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## Elementary and Secondary Education

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In 2002 the biggest changes in education policy came from the federal government, not from traditional state policymakers. The new federal No Child Left Behind Act<sup>1</sup> had state education officials, local policymakers, and educators scrambling to address the act's many mandates. Across the nation, education leaders were enmeshed in the first steps of implementing the act. At the same time, North Carolina state and local officials were waiting for state courts to fully resolve a myriad of issues related to providing a "sound basic education" to all students.<sup>2</sup> With these issues swirling around, it may have been a relief to educators that 2002 was a year in which the General Assembly made few substantive changes to the state's school statutes. Instead, its most significant actions were in protecting elementary and secondary schools from deep budget cuts and appropriating new funds for ABCs Program bonuses, assistance teams for low-performing schools, and class-size reduction for first grades.

### **Financial Issues**

#### **Reduction of County Appropriations**

Annually, each county board of commissioners adopts a budget appropriating funds to all the local school administrative units in its jurisdiction. Under G.S. 159-13(9), a county may not

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1. For more information on the Act of Jan. 8, 2002, Pub. L. No. 107-110, 115 Stat. 1425, *see* [www.nclb.gov](http://www.nclb.gov) maintained by the U.S. Department of Education, with links to the legislation and regulations, and [www.ncpublicschools.org/esea](http://www.ncpublicschools.org/esea), which has information about implementation of the act in North Carolina (last visited November 1, 2002).

2. *Leandro v. State of North Carolina*, 346 N.C. 336, 468 S.E.2d 543 (1997). For the North Carolina Supreme Court and the subsequent *Hoke County v. State of North Carolina* trial court rulings, *see* [www.ncforum.org](http://www.ncforum.org) and click on school finance decisions (last visited Nov. 1, 2002).

reduce its appropriations to a school unit after the county budget ordinance is adopted unless (1) the local board of education agrees to the reduction or (2) a general reduction in county expenditures is required because of “prevailing economic conditions.” In 2001–2002, school appropriations were cut in several counties because of economic conditions.

Section 6.7(a) of S.L. 2002-126 (S 1115), which amends G.S. 159-13(9), does not limit a county’s authority to cut school appropriations, but it does add procedural requirements that must be satisfied before funds are reduced. The county board of commissioners must hold a public meeting at which the school board has an opportunity to present information about the reduction’s impact. In addition, the commissioners must vote publicly on the decision to reduce appropriations to a school unit.

### **Payments to Charter Schools**

A charter school is a public school that operates under a charter from the State Board of Education (State Board) and that is free from many of the requirements imposed on traditional public schools. G.S. 115C-238.29H(b) provides that the local school administrative unit of a child attending a charter school must transfer to the charter school an amount equal to that unit’s per pupil local current expense appropriation for the fiscal year. Between 1997 and 1999, a charter school in Asheville received equal per pupil shares of Buncombe County’s annual appropriation to the school board’s local current expense fund but did not receive per pupil shares of revenues collected from the supplemental school tax or from fines or forfeitures. The charter school sued the Asheville Board of Education, claiming that the school was entitled to an equal per pupil share of those revenues.

The superior court ordered the school board to include the funds from supplemental taxes, penalties, fines, and forfeitures in the calculation of per pupil local current expense appropriation. It also ordered the board to pay the charter school the difference between the per pupil local current expense appropriation actually transferred by the board and the amount that would have been transferred had all revenue sources been included in the payments for the 1997–1999 school years. The North Carolina Court of Appeals court affirmed the trial court’s decision and ruled that these revenues are indeed part of the “per pupil local current expense appropriation.”<sup>3</sup>

Perhaps in recognition of the hardship that a full immediate payment of these funds would place on the school board, Section 91.1 of S.L. 2002-159 (S 1217) provides that nothing in the General Statutes or in any local act entitles any charter school to recover, prior to July 1, 2003, any retroactive funds from penalties, fines, forfeitures, or supplemental school taxes. Presumably this provision merely postpones payment to the charter school until fiscal year 2003–2004, unless the North Carolina Supreme Court reverses the ruling.

