of witnesses who will be presented and a statement of the nature of each witness' testimony and copy of any documentary evidence that will be presented. The teacher must provide this same information to the superintendent 6 days before the hearing. New evidence may not be presented at the hearing unless the board finds that it is critical and could not have been found earlier.
- No Appeal of Local Board of Education's Decision: The bill would eliminate the right to appeal to superior court decisions of a local board of education regarding the terms or conditions of employment or employment status of a school employee.
- Teacher Resignation Following Recommendation for Dismissal: If a teacher has been recommended for dismissal and chooses to resign without the written consent of the superintendent: (i) the superintendent must report the matter to the SBE; (ii) the teacher is deemed to have consented to the placement in his or her personnel file of the written notice of the superintendent's intention to recommend dismissal and the release of this fact that the teacher has been reported to the SBE to prospective employers upon request; and (iii) the teacher is deemed to have voluntarily surrendered his or her license pending an investigation by the SBE in determination of whether to seek action against the teacher's license.
- 30 Days' Notice Required for Resignation: If a teacher who has not been recommended for dismissal decides to resign during the term of the contract without the consent of the superintendent, then he or she should give at least 30 days' notice. If the teacher does resign without giving this notice, then the board may request that the SBE revoke the teacher's license for the remainder of the school year.
- Dismissal of School Administrators and Teachers Employed in Low-Performing Residential Schools: The procedure would remain substantially the same as it is under current law but would make the following changes:

- Clarify that it is the SBE (rather than the Secretary of Health and Human Services) that has the authority to dismiss school administrators and teachers in residential schools that have been identified as low-performing by the SBE and have been assigned assistance teams by the SBE.
- Eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

- Dismissal of School Administrators and Teachers Employed in Low-Performing Schools: The procedure would remain substantially the same as it is under current law but the bill would eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

School Administrators

Current Law: Most school administrators are employed through contracts with their local boards of education. Some school administrators who had or were eligible to receive career status in 1995 are employed pursuant to the teacher career status law. For those employed by contract, school administrators cannot be dismissed or demoted during the term of the contract except for cause for one of the statutorily listed grounds. Superintendents recommend new, renewed, or extended contracts for school administrators to their local boards of education which may approve the recommendations or not. If a superintendent decides against recommending that the local board of education offer a new, renewed, or extended contract to a school administrator, then written notice of this decision and the reasons for it must be given to the school administrator. The reasons may not be arbitrary, capricious, discriminatory, personal, or political. The school administrator may file a written request for a hearing before the local board and failure to file a timely request results in a waiver of the right of appeal of the superintendent's decision. If a timely request is filed, the local board of education must conduct a hearing on the matter and its decision is subject to judicial review under Chapter 150B of the General Statutes.

Analysis: Eliminates career status for all school administrators. Eliminates the current requirement that the superintendent's and local board of education's decisions to not offer a new, renewed, or extended contract to a school administrator may not be arbitrary, capricious, discriminatory, personal or political. Also eliminates the right to judicial review under Chapter 150B of the General Statutes of the decision of the local board of education.

Non-Licensed Employees

Current Law: Non-licensed employees may appeal a decision of the local board of education to superior court regarding decisions concerning dismissal, demotion or suspension without pay. The non-licensed employee may request and be entitled to receive written notice as to the reasons for the employee's dismissal, demotion or suspension without pay and it must be provided to the employee prior to any local board of education hearing on the issue.

Analysis: Eliminates this right of appeal to superior court and would eliminate the right to written notice for the reasons for the non-licensed employee's dismissal, demotion or suspension without pay.

Section 11.(d) through Section 11.(l) and Section 11.(n) through Section 11.(w): Conforming statutory changes regarding the elimination of career status. Creates cross-reference to existing law to clarify that exchange teachers are not eligible to participate in the State retirement system.

Effective Date: For the 2012-2013 school year, all teachers would be employed on a 1 year contract. These sections would become effective July 1, 2012 and would apply to all school employees employed on or after that date.

Part XV: Eliminate Public Financing for Superintendent of Public Instruction

Current Law: North Carolina currently provides a program called the North Carolina Voter Owned Election Fund for public financing of elections for 3 of the 10 Council of State races (Auditor, Superintendent of Public Instruction and Commissioner of Insurance).

Candidates must file declaration of intent to participate before collecting qualifying contributions, and must then collect qualifying contributions from a certain number of registered voters during the qualifying period. The State

Board of Elections "certifies" that the candidate has filed a declaration of intent, collected the appropriate contributions, and filed a notice of candidacy. Once certified, the candidate is entitled to receive distributions from the public financing fund. Distributions are as follows: none for an uncontested primary or general election; an initial distribution within 5 business days of certification by the State Board for a candidate in a contested general election; and matching funds upon trigger.

The money for the distributions to the candidates is taken from the North Carolina Voter Owned Election Fund. The program is funded by voluntary check-off donations on personal income tax and appropriations.

Analysis: Eliminates the Superintendent of Public Instruction as one of the three Council of State offices that may participate in public financing through the North Carolina Voter Owned Election Fund.

Effective Date: This section would become effective when it becomes law and applies to elections held on or after that date.

S795-SMRQ-62(CSTC-38) v8

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 25, 2012

TO: Senators Apodaca, P. Berger, and Tillman

FROM: Kristopher Nordstrom, Lisa Hollowell, Jonathan Tart, and Chloe Gossage
Fiscal Research Division

RE: Senate Bill 795 PCS

FISCAL IMPACT

(dollars in millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
STATE GENERAL FUND					
Revenues:	($1.8)	($1.8)	($1.8)	($1.8)	($1.8)
Expenditures:	$45.6	$59.3	$79.8	$75.2	$82.3
STATE POSITIONS (cumulative):	11	11	14	14	14
LOCAL FUNDS					
Expenditures:	$1.1	$1.1	$1.1	$1.1	$1.1

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The Department of Public Instruction, local education agencies, the University of North Carolina, and the North Carolina Independent Colleges and Universities.

EFFECTIVE DATE: See Bill Summary section

BILL SUMMARY:

This bill would enact many changes related to the operation of North Carolina's public schools. The bill has fifteen substantive Parts, including:

- **Part I:** Enacts the "North Carolina Read to Achieve Program," which makes numerous changes regarding K-3 literacy policy.
- **Part II:** Provides volunteer leave time for State employees to help with literacy programs in public schools.
- **Part III:** Assigns "A-F" grades to schools based on performance.
- **Part IV:** Requires annual assessments and final exams to be given within a certain time frame at the end of the course or school year.
- **Part V:** Provides flexibility with regards to required school instructional time, reinstates three required teacher workdays, and adjusts the school calendar start and end and dates.
- **Part VI:** Provides funding for additional instructional days which have not been waived by the State Board of Education.
- **Part VII:** Establishes the NC Teacher Corps.
- **Part VIII:** Sets additional standards for teacher licensure.
- **Part IX:** Requires notice of the availability and coverage of State-funded liability insurance.
- **Part X:** Requires local boards of education to develop a plan for a system of performance pay.
- **Part XI:** Clarifies NC Pre-K program eligibility criteria, and expands funded slots in FY 2012-13.
- **Part XII:** Repeals prohibition on teacher prepayment.
- **Part XIII:** Creates a tax deduction for teachers for expenses incurred for educational supplies.
- **Part XIV:** Makes several changes the allowable terms for teacher contracts.
- **Part XV:** Eliminates public financing for elections of the Office of Superintendent of Public Instruction.

Part I: Improve K-3 Literacy

Section 1.(a): Under current law, the State Board of Education (SBE) is charged with developing a comprehensive plan to improve reading achievement in the public schools. The plan must be based on research-based practices and the reading programs that are developed must include systematic phonics instruction. As part of the comprehensive plan, the SBE can require modifications to the standard course of study, teacher licensure standards, and teacher education program standards. Section1.(a) repeals this existing language.

Section 1.(b): Establishes the North Carolina Read to Achieve Program ("the Program"). The Program is established by adding nine sections to the General Statutes:

- **G.S. 115C-83.1A** states the Program's goal of ensuring that every student read at or above grade level by the end of third grade, with continued improvement necessary for secondary education and career success.
- **G.S. 115C-83.1B** states the Program's purposes, ensuring that (i) difficulty with reading development is identified early; (ii) students receive instructional and support services to address difficulty with reading development and remediation

for reading deficiencies; (iii) students and parents are continuously informed of the students' academic needs and progress; and (iv) progression from one grade to another be based in part upon proficiency in reading.

- **G.S. 115C-83.1C** defines numerous terms in the Program including "difficulty with reading development", "reading proficiency", and "reading deficiency".
- **G.S. 115C-83.1D** requires the SBE to develop, implement, and continuously evaluate a comprehensive plan to improve reading based on practices that have strong evidence of effectiveness in current empirical research in reading development. When appropriate, the plan should modify the standard course of study, teacher licensure standards, and teacher education program standards. The SBE must report biennially to the Joint Legislative Education Oversight Committee on the implementation, evaluation, and revisions to the plan including recommendations for legislative changes.
- **G.S. 115C-83.1E** requires the SBE to ensure that each kindergarten student be given a developmental screening of early language, literacy, and math skills within 30 days of enrollment and given a kindergarten entry assessment within 60 days of enrollment. The results of both must be used to inform: (i) the status of children's learning at kindergarten entry; (ii) instruction for each child; (iii) efforts to reduce the achievement gap at kindergarten entry; and (iv) continuous improvement of the early childhood system.
- **G.S. 115C-83.1F** mandates that K-3 students must be given diagnostic assessments and difficulty with reading development must be addressed with instructional supports and services. Local school administrative units (LEAs) are encouraged to partner with community organizations and businesses for volunteers, mentors, and tutors to help enhance reading development and proficiency.
- **G.S. 115C-83.1G** requires that the SBE mandate that a student be retained in grade 3 if the student fails to demonstrate 3rd grade reading proficiency on a State-approved standardized test of reading comprehension. The test can be re-administered once prior to the school year. A student can be exempt from mandatory retention for good cause but must receive instructional supports and services and reading interventions. Good cause exemptions are limited to the following:
    - Limited English proficient students with less than two years of instruction in an English as a Second Language Program.
    - Students with disabilities whose individualized education program indicates the use of alternative assessments and reading interventions.
    - Students who demonstrate 3rd grade reading proficiency on an alternative test provided by the SBE.
    - Students who demonstrate 3rd grade reading proficiency through a student reading portfolio.
    - Students who have received reading intervention and previously have been retained more than once in grades K-3.