### **Payment for Students in Group Homes**

When a child with special needs is placed in or assigned to a group home, foster home, or other similar facility pursuant to state and federal law, G.S. 115C-140.1 provides that the cost of providing a free appropriate public education is the responsibility of the local board of education in which the facility is located. S.L. 2002-164 (S 163) amends this statute as it applies to children who are in a facility located in a school administrative unit other than the unit in which they are domiciled. Under the amendment, the local school administrative unit in which a child is domiciled must transfer to the local school unit in which the facility is located the portion of the actual local cost of educating that child for the fiscal year that is not covered by state and federal funding. The State Board must provide a local school unit an opportunity to request funds from the Group Homes Program for Children with Disabilities if a child assigned to that unit was not in the unit’s April headcount of exceptional children for the preceding school year. This opportunity

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3. Francine Delany New School For Children, Inc. v. Asheville City Board of Education, 150 N.C. App. 338, 563 S.E.2d 92 (2002).

must be available even if the local school unit received Group Homes Program funds for that child for a portion of the preceding school year.

## **Appropriations**

The revised budget for fiscal year 2002–2003, S.L. 2002-126, appropriates \$5.89 billion to the Department of Public Instruction (DPI). This amount includes new appropriations of \$101 million for ABCs Program bonuses and \$26 million for reductions in class size as well as administrative costs and the continuation budget.

## **Department of Public Instruction Reorganization**

Section 7.13 of S.L. 2002-126 directs the Office of State Budget and Management to issue a Request for Proposals to analyze the structure and operation of the DPI. The analysis is to identify potential efficiencies and savings in DPI's operations. The State Board may reorganize the department, create a new associate superintendent position, and transfer funds within the DPI budget to implement the reorganization.

## **Local Education Agency Flexibility**

Because of budget problems, General Fund appropriations for school units were reduced. Under Section 7.26 of S.L. 2002-126, the State Board is responsible for determining the amount of the reduction for each school unit on the basis of average daily membership. Subsequently, each school unit must identify specific cuts and report its choices to the DPI. The General Assembly urged local school administrators to make every effort to protect funds that directly impact classroom services or services for students at risk or children with special needs. A school board that makes cuts in these services must submit a statement of the anticipated impact of the reductions to the DPI.

## **Student Issues**

### **Dropout Rate**

The dropout rate in North Carolina is a serious problem and an ongoing concern of legislators, educators, parents, and others. S.L. 2002-178 (S 1275) is designed to produce better data on the dropout rate as well as better information on issues related to it. The act

- amends G.S. 115C-12 to direct the State Board to develop a statewide plan to improve the state's tracking of dropout data;
- requires the State Board to change the accountability system for high schools created under the School-Based Management and Accountability Program so as to reward high schools that reduce dropout rates and improve graduation rates;
- requires the State Board, in cooperation with the State Board of Community Colleges, to identify technical high schools and career centers and make recommendations to strengthen concurrent enrollment opportunities with community colleges;
- requires the State Board to study the relationship between academic rigor and reduction of the dropout rate;
- requires the State Board to adopt a policy that requires kindergarten-through-eighth-grade teachers to take three renewal credits in reading methods courses during each five-year license renewal cycle;
- amends G.S. 115C-47 to encourage local boards of education to adopt policies that require superintendents to assign to core academic courses in grades seven through nine

teachers with at least four years of teaching experience who have received, within the last three years, an overall rating of at least above standard on a formal evaluation; and

- requires the Joint Legislative Education Oversight Committee to study whether raising the compulsory attendance age will reduce the dropout rate and increase the high school graduation rate.

### **Individual Diabetes Care Plans**

Children with diabetes may need special attention and assistance at school. S.L. 2002-103 (S 911), as amended by section 63 of S.L. 2002-159 (S 1217), adds G.S. 115C-12(31), which requires the State Board to adopt guidelines for the development and implementation of individual diabetes care plans. The guidelines must include

- procedures for developing an individual care plan when requested by a student's parent or guardian;
- procedures for regular review of the plan;
- information on the required components of a diabetes care plan, including staff responsibilities and staff development, an emergency care plan, and the extent to which a student is able to participate in his or her diabetes care and management; and
- information and staff development that must be available to school personnel.

The information in the individual care plans must meet or exceed the American Diabetes Association's recommendations for the management of children with diabetes in the school and day care settings. (For further information about these recommendations, *see* [www.diabetes.org](http://www.diabetes.org) [checked November 2, 2002]).