  The superintendent of the LEA must determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The teacher must submit documentation to the principal of the relevant exemption as

well as evidence that promotion is appropriate based on the student's academic record. The principal must review the documentation and make an initial determination on promotion. If the principal determines the student should be promoted, the principal then must make a written recommendation of promotion to the superintendent for a final determination which must be in writing.

- **G.S. 115C-83.1H** requires enrollment in a summer camp and allowing promotion to 4th grade if the student shows reading proficiency on an alternative test of reading comprehension or reading portfolio after completion of the camp. If the student does not show proficiency then the student must be retained and:
    - Provided with a teacher with demonstrated student outcomes in reading proficiency;
    - Placed in an accelerated reading class or transitional 3rd and 4th grade class combination;
    - Provided at least 90 minutes of daily, uninterrupted, evidence based reading instruction; and
    - Given other appropriate instructional supports and services and reading interventions.

  The SBE must establish a mid-year promotion policy for retained students who demonstrate reading proficiency by November 1 of the school year. Parents of students retained once must be provided with a home reading plan and participation in shared and guided reading workshops. Parents of students retained twice must be offered supplemental tutoring for the retained student outside of the instructional day.
- **G.S. 115C-83.1I** requires that parents be notified in writing that a student will be retained if the student is not demonstrating reading proficiency by the end of the 3rd grade unless there is a good cause exemption. The notice must be given when a kindergarten, 1st, 2nd, or 3rd grade student is demonstrating difficulty with reading development, is not reading at grade level, or has a personal education plan. Parents must also be given notice in writing if the student is not eligible for a good cause exemption as well as proposed reading interventions. For retained students, the parents must be given monthly written reports on the student's progress toward reading proficiency.
- **G.S. 115C-83.1J** directs local boards of education to annually publish on its LEA's website and submit in writing to the SBE each year the following information:
    - The number and percentage of 3rd graders showing and not showing reading proficiency on the State-approved test of 3rd grade reading comprehension;
    - The number and percentage of 3rd graders who take and pass the alternative test of reading comprehension;
    - The number and percentage of 3rd graders retained for not demonstrating reading proficiency; and
    - The number and percentage of 3rd graders exempt from mandatory retention due to a good cause exemption.

  LEAs must also report annually to the SBE describing all reading interventions provided to the 3rd grade students retained for lack of reading proficiency. The

SBE must annually compile the information provided by the LEAs and provide a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee beginning with the 2014-2015 school year. The SBE and the Department of Public Instruction (DPI) must provide technical assistance as needed to assist LEAs to implement the Program.

Section 1.(c): Repeals existing language requiring school improvement plans for schools that serve kindergarten and 1st grade students to include a reading plan to prepare the students to read at grade level by 2nd grade.

Section 1.(d): Amends G.S. 115C-105.41, requiring LEAs to identify students at risk of academic failure and who are not progressing toward grade promotion and graduation beginning no later than kindergarten, as opposed to by 4th grade under existing law. Identification could be based on diagnostic and formative assessments required under Section 1.(b).

Section 1.(e): Under current law, the SBE has to provide developmentally appropriate assessments to LEAs for 1st and 2nd grades consistent with the Basic Education Program instead of standardized tests. LEAs have the option of using these assessments for 1st and 2nd grades but cannot use standardized tests except as required as a condition of receiving a federal grant. This Act would expand the requirements to grades K-3, and would require LEAs to use the assessments for K-3 students to assess progress, diagnose difficulties, and inform instruction and remediation needs.

Section 1.(f): Adds a new section to G.S. 115C-238.29F that would create the following additional requirements for charter schools:

- Requires charter schools to retain a student in the 3rd grade if the student fails to demonstrate 3rd grade reading proficiency on a State-approved standardized test of reading comprehension, consistent with traditional public school requirements in Section 1.(b).
- Requires charter schools to provide reading interventions to retained students which may include 90 minutes of daily evidence based reading instruction, accelerated reading classes, transition classes with 3rd and 4th grade students and summer reading camps, consistent with traditional public school requirements in Section 1.(b).
- Allows charter school to exempt students from mandatory 3rd grade retention for good cause, but they must continue to provide instructional supports and services, consistent with traditional public school requirements in Section 1.(b).
- Requires charter schools to provide notice to parents when a student is not reading at grade level and that if the deficiency is not remediated by the end of the 3rd grade, the student will be retained unless a good cause exemption applies. If the student is not eligible for an exemption, then the parents must be given information on the reading interventions that will be provided.
- Requires charter schools to publish annually on their websites and report to the SBE the following information on the prior school year:
    - The number and percentage of 3rd graders showing and not showing reading proficiency on the State-approved test of 3rd grade reading comprehension;

- The number and percentage of 3rd grade students not demonstrating reading proficiency who do not return to the charter school for the following school year;
- The number and percentage of 3rd graders who take and pass the alternative test of reading comprehension;
- The number and percentage of 3rd graders retained for not demonstrating reading proficiency; and
- The number and percentage of 3rd graders exempt from mandatory retention due to a good cause exemption.

Section 1.(g): Under current law, principals have the authority to grade and classify students. Under this Act, principals would maintain that authority, except when a student must be mandatorily retained in the 3rd grade for failing to demonstrate 3rd grade reading proficiency.

Section 1.(h): Makes conforming changes to G.S. 130A-440(b) regarding kindergarten developmental screenings.

Section 1.(i): Appropriates $34,087,650 for FY 2012-13, and states the General Assembly's intent to increase this appropriation for FY 2013-14 to implement requirements that go into effect that year.

Section 1.(j): This Part is effective when it becomes law and applies beginning with the 2013-14 school year. The developmental screening and kindergarten entry assessments shall be administered beginning with the 2014-15 school year.

Part II: State Employee Literacy Volunteer Leave Time

Amends G.S. 126-4 to create an additional leave program allowing State employees to volunteer in literacy programs in public schools for up to five hours each month. This section is effective when it becomes law.

Part III: School Performance Grades

Under current law, the SBE must issue an annual report card for the State and each LEA assessing efforts to improve student performance.

Under this Act, the SBE would be required to award an overall school performance numerical score on a scale of 0 to 100, and a corresponding letter grade of A, B, C, D, or F to each school as a part of the annual report card process. The school performance grade must reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving K-8 students, separate performance grades must be awarded on the performance on literacy and mathematics. The report card for schools with 3rd grade students must include the number of students who take and pass the alternative reading assessment; were retained in 3rd grade for lack of reading proficiency, and were exempt from mandatory retention in 3rd grade because of a good cause exemption.

Under this Act, local boards of education or the charter school would be required to place the overall school performance grades for each school in its LEA on the website for the LEA or charter school for the current and previous four years. Notice would be provided in writing to parents of students enrolled in schools that obtain a grade of D or F.

This section would become effective when it becomes law and applies beginning with the 2012-13 school year.

Part IV: Maximize Instructional Time

Under current law, there are limitations on how much time that schools can devote to practice tests as well as limitations on when field tests and national tests can be administered.

Under this Act, annual tests adopted by the SBE and all final exams for courses would have to be administered within the final ten instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions would be allowed for individualized education plans, Section 504 plans, and courses with national or international curriculums required to be held at designated times.

This section would become effective when it becomes law and applies beginning with the 2012-13 school year.

Part V: Adjustments to School Calendar Start and End Dates

Under current law, schools are required to provide a minimum of 185 days and 1,025 hours of instruction. The SBE has the authority to waive up to five instructional days if the SBE finds that it will enhance student performance to do so.

Under this Act, LEAs and charter schools would have the option of providing a minimum of 185 days or 1,025 hours of instruction. Additionally, school calendars would be required to include three protected teacher workdays. Given the flexibility provided, the SBE would no longer have the authority to waive instructional days.

Under current law, the opening date for students cannot be before August 25 and the closing date cannot be after June 10, except for certain limited exceptions.

Under this Act, schools could not open for students before the Monday closest to August 26 and the closing date could not be after the Friday closest to June 11.

Additionally, this Part limits the ability of LEAs to receive waivers to the required closing date for "good cause" and eliminates the SBE's authority to provide closing date waivers for "educational purposes".

This section would become effective when it becomes law and applies beginning with the 2013-14 school year.

Part VI: Funding for the Addition of Five Instructional Days Within the Existing School Calendar

This Part appropriates $40,168 for FY 2012-13 for costs related to additional substitute teachers, and $351,469 for FY 2012-13 for additional student transportation requirements on a nonrecurring basis to account for the higher cost of additional instructional days which have not been waived by the SBE. This section would become effective July 1, 2012.

Part VII: Establish NC Teacher Corps

Establishes the NC Teacher Corps (Corps) in General Statute to recruit and place recent college graduates and mid-career professionals as teachers in high-needs public schools. Collaboration would be required between the SBE, the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities. The SBE would be directed to develop and administer the Corps including establishing the application criteria and identifying the LEAs with unmet recruitment needs and high-needs schools as well as coordinating placement of Corp members in those schools. An intensive summer training institution must be developed and ongoing support through coaching, mentoring, and professional development must be provided. Corps members would be given lateral entry teaching licenses.

This section would become effective when it becomes law and the SBE must recruit and place an initial cohort of Corps members no later than the 2012-13 school year.

Part VIII: Strengthen Teacher Licensure

Under current law, the SBE sets the licensure requirements for applicants for teaching positions and may require a minimum score on a standard exam. The SBE, in consultation with the Board of Governors of The University of North Carolina, must develop requirements for continuing licensure and align them with quality professional development programs. For teacher preparation programs, the SBE, in coordination with the Board of Governors of The University of North Carolina and the State Board of Community Colleges, sets the standards for approval and must include competencies in the education of children with disabilities and positive behavior management.

Under this Act, elementary education (K-6) teachers would be required to achieve a prescribed minimum score on subtests or standard exams specific to reading and language arts and mathematics. For continuing licensure, at least three continuing education credits related to literacy must be taken by elementary and middle school teachers. The standards for approval of teacher preparation programs must also require elementary education programs to show competencies in the teaching of reading, assessment and diagnosis of areas of difficulty, and appropriate application of instructional supports and services.