The State Board is responsible for updating these guidelines and disseminating them to local school units. G.S. 115C-47(42) requires local boards of education to begin implementing the guidelines in the 2003–2004 school year.

## **State Board of Education**

### **State Board Takeover**

Under the School-Based Management and Accountability Program, the State Board annually sets performance standards for each school. The State Board then categorizes schools according to their performance relative to the standard. One such category is *low-performing schools*, which G.S. 115C-105.37 defines as schools that fail to meet the minimum growth standards defined by the State Board and in which a majority of students are performing below grade level. G.S. 115C-105.38 authorizes the State Board to assign an assistance team to any low-performing school or to any other school that requests a team and that the State Board determines would benefit from such a team.

S.L. 2002-178 amends G.S. 115C-105.38 to require an assistance team to report to the State Board if a school and its local board of education are not responsive to the team's recommendations. The local board then must have an opportunity to respond to the team's report. If the State Board confirms that the school and the local board have failed to take appropriate steps to improve student performance, the State Board must assume all powers and duties previously conferred on the school board and school; the State Board shall have general control and supervision of all matters pertaining to that school until student performance at the school meets or exceeds the standards set for it. This strict requirement is softened by a provision allowing the State Board to delegate back to that local board or school any powers and duties it considers appropriate, even before the school board or school meets or exceeds those standards.

## **Curriculum Review**

The core academic areas in the curriculum are reading, writing, mathematics, science, history, geography, and civics. Under former law, the State Board was required every five years to develop and implement an ongoing process to align state programs and support materials with revised academic content standards for each core academic area. Section 7.15 of S.L. 2002-126 amends G.S. 115C-12(9a) to require this alignment “on a regular basis.”

## **Testing**

### **Notification of Field Testing**

Before new statewide tests are administered, they are field-tested in selected schools. Section 7.30 of S.L. 2002-126 amends G.S. 115C-174.12 to require the State Board to establish policies and guidelines to minimize the frequency of field testing at any individual school. These policies must reflect standard testing practices to ensure reliability and validity of the sample testing. The results of the field tests must be used in the final design of each test. The State Board’s policies must require the Superintendent of Public Instruction to notify local boards by October 1 of (1) any field tests that will be administered at their schools during the year, (2) the schools at which the tests will be administered, and (3) the specific tests that will be administered at each school.

### **High School Exit Examination**

The federal No Child Left Behind Act requires that all public schools students be tested at the elementary and secondary levels. The high school exit examination the State Board has been working on pursuant to Section 8.27(f) of S.L. 1997-443 may not meet the federal requirements. Section 7.21 of S.L. 2002-126 directs the State Board to review the federal requirements before completing development of the exit examination. The State Board must consider whether revisions to the state’s testing program and to the School-Based Management and Accountability Program are necessary to comply with federal law.

### **Fairness in Testing**

Section 7.17 of S.L. 2002-126 requires the previously authorized study of fairness in testing to consider the extent to which the state tests assist schools to comply with the federal No Child Left Behind Act, the ABCs Program model, and the *Leandro* rulings.

### **Sample Test to Validate K–2 Assessment**

Although students take many standardized tests during their school years, educators are often reluctant to test very young students. However, some testing of students in the lower grades is required for the state to receive federal funds as part of the Reading First Grant. Section 7.44 of S.L. 2002-126 allows the DPI to administer a standardized reading test in a one-time, one-year-only pilot study of the comparative predictive validity of the reading assessment instrument used in kindergarten through second-grade classes. The measure may be administered to a maximum of 5 percent of students in the eligible public schools, including charter schools. Results may not be used to evaluate, promote, or retain any student.

## **Improving Student Performance**

### **Intervention Strategies for Continually Low-Performing Schools**

In 2001 the General Assembly authorized special measures designed to improve student performance at schools that are continually identified as low-performing under the ABCs Program. Section 7.32 of S.L. 2002-126 amends Section 29.5 of S.L. 2001-424 to authorize the State Board to implement intervention strategies for such schools during the 2002–2003 school year. These strategies include decreasing class sizes and extending teachers' contracts for five additional staff development and five additional instructional days.

### **High-Priority School Program Waiver**

The measures enacted by the General Assembly to help “high-priority” schools may be difficult for some school systems to implement. Section 7.28 of S.L. 2002-126 amends Section 29.6(c) of S.L. 2001-424 to allow a local board of education to request a waiver for any high-priority school within the administrative unit that the board determines will be unable to implement the required class-size limitation and other initiatives for the 2002–2003 school year. The Superintendent of Public Instruction may grant the waiver if (1) the Superintendent finds that the school is making efforts comparable to those required for high-priority schools and (2) the students' educational progress is satisfactory.

### **First-Grade Class Size**

Section 7.25 of S.L. 2002-126 sets the class-size allotment for first grade for the 2002–2003 school year at one teacher for every eighteen students. The average class size for first grade in a school administrative unit may not exceed twenty-one students, and the maximum class size for any individual class is twenty-four students.

### **Business and Education Technology Alliance**

Section 7.27 of S.L. 2002-126 creates the State Board of Education's Business and Education Technology Alliance. This twenty-seven-member alliance is designed to ensure that the effective use of technology is built into the public school system in order to prepare “a globally competitive workforce and citizenry for the 21st century.” Among other responsibilities, the alliance must advise the State Board on development of

- a vision of the technologically literate citizen in 2005;
- a technology infrastructure, delivery, and support system that provides equity and access to all segments of the population in North Carolina;
- professional development programs for teachers to successfully implement and use technology in teaching all public school students; and
- a funding and accountability system to ensure statewide access and equity.

Federal and private funds, but not state funds, may be used to support the alliance.

## **Studies**

### **Vocational Education Tests**

Section 7.33 of S.L. 2002-126 authorizes the Joint Legislative Education Oversight Committee to study the extent to which the results of standardized tests are used in grading students in vocational education classes. The committee may also examine whether appropriate grading weight is assigned to the assessment of actual skill performance and knowledge.

## **Instructional Supplies**

Section 7.9(b) of S.L. 2002-126 directs the Joint Legislative Education Oversight Committee to study the viability of the state contracting with on-line school supply vendors to allow teachers free access to a specific amount of school supplies, textbooks, tests, and other classroom-related materials. The committee is to determine whether establishing an on-line credit account for each teacher is a cost-effective and efficient way to meet teachers' supply needs.

## **Accountability of School Administrative Units**

S.L. 2002-178 (S 1275) requires the Joint Legislative Education Oversight Committee to study the fiscal and instructional accountability of local school administrative units. The committee must

- evaluate the fiscal management and instructional leadership provided by local school units;
- analyze whether school units are utilizing their funding and resources in a proper, strategic manner with regard to at-risk children;
- evaluate the state fiscal controls available to ensure that local allocation of funding and resources is cost-effective and appropriately focused on enhancing educational leadership, teaching the standard course of study, and improving student learning;
- analyze state and local procedures for identifying superintendents, principals, and teachers who need additional training or assistance in order to implement a strategic and cost-effective instructional program that meets the needs of all children so that they obtain a sound basic education;
- identify current and possible actions the state may take to correct ineffective instructional leadership or teaching in a school or school system; and
- ensure that the state has available to it fair and efficient procedures for removing ineffective superintendents, principals, or teachers and replacing them with competent ones.

## **Local Board Flexibility**

Section 8.3 of S.L. 2002-180 (S 98) authorizes the Joint Legislative Education Oversight Committee to study local flexibility for school systems. The study is to consider whether local boards have the fiscal and administrative flexibility they need to operate the public schools efficiently and effectively.

## **Charter School Bus Accidents**

Claims against traditional public school employees for accidents involving school buses or school transportation service vehicles are heard and defended under the Tort Claims Act, Article 31 of G.S. Chapter 143. S.L. 2002-180 authorizes the Legislative Research Commission to study whether the Tort Claims Act should also cover charter school bus accidents.

## **Miscellaneous**

### **The Address Confidentiality Program**

S.L. 2002-171 (H 1402) establishes the Address Confidentiality Program, G.S. Chapter 15C, in the Office of the Attorney General to protect a relocated victim of domestic violence, sexual offense, or stalking by preventing the victim's assailants or potential assailants from finding the victim's address through public records. Under the program, if the Attorney General receives a proper application from an adult or a parent or guardian acting on behalf of a minor who resides

with the applicant, that person becomes a program participant. The Attorney General then designates a substitute address for the participant and also acts as his or her agent for purposes of service of process and receiving and forwarding first-class mail or certified or registered mail. (For detailed discussions of the program, *see* Chapter 5, “Courts and Civil Procedure,” and Chapter 6, “Criminal Law and Procedure.”)