This section would become effective when it becomes law and applies beginning with the 2013-14 school year.

Part IX: Proof of State-Funded Liability Insurance

Amends G.S. 115C-12 to require that the SBE annually notify public school employees of the availability and coverage of professional liability insurance.

This section would become effective when it becomes law and applies beginning with the 2012-13 school year.

Part X: Pay for Excellence

Directs local boards of education to develop plans for systems of performance pay for all licensed personnel. Under the plans, the licensed employees would be eligible to receive bonuses or

adjustments to base salary for meeting certain performance criteria. These criteria must include, but are not limited to, the following:

- annual growth in student achievement assigned to a teacher's classroom, when applicable;
- annual growth in student achievement of students assigned to a specific school;
- assignment of additional academic responsibilities;
- assignment to a hard-to-staff school; and
- assignment to a hard-to-staff subject area.

The plans must be submitted to the SBE no later than March 1, 2013. The SBE must report on these plans by April 15, 2013.

This section would become effective when it becomes law.

Part XI: Clarify NC Pre-K eligibility

Section 11.(a) clarifies that the NC Pre-K program eligibility is for those children of families with incomes at or below 75% of the State Median Income. In addition, 20% of those served may have higher incomes as long as they have another demonstrated risk factor. This is current practice by the Department of Health and Human Services, Division of Child Development and Early Education.

Section 11.(b) repeals the requirement of a co-payment by families for individuals served within the NC Pre-K program. The Department of Health and Human Services, Division of Child Development and Early Education did not implement a co-payment for NC Pre-K in FY 2011-12.

Section 11.(c) appropriates funding to the NC Pre-K program of $11,308,363 for FY 2012-13 to serve an additional 2,261 children within the program.

Part XII: Repeal Prohibition on Teacher Prepayment

During the 2011 Session, the General Assembly enacted S.L. 2011-379, The School and Teacher Paperwork Reduction Act, which, effective FY 2012-13, prohibited local school administrative units from prepaying teachers on the monthly pay date for days not yet worked. This Part would repeal of the prohibition on prepayment before it goes into effect.

Part XIII: Tax Deduction for Educational Supplies

The Act provides an income tax deduction for K-12 teachers of up to $250 in expenses incurred for classroom supplies. The provision mirrors the federal deduction for teachers. In previous years, teachers received the benefit of the federal deduction in calculating state tax liability because the starting point for calculating state taxable income was federal taxable income. However, the federal deduction expired at the end of the 2011 tax year and it is uncertain whether it will be extended by federal legislation. This proposal allows teachers in North Carolina to take advantage of this deduction in calculating state tax liability even if the federal deduction is not reinstated.

Part XIV: Teacher Contracts

Teachers

Under current law, teachers in North Carolina are eligible for career status when they have been employed by a local board of education for four consecutive years. Obtaining career status provides that the career employee may not be dismissed or demoted except if one or more statutory grounds are found. Certain procedures must be followed to dismiss or demote a career status teacher, including a right to a hearing in front of the local board of education with a further right of appeal to superior court. The procedure for the dismissal of career status teachers in schools that have been identified as low-performing by the SBE and that have been assigned assistance teams varies in that the SBE has the authority to dismiss career status teachers due to inadequate performance. Hearings must still be granted by the SBE in these cases and there are further rights to judicial review under Chapter 150B of the General Statutes.

This Part eliminates career status in North Carolina. Teachers employed by a local board of education for less than three years would be employed by one-year contracts. Contracts or renewal of contracts between a local board of education and teachers who have been employed by that board for three years or more would be terms of one, two, three, or four school years. For the 2012-2013 school year, all teachers would be employed on a one-year contract. All teachers would be employed by their local boards of education upon recommendation of the superintendent. Superintendents must also recommend contract length (for those with three or more years of employment) but can only recommend contracts of more than one year for teachers who have shown effectiveness as documented by the teacher evaluation instrument. Local boards of education would be able to approve the recommendation, not approve it or decide on a different term of length for the contract. Teachers could not be dismissed or demoted during the term of the contract except for one of the statutorily listed grounds. If the superintendent decides against recommending a renewal of a contract, the teacher would have the right to petition the local board of education for a hearing but whether to grant the hearing would be in the local board's discretion.

This Part would establish the following procedure for dismissal or demotion for cause during the contract term:

- Notice: The superintendent must give written notice to the teacher of his or her intention to recommend to the local board of education that teacher be dismissed or demoted and provide the grounds upon which the recommendation is being made. The superintendent must also meet with the teacher and (i) give written notice of the charges against the teacher; (ii) an explanation of the basis for the charges; and (iii) an opportunity to respond. The notice must also inform the teacher that he or she may request a hearing before the local board of education within 14 days of the receipt of the notice.
- Request for a Hearing: The teacher may file a written request for a hearing before the local board of education within 14 days after receipt of the notice of recommendation of the superintendent. The board shall set a time and place for the hearing which is not less than 10 days nor more than 30 days after notification is given to the teacher unless the parties agree to an extension.
- No Request for Hearing: If the teacher does not request a hearing before the board within 14 days of receipt of the recommendation, the superintendent may submit his or her

recommendation to the board. The board may (i) reject the recommendation or (ii) accept or modify the recommendation.

Hearings before the local board of education must be private and the board must receive documentary evidence that will be used to support the recommendation from both the superintendent and teacher, who must provide the evidence to each other within certain time frames. Written statements may be provided to the board and both the superintendent and the teacher may make oral arguments before the board based on the record before the board. The board must make findings of fact based upon the preponderance of the evidence and must send a written copy of its findings and determinations within two days of the hearing to the teacher and the superintendent.

Hearings for disciplinary suspension without pay must be private and conducted according to reasonable rules adopted by the SBE governing such a hearing. Both the teacher and superintendent have the right to be present and represented by counsel and to present witnesses. The rules of evidence to not apply. The superintendent must give the teacher 8 days before the hearing, a list of witnesses who will be presented and a statement of the nature of each witness' testimony and copy of any documentary evidence that will be presented. The teacher must provide this same information to the superintendent 6 days before the hearing. New evidence may not be presented at the hearing unless the board finds that it is critical and could not have been found earlier.

This Part would eliminate the right to appeal to superior court decisions of a local board of education regarding the terms or conditions of employment or employment status of a school employee.

If a teacher has been recommended for dismissal and chooses to resign without the written consent of the superintendent: (i) the superintendent must report the matter to the SBE; (ii) the teacher is deemed to have consented to the placement in his or her personnel file of the written notice of the superintendent's intention to recommend dismissal and the release of this fact that the teacher has been reported to the SBE to prospective employers upon request; and (iii) the teacher is deemed to have voluntarily surrendered his or her license pending an investigation by the SBE in determination of whether to seek action against the teacher's license.

If a teacher who has not been recommended for dismissal decides to resign during the term of the contract without the consent of the superintendent, then he or she should give at least 30 days' notice. If the teacher does resign without giving this notice, then the board may request that the SBE revoke the teacher's license for the remainder of the school year.

The procedure for dismissal of school administrators and teachers employed in low-performing residential schools would remain substantially the same as it is under current law.

Dismissal of School Administrators and Teachers Employed in Low-Performing Schools: The procedure for dismissal of school administrators and teachers employed in low-performing schools would remain substantially the same as it is under current law but would eliminate the provision

that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

School Administrators

Under current law, most school administrators are employed through contracts with their local boards of education. Some school administrators who had or were eligible to receive career status in 1995 are employed pursuant to the teacher career status law. For those employed by contract, school administrators cannot be dismissed or demoted during the term of the contract except for cause for one of the statutorily listed grounds. Superintendents recommend new, renewed, or extended contracts for school administrators to their local boards of education which may approve the recommendations or not. If a superintendent decides against recommending that the local board of education offer a new, renewed, or extended contract to a school administrator, then written notice of this decision and the reasons for it must be given to the school administrator. The reasons may not be arbitrary, capricious, discriminatory, personal, or political. The school administrator may file a written request for a hearing before the local board and failure to file a timely request results in a waiver of the right of appeal of the superintendent's decision. If a timely request is filed, the local board of education must conduct a hearing on the matter and its decision is subject to judicial review under Chapter 150B of the General Statutes.

This Part eliminates career status for all school administrators, and eliminates the current requirement that the superintendent's and local board of education's decisions to not offer a new, renewed, or extended contract to a school administrator may not be arbitrary, capricious, discriminatory, personal or political. This Part also eliminates the right to judicial review under Chapter 150B of the General Statutes of the decision of the local board of education.

Non-Licensed Employees

Under current law, non-licensed employees may appeal a decision of the local board of education to superior court regarding decisions concerning dismissal, demotion or suspension without pay. The non-licensed employee may request and be entitled to receive written notice as to the reasons for the employee's dismissal, demotion or suspension without pay, and it must be provided to the employee prior to any local board of education hearing on the issue.

This Part eliminates this right of appeal to superior court and would eliminate the right to written notice for the reasons for the non-licensed employee's dismissal, demotion or suspension without pay.

Part XV: Eliminate Public Financing for Superintendent of Public Instruction

Under current law, the North Carolina Voter-Owned Elections Fund is authorized to provide a source of campaign financing for candidates for Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance. This Part would remove the Superintendent of Public Instruction from the list of offices eligible to receive campaign financing from the North Carolina Voter-Owned Elections Fund.

ASSUMPTIONS AND METHODOLOGY:

Part I: Improve K-3 Literacy

Part I of this Act creates 15 new requirements which might potentially have a fiscal impact. Each of these new requirements will be addressed individually below, with a summary table to follow.

Each requirement in this Part is assumed to be a State responsibility. Section 1.(i) appropriates $34,087,650 to implement the requirements of this Part in FY 2012-13, and states the General Assembly's intent to increase the appropriation in future fiscal years to implement the additional requirements of this Part.

Requirement 1: Continuously Evaluate the Comprehensive Plan to Improve Reading Achievement

A high-quality evaluation of a program of this size would likely require a contract with an independent research organization of at least $500,000 per year, beginning with the 2013-14 fiscal year. This would be a conservative estimate compared with similarly-sized program evaluation contracts for the Connectivity Initiative (initially $650,000 per year), DSSF ($500,000), and More at Four (over $1 million per year).

Requirement 2: Solicit Impact from Stakeholders in Developing Statewide Plan

This analysis assumes a nonrecurring cost of $80,000 in FY 2012-13 in order to facilitate regional meetings to solicit impact from the public regarding the State's literacy plan. In particular, this analysis assumes a cost of $10,000 per meeting to cover rental space, as well as travel expenses for DPI staff, and that there would be at least one meeting in each of the State's eight educational regions.

Requirement 3: Formative Diagnostic Reading Assessments for All Students in Grades K-3

Annual costs for formative and diagnostic reading assessments for all students in grades K-3 will vary throughout the five-year time horizon of this analysis. Data from North Carolina's Student Diagnostic and Intervention Initiative indicate the following cost requirements:

- Software subscriptions: $20.50 per student. Over the next five years, average daily membership (ADM) in grades K-3 is anticipated to grow from 469,000 students to approximately 503,000 students.
- Student materials ("kits") for each teacher: $400 per teacher. 6,360 kits have already been purchased in prior years. Assuming a total of 21,485 teachers in grades K-3, North Carolina would still need to purchase 15,125 kits.
- Handheld devices (hardware): $400 per teacher. According to DPI's analysis, 18,501 teachers in grades K-3 do not currently have devices. This analysis assumes that devices would need to be refreshed after four years.
- Substitute teachers to cover required training: This one-time cost would cover the cost of substitutes while teachers attend training sessions. This analysis assumes two teachers per school at 870 schools would receive the training over a three-day period.

Requirement 4: Retain Students Who Score at Level I or Level II on Third Grade Reading EOG

Additional retention of students in grade 3 is anticipated to cost approximately $20.5 million in FY 2014-15, decreasing to $14.2 million by FY 2016-17.

Students in grade 3 have a greater fiscal cost than students in grade 4 due to:

1. Classroom teachers: classroom teachers are allotted on the basis of one teacher for every 17 students in grade 3; one for every 22 students in grade 4; and
2. Teacher assistants: allotment of teacher assistants based on K-3 ADM. Fourth graders do not generate teacher assistant allotments.

The cost differential is that, on average, a grade 3 student costs $1,152 more than a grade 4 student, on a per student basis. This analysis assumes there would be 17,824 additional students in grade 3 in FY 2014-15 as a result of this bill, decreasing to 14,906 by FY 2016-17.

An additional fiscal impact will be experienced outside of the scope of this fiscal analysis. Under this bill, the majority of retained students will require an additional year of public schooling that they otherwise would not have had. However, the fiscal impact would not affect the State until FY 2023-24, when the first cohort of third graders would have been expected to have graduated from high school.

Requirement 5: Develop Uniform Reporting Requirement for LEA Reports on Programmatic Information, Compile Information, and Report to the General Assembly
There would be no additional cost to implement this requirement, as data collection and reporting costs would be included as part of the program evaluation costs discussed in Requirement 1 of this section.

Requirement 6: Provide Technical Assistance to LEAs to Implement the Program Locally
Total costs for providing technical assistance to LEAs ranges from $1.0 million in FY 2012-13 to $1.3 million in FY 2016-17.

This analysis assumes that providing technical assistance to LEAs will require approximately 11 additional positions at DPI:

- Nine field-based consultants: $70,000 base salary, $3,600 for "medium" level of travel[1], plus benefits
- One section chief: $90,000 base salary, $3,600 for "medium" level of travel, plus benefits
- One administrative assistant: $30,000 base salary, plus benefits

The Department indicates that the most appropriate comparison is the federal Reading First program, which had 14 consultants, 1 section chief, and 2 administrative assistance. However, implementation of Reading First required additional budgeting and program auditing responsibilities that would be above and beyond the staff responsibilities that would be required under this bill.

Requirement 7: Kindergarten Entry Assessment for all Entering Kindergarten Students Beginning FY 2014-15
This analysis assumes it will take a total of approximately $18.5 million to ensure statewide implementation of a new kindergarten entry assessment by 2014-15. Costs include professional

[1] This travel number was developed during DPI's budgeting process for Race to the Top, and assumes 10 overnights per month, subsistence for those 10 days, and approximately 600 average miles per month.

development, and substitute teacher costs. This analysis assumes that professional development would occur over two years, or $9.25 million per year in FY 12-13 and 13-14, followed by a recurring $750k to ensure continuing capacity (i.e., training of new teachers). Professional development services would be contracted.

North Carolina's Race to the Top Early Learning Challenge grant budgets $8.8 million to develop a new kindergarten entry assessment. This new assessment will be implemented in 65 North Carolina elementary schools defined as "lowest-performing" schools under the federal Race to the Top program. As there are approximately 1,300 elementary schools, the Early Learning Challenge funding only provides the kindergarten entry assessment and appropriate professional development to a small portion of the State's elementary schools.

Requirement 8: Kindergarten Developmental Screening of Early Language, Literacy, and Math Skills

Providing developmental screening of all kindergarten students for early language, literacy, and math skills would cost $754,588 in FY 2014-15, and approximately $210,000 per year in subsequent years.

This pricing estimate is based off of the cost of the DIAL-3 (Developmental Indicators for the Assessment of Learning) screening tool from Pearson.[2] The DIAL-3 costs $295.90 for every 50 students in FY 2014-15 (includes cost of all administration forms, instruction manuals and DVDs), and $80.00 for every 50 students in subsequent fiscal years (administration forms, record forms, cutting cards, and parent questionnaires).

Requirement 9: Summer Reading Camp for Students not Demonstrating Reading Proficiency

Summer reading camps administered by LEAs for all students not demonstrating reading proficiency are estimated to cost approximately $15.5 million per year beginning in FY 2013-14.

The best available data for estimating the cost of summer academic programs is the Wallace Foundation's Out of School Time Cost Calculator.[3] This database aggregates data from 111 programs in six cities (Boston, Charlotte, Chicago, Denver, New York and Seattle) to provide estimates of programs with given characteristics, adjusted for local cost-of-living.

For the purposes of this estimate, the assumption is that one camp would need to be funded for every two elementary schools, or approximately 650 camps.[4] This works out to an estimated 50 reading-deficient students per camp (assuming a 90% uptake rate of students not demonstrating reading proficiency). The following assumptions are used in generating an estimate:

- Program focus: academic
- Nearest metro area: Burlington, NC

[2] Additional information about the DIAL-3 can be found here: http://www.pearsonassessments.com/HAIWEB/Cultures/en-us/Productdetail.htm?Pid=PAa13700.

[3] The Wallace Foundation Out of School Time Cost Calculator can be found here: http://www.wallacefoundation.org/cost-of-quality/cost-calculator/Pages/cost-calculator.aspx.

[4] In practice, the number of "feeder schools" for each summer camp would vary across the State, with low-performing rural districts likely to have fewer feeder schools for each summer camp, while higher-performing urban districts might be able to operate a single summer camp serving multiple elementary schools.

- Program location: in a school
- Slots: 50
- Hours per week: 14
- Weeks: 7

Based on these assumptions, the Wallace instrument provides a median cost estimate of approximately $22,660 per site. Because the Wallace instrument focused on large, urban programs, it likely underestimates the transportation costs that would be faced by the average program in North Carolina. As a result, the estimate provided by the Wallace instrument is increased by 5% to account for the additional transportation costs faced by North Carolina's less-urban districts.

Requirement 10: LEAs Provide Alternative Reading Assessment for Third Graders Who Have a Reading Deficiency

Provision of alternative reading assessments for third graders who have a reading deficiency is estimated to cost approximately $250,000 per year over the five-year horizon of this analysis, beginning in FY 2013-14

The bill defines "reading deficiency" as not reading at the third grade level by the end of the student's third grade year. Approximately 36,000 third grade students fail to achieve grade-level proficiency on State-administered end-of-grade tests (EOGs).

The Pearson TORC-4 alternative reading assessment provides the best estimate of potential costs.[5] The TORC-4 costs $347 for every 50 students. Based on the number of students anticipated to have reading deficiencies, this equates to a total cost of approximately $250,000 per year.

Requirement 11: Parents of Retained Students Shall be Provided with a Plan for Reading at Home, Including Participation in Reading Workshops for the Parent

Providing reading workshops for parents of retained students is estimated to cost approximately $23.0 million in FY 2013-14, decreasing to $16.3 million in FY 2016-17.

The existing State program that provides the best comparison is the Motheread program provided through Smart Start. Motheread offers classes to teach parents how to be reading role models for their children. Classes are held in many different community settings, including community colleges, schools, community centers, and churches. Classes are appropriate for all adults, but are specifically designed for low-literacy, low-income parents. According to data provided by the North Carolina Partnership for Children, Inc., this program is estimated to cost approximately $1,080 per parent.

The number of retained students (and, therefore, the number of parents that would need to be targeted for workshops) is anticipated to be approximately 21,304 in FY 2013-14, decreasing to approximately 15,130 by FY 2016-17. Multiplying the number of retained students by the per-parent program cost of $1,080 provides an estimated total cost of $23.0 million in FY 2013-14, decreasing to $16.3 million in FY 2016-17.

[5] Additional information about the TORC-4 can be found here: http://www.pearsonassessments.com/HAIWEB/Cultures/en-us/Productdetail.htm?Pid=PAtorc4&Mode=summary.

Requirement 12: Supplemental Tutoring for Students Who Have Been Retained Twice
Provision of tutoring services to students who have been retained twice is estimated to cost approximately $9 million per year, beginning in FY 2014-15.

According to data from Florida,[6] approximately 0.7% of students are retained twice under their similar third grade literacy program. In North Carolina, that would equate to approximately 850 students being retained twice, beginning in FY 2014-15. This analysis assumes that each student would receive 2 hours of tutoring services per day, with the tutor being paid $30 per hour, consistent with certified teacher salaries in North Carolina.

Requirement 13: Providing Parental Notification That a K-3 Student Is Not Reading at Grade Level, or That a Third Grade Student is Being Retained
This analysis assumes these requirements for written notification can be handled within existing funds at the LEA level. LEAs routinely provide students with report cards. Indication that a student is not reading at grade level, or that a student is being retained could be included with existing report cards at no additional fiscal cost.

Requirement 14: Providing Monthly Progress Reports to Parents of Retained Students
This analysis estimates that provision of monthly progress reports to parents of retained students would cost approximately $160,000 in FY 2014-15, decreasing to approximately $133,000 in FY 2016-17.