A local school board or other public agency that receives a current and valid Address Confidentiality Program authorization card must use the substitute address as the adult or child’s address when creating a new public record and for purposes of student records created under G.S. Chapter 115C. An amendment to G.S. 115C-402 provides that the actual address and telephone number of a student who is a participant in the program or a student with a parent who is a participant must be kept confidential from the public and may be disclosed only as provided in the Address Confidentiality Program. However, for any purpose related to a student’s school admission or assignment, G.S. 15C-8(i) requires a local school unit to use the program participant’s actual address, not the substitute address. A corresponding amendment to G.S. 115C-366 provides that the substitute address shall not be used for admission or assignment purposes.

### **Persons with Disabilities Protection Act**

In addition to federal laws protecting persons with disabilities and the provisions in G.S. Chapter 115C relating to children with special needs, school boards must comply with the Persons with Disabilities Act, G.S. Chapter 168A. S.L. 2002-163 (S 866) amends G.S. 168A-3 to define “undue hardship” as a significant difficulty or expense and list factors to be considered in determining whether a particular accommodation for a person with a disability is an undue hardship. New G.S. 168A-10.1 requires the North Carolina Office on the Americans with Disabilities Act to adopt rules for dispute resolution procedures to use when requests for accommodations are denied.

### **North Carolina Council on the Holocaust**

Section 10.10D of S.L. 2002-126 transfers the North Carolina Council on the Holocaust from the Department of Health and Human Services to the DPI. The council is responsible for developing a program of education and observance of the Holocaust.

## **Purchasing and Contracting**

### **Alternative Bidding Methods**

S.L. 2002-107 (H 1170) authorizes use of the reverse auction bidding method for purchase contracts and authorizes public agencies to receive formal bids electronically for most types of purchase contracts. These changes are codified in G.S. 143-129.9. (For a more detailed description of S.L. 2002-107, *see* Chapter 20, “Purchasing and Contracting.”)

### **Competitive Items in Construction Specifications**

S.L. 2002-107 (S 1170), as amended by Section 64(c) of S.L. 2002-159 (S 1217), revises the law governing the use of competitive specifications for materials used in public construction contracts. G.S. 133-3 now authorizes the use of one or more preferred brands as an alternate to the base bid “in limited circumstances.” (For a more detailed description of these changes, *see* Chapter 20, “Purchasing and Contracting.”)

## **Criminal Laws Affecting Schools**

### **Defrauding Drug and Alcohol Tests**

All school boards require drug-testing of students and employees under certain circumstances. School officials may require a student or employee to have a drug test when they have reasonable suspicion that the student or employee is using drugs. In addition, employees in certain safety-sensitive positions may be tested on a random basis, and the U.S. Supreme Court recently ruled that public schools may conduct random drug tests of students participating in athletics and other extracurricular activities.<sup>4</sup> Some school boards require job applicants to undergo drug-testing. S.L. 2002-183 (S 910) adds new G.S. 14-401.20 to make it unlawful for a person to defraud a drug or alcohol screening test. A first offense is a Class 1 misdemeanor, and any subsequent offense is a Class I felony. (For a more detailed description of S.L. 2002-183, *see* Chapter 6, “Criminal Law and Procedure.”)

### **Computer Access and Damage**

S.L. 2002-157 (H 1501) amends Article 60 of G.S. Chapter 14. New G.S. 14-454.1 provides that any person who willfully and without authorization directly or indirectly accesses or causes to be accessed any educational testing material or academic or vocational testing scores or grades in a government computer is guilty of a Class 1 misdemeanor. G.S. 14-455(a1) makes it a Class F felony for a person to willfully and without authorization alter, damage, or destroy a government computer. (For a more detailed discussion of S.L. 2002-157, *see* Chapter 6, “Criminal Law and Procedure.”)

## **Failed Bills**

### **Revenue**

Several bills that would have increased revenue devoted to public schools did not pass. They include S 1507, which would have increased cigarette taxes for the benefit of public education at all levels, and S 1531, which would have increased taxes on cigarettes, with the proceeds to be used for teacher salaries, class-size reductions, and the More at Four pilot program for at-risk four-year-olds. S 1466 would have raised the tax on soft drinks, with the proceeds going to the State Board and used to provide breakfast without charge to all kindergarten and first-grade students. In addition, H 1676, S 93, and S 2, which would have created a referendum on a state lottery for education, all failed. S 1463, the Public School Bond Act authorizing a vote on the state’s authority to issue \$6.2 billion in general obligation bonds for public school facilities, failed as well.

### **Disaggregating Student Performance Data**

S 1387 would have required schools to disaggregate student performance data by racial and ethnic subgroups and by sex. To meet its annual performance standard (and for employees to receive ABCs Program bonuses), a school would have had to meet its performance standard for all students and for each subgroup of students. Although this bill failed, the No Child Left Behind Act requires individual schools to disaggregate data on the basis of economic background, race and ethnicity, English proficiency, and disability and to demonstrate appropriate progress for each subgroup as well as for the student body as a whole.

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4. Board of Educ. of Indep. School Dist. No 92 v. Earls, 122 S. Ct. 2559 (2002).

## **School Employment: Pay**

### **Salaries**

S.L. 2002-126 (S 1115) establishes the 2002–2003 salary scales for teachers and school-based administrators. The teachers' salary schedule ranges from \$25,250 for a ten-month year for new teachers holding an "A" certificate to \$55,910 for teachers with twenty-nine or more years of experience, an "M" certificate, and national certification. For school-based administrators (meaning principals and assistant principals), the ten-month pay ranges from \$32,226 for a beginning assistant principal to \$74,920 for a principal in the largest category of schools who has more than forty years of experience. Of course, many school-based administrators are employed not for ten but for eleven or twelve months and are paid proportionately higher salaries.

These schedules are identical to those in place for the 2001–2002 school year. Thus teachers and administrators paid on that salary schedule in both years receive a small salary increase in 2002–2003 by virtue of moving one step up in the schedule's experience ranks.

### **Deductions for Association Payments**

G.S. 143-3.3(g) permits employees of the state, community colleges, and school boards to authorize deductions from their pay to be paid to employee associations. S.L. 2002-126 amends that statute to specify that if the association in question has at least forty thousand members—the majority of whom are public school teachers—a public school employee may authorize the deduction to be designated for "dues and voluntary contributions," making it clear that the deduction need not be used solely for the payment of dues.

Provisions allowing members of public employee retirement systems to authorize deductions from their retirement benefits have been found in Article 1 of G.S. Chapter 135 (retirement system for teachers and state employees) and in Article 3 of G.S. Chapter 128 (retirement system for counties, cities, and towns). S.L. 2002-126 adds similar provisions to the legislative retirement system with new G.S. 120-4.32 and to the judicial retirement system with new G.S. 135-75.

### **Conversion of Excess Leave**

S.L. 2002-126 replaces G.S. 115C-302.1(c1) and (c2) with a new G.S. 115C-3-2.1(c3). The old statutes provided that a teacher who had more than thirty days of accumulated annual vacation leave on June 30 could elect to have some or all of the excess converted to sick leave (which may accumulate without limit) or to be paid for some or all of the excess. The new statute simply provides that the accumulated vacation leave will be converted to sick leave.

### **Salary Studies Reports**

The budget act passed in 2001 (S.L. 2001-424) directed the Joint Legislative Education Oversight Committee to study the salaries of food service workers and custodians, as well as salary differentials among instructional support personnel, and to report its findings and recommendations to the 2002 session. S.L. 2002-126 delays the reporting requirement to the 2003 session.

### **ABCs Incentives**

S.L. 2002-126 directs the State Board to provide incentive funding for schools that met or exceeded expected levels of improvement in student performance during the 2001–2002 school year in accordance with the ABCs of Public Education Program. The awards are set at the following levels: for schools exceeding expectations, up to \$1,500 for each teacher and other certified personnel and \$500 for each teacher assistant; for schools meeting expectations, \$750 and \$375, respectively.

## **Use of Mentor Pay Funds**

S.L. 2002-126 directs that state funds appropriated for mentor pay be used only to provide mentors for employees in state-funded positions who are either (1) newly certified teachers in their first two years of teaching or (2) entry-level instructional support personnel who have not previously been teachers and who are in their first year of employment as instructional support personnel.