As explained above (Requirement 12), the number of retained students is anticipated to be approximately 21,304 in FY 2013-14, decreasing to approximately 15,130 by FY 2016-17. Printing and postage are estimated to be $0.75 per report, per student, times 10 times per year.

It is important to note that, depending on the thoroughness of the monthly progress report, this requirement could create a significant new paperwork burden on third grade teachers, particularly those teaching low-performing students.

Requirement 15: Annually Collect and Publish Read to Achieve Data on LEA Website
The bill requires certain data related to the Read to Achieve program to be published annually on LEA websites. As each LEA in North Carolina has a functioning website, this additional data should be able to be added to LEA websites at no cost.

Part I: Summary Tables
The tables below summarize the cost elements related to Part I of this bill, the Read to Achieve Program.

Estimates of the various requirements of this Part rely largely on estimated student data over the next five fiscal years. In particular, the analysis requires estimating the total number of students in grades K-3, the number of third graders below grade level, the number of students expected to be retained (both under current and proposed policies), and the number of third graders anticipated to be retained twice as a result of this bill.

[6] All Florida data provided by the Foundation for Excellence in Education: http://www.excelined.org/.

Estimated Student Data

	2012-13	2013-14	2014-15	2015-16	2016-17
K-3 ADM	468,502	476,935	485,520	494,259	503,156
Grade K ADM	123,038	125,253	127,507	129,802	132,139
Grade 3 ADM	110,446	116,000	118,088	120,214	122,377
Students Scoring at Level I or Level II	33.00%	32.00%	31.00%	30.00%	29.00%
K-3 Reading Deficiency	154,606	152,619	150,511	148,278	145,915
Grade 3 Reading Deficiency	36,447	37,120	36,607	36,064	35,489
Actual % of Reading Deficient Students Retained in Florida*	N/A	57.39%	46.36%	49.00%	42.63%
% of all 3rd Graders Retained	3.00%	18.37%	14.37%	14.70%	12.36%
Number of 3rd Graders Retained	3,313	21,304	16,972	17,671	15,130
Number of *Additional* 3rd Graders Retained Because of S795	N/A	17,824	13,430	14,065	11,458
# of 3rd Graders Retained Twice Under Read to Achieve	N/A	N/A	827	841	857
Additional third graders			17,824	14,256	14,906

*These are the actual percentages of reading deficient students from Florida who were retained in the first four years of the Florida program.

The estimated student data informed the fiscal estimates for the various new State or LEA responsibilities found within this Part. The fiscal impact of the additional responsibilities is summarized in the following table:

Estimated Program Costs - Read to Achieve
(Part I of the Excellent Public Schools Act)

Requirement Number	Requirement Description	2012-13	2013-14	2014-15	2015-16	2016-17
1	Continously evaluate the comprehensive plan to improve reading achievement	$0	$500,000	$500,000	$500,000	$500,000
2	Solicit input from stakeholders in developing statewide plan	$80,000	$0	$0	$0	$0
3	Formative diagnostic reading assessments for all students in grades k-3	$23,576,691	$9,777,168	$11,146,757	$10,132,314	$18,954,696
4	Retain students who score at Level I or Level II on third grade Reading EOG	$0	$0	$20,536,590	$16,426,415	$17,175,400
5	Develop uniform reporting requirement for LEA reports on programmatic information, compile information, and report to the General Assembly	$0	$0	$0	$0	$0
6	Provide technical assistance to LEAs to implement the program locally	$1,007,812	$1,078,610	$1,143,456	$1,206,266	$1,261,399
7	Kindergarten Entry Assessment for all entering kindergarten students beginning FY 14-15	$9,250,000	$9,250,000	$750,000	$750,000	$750,000
8	Kindergarten developmental screening of early language, literacy, and math skills	$0	$0	$754,588	$207,684	$211,422
9	Summer reading camp for students not demonstrating reading proficiency	$0	$15,465,450	$15,465,450	$15,465,450	$15,465,450
10	LEAs provide alternative reading assessment for third graders who have a reading deficiency	$0	$257,613	$254,055	$250,285	$246,297
11	Parents of retained students shall be provided with a plan for reading at home, including participation in reading workshops for the parent	$0	$23,007,944	$18,330,263	$19,085,109	$16,340,092
12	Supplemental tutoring for students who have been retained twice	$0	$0	$8,927,453	$9,088,147	$9,251,734
13	Providing parental notification that a K-3 student is not reading at grade level or that a third grade student is being retained	$0	$0	$0	$0	$0
14	Providing monthly progress reports to parents of retained students	$0	$0	$159,777	$127,293	$132,535
15	Annually collect and publish Read to Achieve data on LEA website	$0	$0	$0	$0	$0
TOTAL COSTS		**$33,914,503**	**$59,336,785**	**$77,968,389**	**$73,238,963**	**$80,289,025**

Part II: State Employee Literacy Volunteer Leave Time

There is no estimate for the fiscal impact of creating an additional leave program allowing State employees to volunteer in literacy programs in public schools for up to five hours each month. The fiscal impact would be the foregone work product of employees utilizing the additional availability of leave time. Unfortunately, no data exists regarding potential usage rates that would provide a useful indication of the fiscal impact of this requirement.

Part III: School Performance Grades

There is no fiscal impact related to this Part of the Act. The SBE is already required under G.S. 115C-12(9)c1 to issue an annual "report card" for the State and for each LEA. In addition to issuing annual State- and LEA-level report cards, the SBE issues school-level report cards.[7]

This Part changes how school performance will be designated. Currently, schools receive designations such as School of Excellence, School of Distinction, School of Progress, or Priority School. This Part requires instead that each school receive a numerical score and a corresponding letter grade of A, B, C, D, or F.

This Part also changes how school performance is measured, defining which school-level data elements contribute to a school's letter grade. These data points are already collected by DPI, and can be compiled to calculate school grades within existing funds.

Part IV: Maximize Instructional Time

There is no fiscal impact related to this Part of the Act. This Part requires that annual tests adopted by the SBE and all final exams for courses would have to be administered within the final ten instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. This Part does not create any additional requirements for LEAs, and there is no fiscal impact related to which day of the school year a test is administered.

Part V: Adjustments to School Calendar Start and End Dates

This fiscal impact of this part is indeterminate, but likely to reduce required General Fund expenditures and local expenditures in future years.

Changing the requirement to 185 days or 1,025 hours is likely to result in LEAs operating a calendar with 180 instructional days, or less. Each additional instructional day requires additional transportation, additional opportunity for substitute teacher costs, and additional utility costs.[8] LEAs might also reduce the pay of teacher assistants, and child nutrition employees as instructional days decrease. As a result, LEAs are likely to provide the minimum number of instructional days required to meet the requirement of 1,025 instructional hours. For example, an LEA could meet the 1,025-hour requirement by operating 185 instructional days averaging five hours and 32 minutes per day, or the LEA could meet the 1,025-hour requirement by operating 170 instructional days averaging six hours and two minutes per day. Wilkes County Schools increased instructional days by 45 minutes per day to operate a 162-instructional day calendar as part of the school calendar pilot program initiated in the 2009 Appropriations Bill (S.L. 2009-451).

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[7] North Carolina school report cards can be found at: http://www.ncreportcards.org/src/.

[8] The State is responsible for transportation and utility costs. LEAs are responsible for the cost of utilities.

On the other hand, additional instructional time might be viewed as a means of increasing student achievement. LEAs or charters accepting this view might choose to provide at least 180 instructional days.

Without additional data, it is difficult to determine the likely fiscal impact of this Part.

The sections of this Part providing LEAs with additional flexibility with regards to school calendar start and end dates would not have a fiscal impact. LEAs complying with the existing law could leave their school calendar start and end dates unchanged if this Act were to become law. It does not create any additional requirements for LEAs.

Part VI: Funding for the Addition of Five Instructional Days Within the Existing School Calendar

The fiscal impact of this Part is equal to the amounts appropriated in this Part.

Had all LEAs and charters increased their calendars by five instructional days, costs related to transportation would have likely increased by approximately $10,150,000, and costs related to increased usage of substitute teachers would likely have increased by approximately $1,200,000 for FY 2012-13.[9] However, most LEAs and charters have received waivers for the upcoming 2012-13 school year. The appropriations in this part equate to the estimated increased costs for transportation and substitute teachers, taking into account the waivers which have been granted.

Because of the waivers, LEAs and charters are, on average, expected to add 0.17 instructional days (out of a maximum of five instructional days) to their school calendar in FY 2012-13. In other words, 96.7% of the possible additional instructional days in FY 2012-13 were waived.

To determine the additional cost of instructional days in FY 2012-13, the original five-day estimated costs are multiplied by 3.3% (1 minus 96.7%). The additional appropriated amounts of $351,469 for transportation and $40,168 for substitute teachers would be nonrecurring, as Part V would likely decrease the number of instructional days going forward.

Part VII: Establish NC Teacher Corps

The establishment of the NC Teacher Corps is anticipated to cost the State approximately $1.9 million in FY 2014-15, increasing to approximately $2.1 million in FY 2016-17.

Funding for the NC Teacher Corps is currently provided through the federal Race to the Top grant. This funding expires at the end of FY 2013-14. The establishment of this program in General Statute indicates that the State intends to continue the program after the expiration of the federal Race to the Top funding. As such, there will be a fiscal impact to the State beginning in FY 2014-15.

Based on current implementation, the NC Teacher Corps requires program staff, recruitment activities, reimbursement payments for licensure and certain coursework, summer enrichment programs, and professional development for Corps members. The analysis below assumes that

[9] These figures represent the average daily expenditure for substitute teachers and transportation in FY 2011-12, multiplied by five days.

100 Corps members will be first-year teachers in FY 2013-14. Subsequent cohorts are expected to have 150 Corps members.

The table below summarizes expected program costs:

North Carolina Teacher Corps - Estimated Fiscal Impact

	Race to the Top		State General Fund		
	2012-13	2013-14	2014-15	2015-16	2016-17
Program Staff: 1 Director, 1 Consultant, 1 Admin (salary, benefits, travel, supplies)	$261,700	$279,635	$296,063	$311,975	$325,716
Recruitment: Costs related to visits to job fairs and colleges and printing of materials	$20,000	$20,000	$20,000	$20,000	$20,000
Tuition and Licensure Reimbursement: Corps members reimbursed for PRAXIS fees and courses for full licensure	$570,000	$896,250	$939,563	$985,041	$1,032,793
Summer Enrichment Programs: Corps members will be matched with a highly-qualified teacher (who will receive a stipend), as well as attend a 19-day summer program	$128,895	$203,010	$213,160	$223,818	$235,009
Professional Development: Funding for PD activities and participation stipend for 1st and 2nd year Corps members	$80,000	$215,000	$349,500	$395,100	$403,605
TOTAL	**$1,060,595**	**$1,613,895**	**$1,818,286**	**$1,935,934**	**$2,017,123**

Part VIII: Strengthen Teacher Licensure

There is no fiscal impact related to this Part of the Act. The SBE already requires that teachers achieve a prescribed minimum score on a standard examination in order to receive a license. This Part simply requires the SBE to establish minimum subset scores for reading and language arts and mathematics for teachers in grades K-6.

This Part does not require any additional teachers to take any additional continuing education credits, it only mandates that at least three of the credits are related to literacy for elementary and middle school teachers. Continuing education credits related to literacy do not have a materially differing cost from other types of continuing education credits.

Finally, this Part requires that the standards for approval of teacher preparation programs must also require elementary education programs to show competencies in the teaching of reading, assessment and diagnosis of areas of difficulty, and appropriate application of instructional supports and services. The SBE already has authority to establish standards for approval of

institutions of teacher education. The institutions of higher education providing these teacher education programs have the option of whether or not to meet such standards.

Part IX: Proof of State-Funded Liability Insurance

There is no fiscal impact related to this Part of the Act. The SBE has already notified public school employees of the availability and coverage of professional liability insurance in FY 2011-12 via employee email lists, and the establishment of a website at: http://www.professionalliabilitync.com/. The SBE can continue to notify public school employees via similar means in future fiscal years within existing funds.

Part X: Pay for Excellence

There is no State fiscal impact related to this Part of the Act. This Part of the Act does not obligate the State to change the system of pay for licensed school personnel.

There is an indeterminate local fiscal impact for LEAs in developing performance pay plans. The time and resources spent in developing performance pay plans could vary significantly between LEAs. While the requirements of this Part could certainly be met within existing resources in all LEAs, certain LEAs might re-deploy existing resources in order to develop more extensive plans, or to seek stakeholder participation.

Part XI: Clarify NC Pre-K Program Eligibility

The fiscal impact related to this Part is simply the $11.3 million appropriated in Section 11.(c) to provide 2,261 additional slots in the NC Pre-K program in FY 2012-13. The other sections of this Part do not have a fiscal impact.

Section 11.(a) clarifies the current eligibility requirements that are already in place within the Department of Health and Human Services, Division of Child Development; therefore, there is no fiscal impact to this change.

Section 11.(b) repeals the requirement for a co-payment by families. The current law was not followed by the Division; therefore, there is no fiscal impact to this change. Had the co-payments been collected that would have resulted in an approximately $15 million that would be available within the program (based upon 24,000 co-payments for 10 months of $64).

Part XII: Repeal Prohibition on Teacher Prepayment

There is no State fiscal impact with regards to repealing the prohibition on teacher prepayment. A potential impact could occur if a teacher who has been paid for days not yet worked were to leave his or her position. However, S.L. 2003-263 requires that overpayments of State funds to any person must be recouped by the entity that made the overpayment – in this case, the LEA.

LEAs will likely experience increased expenditures of approximately $1.1 million as a result of this Part. In an April 2012 survey of North Carolina LEA finance officers, 40 of 106 responding LEAs[10] indicated that their LEA had been negatively impacted financially by prepaying. Respondents reported a total statewide impact of $1,471,298 for FY 2010-11.

[10] Alamance, Bertie, Thomasville City, Duplin, Edgecombe, Gaston, Guilford, Roanoke Rapids City, and Nash failed to respond to this survey.

While LEAs would be expected to continue to incur such costs if this Part becomes law, expenditures would be offset by reduced administrative costs. Todd Lowe, Finance Officer, Randolph County Schools, indicated that implementing the prohibition on teacher payment would require significant additional work, including the payment of overtime to certain staff, and reprogramming of local payroll software. As a result, this analysis assumes that the additional local costs created by this Part would be offset 25% by foregone administrative costs.

Part XIII: Tax Deduction for Educational Supplies

Based on data provided by the Department of Public Instruction and the Division of Non-Public Education, approximately 102,000 teachers will be able to take advantage of the deduction. This is multiplied by $250 because it is assumed that each teacher taking the deduction will take the maximum amount allowed. This number is then multiplied by an average tax rate of 7% to arrive at the fiscal impact of $1.8 million in reduced revenue collections per fiscal year.

Part XIV: Teacher Contracts

There is an indeterminate fiscal impact related to this Part of the Act. From the State perspective, it is unclear what impact, if any, the changes in this Part will have on the composition of North Carolina's population of teachers (or other certified personnel). It is possible that this Part will – on average – result in dismissal of more experienced (higher-paid) teachers who would then be replaced with less experienced (lower-paid) teachers. It is also possible that this Part will result in teachers with lower experience or credentials suffering a higher rate of dismissal (due to lower average performance compared to more experienced teachers), shifting North Carolina's teacher population towards teachers with greater experience and credentials.

From a local perspective, the changes in this Part could increase or decrease LEA costs related to hearings. While certified personnel might have additional rights to hearings upon dismissal under existing law, it is possible that the changes proposed in this Part could result in additional dismissals compared to current practice.

Part XV: Eliminate Public Financing for Superintendent of Public Instruction

G.S. 163-278.99(b)(4) establishes that the minimum amount of funds to be distributed from the North Carolina Voter-Owned Elections (VOE) Fund to a candidate in a general election is $300,000. Currently, the balance of the VOE Fund is approximately $428,000, which is insufficient to meet this requirement if more than one candidate qualifies for funding. Thus, per G.S. 163-278.99(c), the available balance would be apportioned among all eligible candidates.

For the 2012 General Election, two candidates have qualified for funding from the Voter-Owned Elections (VOE) Fund: one candidate for State Auditor and one candidate for Superintendent of Public Instruction. Removing the Superintendent of Public Instruction from the list of candidates eligible to receive funding from the VOE Fund would result in only one candidate (for State Auditor) eligible for VOE funding in 2012. With one eligible candidate, the current balance of approximately $428,000 would be sufficient to provide the statutory minimum of at least $300,000 to the candidate for State Auditor.

State General Fund Fiscal Impact Summary - Excellent Public Schools Act

	Type	2012-13	2013-14	2014-15	2015-16	2016-17
Part I: Improve K-3 Literacy	Expenditures	$33,914,503	$59,336,785	$77,968,389	$73,238,963	$80,289,025
Part II: State Employee Literacy Volunteer Leave Time	Expenditures	No Estimate Available				
Part V: Adjustments to School Calendar Start and End Dates	Expenditures	No Estimate Available				
Part VI: Funding for the Addition of Five Instructional Days	Expenditures	$391,637	$0	$0	$0	$0
Part VII: Establish NC Teacher Corps	Expenditures	$0	$0	$1,818,286	$1,935,934	$2,017,123
Part XI: Clarify NC Pre-K Program Eligibility	Expenditures	$11,308,363	$0	$0	$0	$0
Part XIII: Tax Deduction for Educational Supplies	**Revenues**	($1,800,000)	($1,800,000)	($1,800,000)	($1,800,000)	($1,800,000)
Part XIV: Teacher Contracts	Expenditures	No Estimate Available				
Part XV: Eliminate Public Financing for Superintendent of Public Instruction	Expenditures	See Assumptions & Methodology				
TOTAL COST		**$47,414,503**	**$61,136,785**	**$81,586,675**	**$76,974,897**	**$84,106,147**

Note: Parts not displayed have no State fiscal impact.

Local Fiscal Impact Summary - Excellent Public Schools Act

	Type	2012-13	2013-14	2014-15	2015-16	2016-17
Part V: Adjustments to School Calendar Start and End Dates	Expenditures	No Estimate Available				
Part X: Pay for Excellence	Expenditures	No Estimate Available				
Part XII: Repeal Prohibition on Teacher Prepayment	Expenditures	$1,100,000	$1,100,000	$1,100,000	$1,100,000	$1,100,000
Part XIV: Teacher Contracts	Expenditures	No Estimate Available				
TOTAL COST		**$1,100,000**	**$1,100,000**	**$1,100,000**	**$1,100,000**	**$1,100,000**

Note: Parts not displayed have no local fiscal impact.

SOURCES OF DATA:

DPI, the Foundation for Excellence, the North Carolina Partnership for Children, Inc., the Wallace Foundation, Department of Revenue, Division of Non-Public Education

TECHNICAL CONSIDERATIONS:

Part I: The appropriation in this Part ($34,087,650) does not exactly match the estimated fiscal impact for FY 2012-13 ($33,914,503). The discrepancy could be managed as part of the normal appropriations process.

Additionally, sponsors might clarify which portion of the FY 2012-13 appropriation is going to DPI to expand department capacity, and which funds are to be distributed by DPI to the LEAs.

Part X: This Part does not state the General Assembly's intent with regards to providing additional funding, or with regards to changing the method for funding classroom positions. LEAs might have better clarity in developing systems of performance pay if the language is amended to clarify General Assembly intent on these issues.

MEMORANDUM

To: Senate President Pro Tem Phil Berger

CC: Senate Education Chair Jerry Tillman, Co-Chair Jean Preston, Co-Chair Dan Soucek, Vice Chair Tom Apodaca, Senator Chris Carney, Senator Austin M. Allran, Senator Andrew C. Brock, Senator Harry Brown, Senator Charlie S. Dannelly, Senator Warren Daniel, Senator Linda Garrou, Senator Thom Goolsby, Senator Malcolm Graham, Senator Ralph Hise, Senator Floyd B. McKissick, Jr., Senator Martin L. Nesbitt, Jr., Senator Buck Newton, Senator Louis Pate, Senator Bill Purcell, Senator Gladys A. Robinson, Senator Bob Rucho, Senator Josh Stein, Senator Richard Stevens, Senator Tommy Tucker, and Senator Stan White

From: Brian Lewis, NCAE Government Relations Manager; Marge Foreman, Lobbyist/Research Specialist

Date: May 29, 2012

Re: Senate Bill 795 (2nd Edition)

NCAE and its members appreciate Senate President Pro Tem Phil Berger and his staff working with this Association on Senate Bill 795 (Excellent Public Schools Act), including the sharing of substantive changes made to the legislation on Friday. We have enjoyed the exchange of ideas about the legislation and the needs of public education, and we look forward to continuing this important conversation as we work together to improve North Carolina public schools.

In the spirit of forwarding an education reform bill without unintended negative consequences, NCAE formally requests the Senate continue work on Senate Bill 795 with NCAE and other education stakeholders in the Senate Education Committee before advancing this important and complicated legislation to the House. NCAE believes the Senate Education Committee has the unique ability to bring educators, administrators, parents, and students to the table to create needed reform.

We hope this memo on teacher career status (tenure) – along with the page-by-page analysis provided last week from NCAE – helps the Senate Education Committee as it works on the legislation. **NCAE is also working on a memo to help the Senate Education Committee understand concerns from educators regarding open access to teacher personnel files (page 20 of edition 2).**

In this memo, NCAE focuses analysis on Part XIV (Teacher Contracts) of the legislation on pages 19-31 of the second edition.

It is important for legislators to understand North Carolina teachers can be dismissed or fired for the following reasons, according to G.S. 115C-325:

a. Inadequate performance.

b. Immorality.

c. Insubordination.

d. Neglect of duty.

e. Physical or mental incapacity.

f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.

g. Conviction of a felony or a crime involving moral turpitude.

h. Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.

i. Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.

j. Failure to comply with such reasonable requirements as the board may prescribe.

k. Any cause which constitutes grounds for the revocation of the career teacher's teaching certificate or the career school administrator's administrator certificate.

l. A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding, provided that there is compliance with subdivision (2).

m. Failure to maintain his certificate in a current status.

n. Failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 of the General Statutes.

o. Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

Senator Berger cited NC Department of Public Instruction data at the last Senate Education Committee meeting that only 15 teachers were dismissed last year, a low number that does not reflect the actual number of teachers who left teaching last year because of poor performance and eventual resignation.

In fact, the Excellent Public Schools Act will do nothing to increase the number of teachers who are officially fired or dismissed because most teachers facing inevitable termination will resign their positions before facing a disciplinary hearing. Recent staff resignations at the General Assembly reinforce this point.

NCAE respectfully requests the General Assembly instead allow legislation (Modify Teacher Career Status Law) sponsored by Senator Fletcher Hartsell and Education Chair Jerry Tillman and initiated by NCAE, NC School Boards Association, and the NC Association of School Administrators to take full effect before ending career status as teachers know it.

The newly established G.S. 115C-333.1 streamlines the teacher dismissal hearings, clarifies even further what constitutes an inadequate teacher, and provides an optional tool for administrators to effectively remove poor performing teachers. The law has been in effect for less than one school year and NCAE requests that you at least hear from school boards and administrators on the Hartsell-Tillman law's effectiveness before considering legislation that essentially guts the current career status laws.

NCAE stands ready to work with the Senate on legislation requiring administrators to fully understand the dismissal tools at their disposal.

Here is how the new law works:

Revisions to G.S. 115C-325 and -333; Establishes new G.S. 115C-333.1

Teacher Performance and Dismissal

- Streamlines teacher dismissal hearings by hearing officers (formerly, case managers)

    - o Revises G.S. 115C-325 to address current problems with unrealistic timelines, selection of qualified individuals, accountability and efficiency.

    - o A hearing officer must be a North Carolina attorney who has demonstrated expertise and experience in specific areas of law, such as education and employment.

    - o The largest statewide education associations will jointly recommend individuals to the State Board for selection for the master list. This will increase the likelihood of mutually agreed upon hearing officers by both parties in the initial stage of selection.

    - o The State Board has the authority to remove individuals from the master list or reduce compensation for failure to perform as required by the statute and the State Board's terms and conditions.

    - o The total time for conducting the hearing and submitting the hearing officer's report is extended to give the parties adequate time, yet extensions of the deadlines are no longer permissible, except upon a showing of extraordinary cause and a written agreement of the parties.

- The role of the hearing officer is clarified to be limited to that of factfinder. Hearing officers are prohibited from making recommendations regarding conclusions of law or the disposition of the case.

- A three work day limit is imposed on conducting the hearing, unless extended by the hearing officer upon a showing of extraordinary cause.

- Clarifies what constitutes inadequate teacher performance

  - Revises G.S. 115C-325 to define inadequate performance of a teacher by incorporating language from the Department of Public Instruction's new evaluation instrument and retaining the current measure of below standard performance.

- Provides an optional, additional tool for administrators to effectively remove poor performing teachers from the classroom

  - Revises G.S. 115C-333 to clarify the evaluation of teachers in low performing schools and the use of mandatory improvement plans (formerly, action plans). Mandatory improvement plans target deficiencies in teacher performance that are not adequately addressed by a DPI professional growth plan. The reassessment of employees upon completion of a mandatory improvement plan is focuses on areas of deficiency rather than requiring a full year long evaluation under DPI's current evaluation instrument.

  - Establishes new G.S. 115C-333.1, which provides an optional method for school administrators to expedite the dismissal process for poor performing teachers similar to the process used in low performing schools.

  - A qualified observer is available to a teacher placed on a mandatory improvement plan to provide supplemental observation regarding one or more areas of concern in the plan.

  - After reassessment of the teacher on the areas of deficiency in a plan, the superintendent may recommend demotion or dismissal.

  - School administrators who follow the procedures of G.S. 115C-333.1 will establish substantial evidence of the teacher's inadequate performance if recommending dismissal or demotion of the teacher. Nothing in G.S. 115C-333.1 prohibits the superintendent from proceeding for demotion or dismissal under the existing procedures in G.S. 115C-325.

Thank you for the opportunity to provide this memorandum and for the opportunity to work with you on legislation affecting North Carolina public schools. If I can be of assistance to you, please contact me at (919) 413-2580. Marge Foreman can be reached at (919) 522-7312.

PROFESSIONAL EDUCATORS OF NORTH CAROLINA

PENC

THE *voice for educators*

The Professional Educators of North Carolina (PENC) convened a group of educators to review and discuss the provisions of **S 795, Excellent Public Schools Act**. Below you will find a summary of their review and the views of PENC on each section, including the sections of the proposed committee substitute.

Part I. IMPROVE K-3 LITERACY – We understand the importance of focusing on literacy and finding ways to get students reading proficiently by third grade. We do believe, however, that this program will be a complex and potentially expensive approach at addressing this problem. It begs many questions about how the initiatives will all be implemented, with what resources, and whether the efforts would be repetitive of what is already being done. The provisions relating to the elimination of social promotion are a double-edged sword. There are so many exceptions to the social promotion policy stated in the bill we wonder whether or not the policy will have the desired effect. PENC is also concerned that repeated retentions will exacerbate the dropout dilemma because research indicates a child who is held back has a greater likelihood he or she will eventually drop out of school. A child who is held back more than once has a 90 percent likelihood of dropping out of school. We are aware that in the past, summer programs were offered for students who struggled in reading, and that these programs were largely successful. We would certainly support offering such programs again, although we worry about the implementation with the lack of appropriate resources. We are concerned that the focus in this proposal is on remediation. We would encourage you to look at offering K-3 teachers extra support that can ultimately minimize the need for remediation. Offering full-time, highly qualified, trained and certified reading specialists who would be based at one school meeting daily with groups of children is one suggestion. We also suggest investigating DPI's literacy initiatives to explore the benefits of their strategic plan, rather than pushing forward with a new multi-faceted initiative in the short session.

Part II. STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME – PENC believes this is a very generous proposal. However, we have many questions about how this will be implemented to be an effective strategy for improving literacy. In what way will the volunteers be serving in the literacy program? If they will be teaching reading, will we provide these volunteers with training? Who will pay for a background check? Will a school be required to accept these volunteers? Some principals do not want volunteers working directly with students. Will administrators have the option to decide how to use these volunteers? Will this provision be applicable to teachers? If so, will they have to have a substitute during the time they are volunteering? If teachers will need a substitute, will they have to pay the substitute deduction?

Part III. SCHOOL PERFORMANCE GRADES – PENC believes the intent behind this provision is good. However, we had concerns about schools that would be labeled as "D" or "F". Will these schools be shamed and demoralized because of their label? Will "A" schools rest on their laurels? We already have labels for schools, and it seems unnecessary to create another level of labels, since you must work backwards to find out what they truly mean anyways.

Part IV. MAXIMIZE INSTRUCTIONAL TIME – PENC has no objections to this provision.

Part V. ADJUSTMENTS TO SCHOOL CALENDAR START AND END DATES – PENC is pleased to see that three protected teacher workdays are being restored. We opposed the elimination of those days in 2011 and would support the proposal, which would restore three of the five of those days. PENC has long advocated for returning control of the school calendar to local school districts. The PCS offers a less desirable option than the original bill and we would encourage you to reconsider reverting back to a proposed start date of "2nd to last Monday in August" and an end date of "2nd Friday in June". While the original bill did not return full control of the school calendar to local districts, it did set a calendar that is more manageable and workable for schools.

Part VI. FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR – PENC supports the provision's recognition of the costs associated with the policy adopted in 2011.

Part VII. ESTABLISH NORTH CAROLINA TEACHER CORPS – PENC believes that the program upon which this proposal is modeled, Teach for America, does a good job. Rather than create a new North Carolina based program, perhaps revisiting the Teaching Fellows program, which already has an infrastructure and track record here, would be a better use of resources.

Part VIII. STRENGTHEN TEACHER LICENSURE – PENC applauds the effort to ensure that teachers are better prepared to address students' reading, language arts and math skills. We do wonder who will be required to pay for these exams, and we hope that those already licensed to serve as K-6 teachers will be grandfathered in. In regards to the proposed continuing education credit requirement being raised from one to three in literacy for elementary and middle school teachers, we wonder if this is excessive for teachers in the area of PE, Art, Music, and the like. Those teachers are already required to obtain one literacy credit, and are likely to be paying out of pocket for some of their credits. We should be mindful of the fiscal impact these requirements will have on educators.

Part IX. PROOF OF STATE-FUNDED LIABILITY INSURANCE – PENC opposed the provision directing the state to provide this insurance to teachers in 2011. PENC believes the $3.7 million appropriated in 2011 for this purpose would be better spent in any number of ways, including professional development activities, funding mentors, or putting those funds toward compensation increases. PENC believes the state's provision of this insurance is a conflict of interest, particularly for those teachers who require legal assistance in discharge situations. Perhaps the state should address equal access for educational organizations already thriving and serving educators in North Carolina.

Part X. PAY FOR EXCELLENCE – PENC believes lawmakers would do best to focus present efforts on increasing compensation for teachers and all state employees, who have gone four years with no increase, not even for cost of living. The net effect of this is that 5th year teachers are earning the same wage as first-year teachers. PENC believes that performance or merit pay are issues that should be discussed and considered during the 2013 session and not required to be addressed by LEAs as they saw fit in 2012.

Part XI. CLARIFY NC PRE-K PROGRAM ELIGIBILITY – PENC has no position on this provision.

Part XII. REPEAL PROHIBITION ON TEACHER PREPAYMENT – PENC is in full support of this provision.

Part XIII. TAX DEDUCTION FOR EDUCATIONAL SUPPLIES – PENC supports this proposal. In fact, PENC raised this as a suggestion with Senate staff some time ago. In austere times, teachers are routinely spending money from their own pockets for classroom supplies. Offering the ability to deduct at least some of those expenses is an acknowledgment of teachers' sacrifices. Thank you for including the provision here.

Part XIV. TEACHER CONTRACTS – PENC opposes the elimination of tenure for teachers. PENC believes the reason that ending tenure has been raised is due to the perception that bad teachers cannot be discharged from their duties. PENC does not agree with that perception. In fact, **S 466, Modify Teacher Career Status,** which passed last year, addressed many of the obstacles in discharging poor performing teachers. Coupled with the new teacher evaluations, PENC believes that administrators have the tools they need to ensure that high quality teachers are in the classroom. PENC recommends allowing those tools to work and evaluating their efficacy in a year or two, after they've had time to go into effect. While the PCS does allow for multi-year contracts, LEAs would still have the ability to utilize year to year contracts, if they so desired. Furthermore, PENC believes that the elimination of tenure as proposed her would beg a Bailey-type lawsuit. Legal counsel for PENC believes that elimination of tenure for teachers who have it would be taking away a property right from those tenured teachers.

Part XV. ELIMINATION OF PUBLIC FINANCING FOR SUPERINTENDENT OF PUBLIC INSTRUCTION – PENC has no position on this provision.

HOUSE BILL 503:
Nutrition Stds./All Foods Sold at School

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 29, 2012
Introduced by:	Reps. Insko, LaRoque	**Prepared by:**	Patsy Pierce Legislative Analyst
Analysis of:	PCS to Third Edition H503-CSTL-24		

SUMMARY: ***The third edition of House Bill 503 would direct the State Board of Education to adopt rules related to nutritional standards for competitive food and beverages sold to students before or during lunch and in school stores. Charter schools participating in the National School Lunch Program would implement the same standards. The rules would be revised to remain current and to meet federal law and regulations.***

The Senate Proposed Committee Substitute (PCS) deletes the sections related to nutritional standards for competitive foods. The PCS would allow parents to provide food and beverages for their child in a childcare setting that may not meet nutrition standards and to opt out of supplemental food programs. Parentally supplied food and beverages could not be evaluated as an indicator of child care environmental quality. Relevant sections of S.L. 2011-147 (Budget) would be revised to clarify income eligibility for the NC Pre-K program and repeal the parent co-payment requirement.

CURRENT LAW: G.S. 115C-264.2 allows schools to sell snacks and beverages with certain restrictions including prohibiting the sale of soft drinks during breakfast and lunch and in elementary schools. Snack vending is also prohibited in elementary schools, and the caloric content of snack vending is limited in middle and high schools.

BILL ANALYSIS: The Proposed Committee Substitute (PCS) deletes the language from the third edition of H503 related to nutrition standards for competitive foods sold to students in traditional public schools and in charter schools. Current nutrition standards for competitive food and beverages would remain in effect.

The PCS includes the following sections:

Section 1.

CURRENT LAW: G.S. 110-91(2) directs the NC Child Care Commission to adopt nutrition rules and standards for child care facilities while considering limiting servings of sweetened beverages, juice, whole or flavored milk, and creating exceptions from the rules for parents of children with special diets and who want to provide foods that may not meet nutrition standards.

BILL ANALYSIS: Amends G.S. 110-91(2) to require the Child Care Commission to adopt rules to allow parents or guardians of children in child care facilities to provide food and beverages that may not meet nutrition standards and to opt out of any supplemental food programs. Child care facilities would be prohibited from providing foods or beverages to children whose parent or guardian is providing food and beverages for their child. Agencies would be prohibited from including food or beverages provided by a parent or guardian as a component of environmental quality ratings.

Sections 2-3.

CURRENT LAW: Section 10.7(f) of S.L. 2011-145 (Budget) states that the NC prekindergarten program (NC Pre-K) may continue to serve at-risk children identified through existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The

Division of Child Development is directed to serve a-risk children regardless of income. However, the total number of at-risk children can constitute no more than twenty percent (20%) of the four-year olds served within the NC Pre-K program. Section 10.7(h) requires parent co-payments for the NC Pre-K program which are the same as those required of parents receiving regular child care subsidy.

BILL ANALYSIS: Clarifies the relevant section of S.L. 2011-145 (Budget) regarding NC Pre-K eligibility standards and removes the parent co-pay requirement for the NC Pre-K program.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The federal Healthy Hunger-Free Kids Act of 2010 includes a provision that nutritional standards for competitive foods sold on school campuses will be published in 2012.

NC Child Care Commission rules slated for implementation in July, 2012 include an exception for parents to provide food that "may reflect cultural and ethnic preferences such as a vegetarian diet."

H503-SMTL-59(CSTL-24) v4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S 1

SENATE BILL 805

Short Title:	Isothermal Comunity College Fed Loan Program.	(Local)
Sponsors:	Senator Westmoreland.	
Referred to:	Education/Higher Education.	

May 17, 2012

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ISOTHERMAL COMMUNITY COLLEGE MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1(e) reads as rewritten:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program.

This subsection applies only to Alamance Community College, Beaufort County Community College, Brunswick Community College, Caldwell Community College and Technical Institute, Central Carolina Community College, Central Piedmont Community College, Cleveland Community College, Gaston College, Isothermal Community College, James Sprunt Community College, Lenoir Community College, Martin Community College, Mitchell Community College, Montgomery Community College, Pamlico Community College, Randolph Community College, Richmond Community College, Robeson Community College, Rockingham Community College, Rowan-Cabarrus Community College, Sandhills Community College, and Stanly Community College, Surry Community College, and Sampson Community College, South Piedmont Community College, and Vance-Granville Community College, Wilkes Community College."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 805
PROPOSED COMMITTEE SUBSTITUTE S805-PCS65126-RJ-38

Short Title: Isothermal Comm College Fed Loan Program. (Local)

Sponsors:

Referred to:

May 17, 2012

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ISOTHERMAL COMMUNITY COLLEGE MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1(e) reads as rewritten:

"(e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection (d) of this section, the board of trustees of a college may adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any college that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program.

This subsection applies only to Alamance Community College, Beaufort County Community College, Brunswick Community College, Caldwell Community College and Technical Institute, Central Carolina Community College, Central Piedmont Community College, Cleveland Community College, Gaston College, Isothermal Community College, James Sprunt Community College, Lenoir Community College, Martin Community College, Mitchell Community College, Montgomery Community College, Pamlico Community College, Randolph Community College, Richmond Community College, Robeson Community College, Rockingham Community College, Rowan-Cabarrus Community College, Sandhills Community College, ~~and~~Stanly Community College, Surry Community College, ~~and~~Sampson Community College, South Piedmont Community College, ~~and~~Vance-Granville Community College, and Wilkes Community College."

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

SENATE BILL 805:
Isothermal Comunity College Fed Loan Program

2011-2012 General Assembly

Committee:	Senate Education/Higher Education	**Date:**	May 28, 2012
Introduced by:	Sen. Westmoreland	**Prepared by:**	Sara Kamprath
Analysis of:	PCS to First Edition S805-CSRJ-38		Legislative Analyst

SUMMARY: ***Senate Bill 805 is a local bill that would allow the board of trustees at Isothermal Community College to adopt a resolution to opt out of participating in the William D. Ford Federal Direct Loan Program.***

The PCS would make technical changes by deleting the word "and" three times on page 1, lines 21-22, and by adding the word "and" before the phrase "Wilkes Community College" on page 1, line 23.

CURRENT LAW: G.S. 115D-40.1(e) allows 26 community colleges to opt out of participating in the William D. Ford Federal Direct Loan Program (Loan Program) if the board of trustees of the community college adopts a resolution declining to participate in the Loan Program. The board of trustees of any community college that has declined to participate in the Loan Program has a single opportunity to rescind the resolution and participate in the Loan Program. The board of trustees shall not have the authority to again decline to participate in the Loan Program.

BILL ANALYSIS: The PCS for Senate Bill 805 would make Isothermal Community College the 27th community college allowed to opt out of participating in the Loan Program as provided in G.S. 115D-40.1(e) and would also make technical changes.

EFFECTIVE DATE: The bill is effective when it becomes law.

BACKGROUND: The William D. Ford Federal Direct Loan Program provides low-interest loans to help pay for the cost of a student's education after high school. The lender is the U.S. Department of Education and the loans can be used for authorized educational expenses, including tuition, room and board, books, dependent child care expenses, and transportation expenses.

The General Assembly enacted legislation during the 2010 Session that required all community colleges to participate in the Loan Program by July 1, 2011. On April 5, 2011, the General Assembly enacted House Bill 7, a public bill, which allowed the board of trustees of a community college to adopt a resolution to opt of participating in the Loan Program. A community college had one chance to rescind the resolution and begin participating in the Loan Program. Governor Perdue vetoed House Bill 7 on April 13, 2011. Following the Governor's veto of House Bill 7, the General Assembly enacted four local bills that allowed the current 26 community colleges the authority to opt out of the Loan Program.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

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(Committee Name)

Tuesday, May 29, 2012
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Senate Education/Higher Education
(Committee Name)

Tuesday, May 29, 2012
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Tuesday, May 29, 2012
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