## **School Employment: Licensure**

### **Suspension of Portfolio Requirement**

For several years, the State Board has required teachers in their early years of teaching to participate in an initial licensure program by which they move from the initial license through a series of steps to a continuing license. As part of that program, initially licensed teachers were required to assemble a set of materials related to their teaching, termed a “portfolio,” which was reviewed as part of their progress toward a continuing license. In Section 7.18 of S.L. 2002-126, the General Assembly directed the State Board to suspend the portfolio requirement for teachers who would otherwise have been required to submit one between August 1, 2002, and June 30, 2004.

### **Modifications to Licensure Process**

The same section directs the State Board to contract with an outside consultant to study and propose modifications to the current initial licensure, continuing licensure, and relicensure programs to ensure high standards, support for teachers, and high retention rates. Among other tasks, the consultant is specifically directed to examine the portfolios previously submitted and to identify the elements most troublesome to teachers, schools, and school systems.

The State Board is to use the study’s findings to make recommendations to improve the administration and implementation of the licensure programs and, among other things, to resolve the issues surrounding the portfolio process. In evaluating the study’s findings, the State Board is to enlist the assistance of the Southern Regional Education Board and to utilize the federal No Child Left Behind State Grants for Improving Teacher Quality, to the extent possible, to cover the costs of the consultant and the study.

After reviewing the study’s findings and the recommendations of the State Board, the Joint Legislative Education Oversight Committee is to make recommendations to the General Assembly about changes to laws or policies affecting licensure.

### **Alternative Entry for Nonlicensed Teachers**

In 1998, in recognition of the growing shortage of licensed teachers, the General Assembly enacted G.S. 115C-296.1, by which schools may hire as teachers individuals who have not received teacher education in a regular teacher preparation program and who have no teaching experience. By the terms of the 1998 statute, this “alternative entry” program for teachers was to expire on September 1, 2002. Section 7.24 of S.L. 2002-126 delays that expiration date to September 1, 2006.

### **School Nurse Licensure**

Section 7.41 of S.L. 2002-126 adds a new G.S. 115C-315(d1), providing that school nurses employed prior to July 1, 1998, are not required to be nationally certified to continue employment, and that those who are not so certified are to be paid according to the noncertified nurse salary range set by the State Board.

### **Reading Credits**

Section 5 of S.L. 2002-178 (S 1275) directs the State Board of Education to adopt a policy that requires kindergarten through eighth-grade teachers to take three renewal credits in reading methods courses during each five-year license renewal cycle. It also directs the University of North Carolina Board of Governors to study whether to require at least two reading methods courses for all elementary education majors and at least one for all middle-grades majors.

## **School Employment: Retired Teachers**

### **Evaluation of Returning Retired Teachers**

In recent years it has become increasingly common for retired teachers to return to active teaching under provisions that allow them to be paid as teachers while continuing to draw their retirement benefits. Teachers who do this are taking advantage of a special provision in G.S. 135-3(8)(c). That section generally allows retired members of the Teachers' and State Employees' Retirement System to return to employment and be paid while drawing their retirement benefits as long as they are not paid more than 50 percent of the amount they were earning at the time of retirement. The special provision waives the 50-percent limit for retired teachers who return to teaching.

G.S. 115C-325(a5) has provided that a retired teacher returning under this special provision does not have tenure as a teacher and cannot gain tenure but in other respects is to be treated as a probationary teacher. Section 7.38 of S.L. 2002-126 amends that statute to clarify that the performance of a returned retired teacher who has attained tenure before retirement is to be evaluated according to the policies the school system applies to its tenured teachers.

### **Licensure of Retired Teachers**

Section 7.39 of S.L. 2002-126 amends G.S. 115C-296(b) to provide that the license a teacher holds when he or she retires remains effective for five years after retirement.

## **School Employment: Conditions of Employment**

### **Job Sharing**

S.L. 2002-174 (S 1443) adds a new G.S. 115C-302.2, founded on the premise that "elimination of administrative and fiscal limitations on job-sharing arrangements would make teaching an attractive option for well-qualified classroom teachers who do not wish to work full time." To that end, the statute creates the new status of "classroom teacher in a job-sharing position," defined as a person who is employed for a half work-week, is paid on the teacher salary schedule, spends at least 70 percent of that half-time in the classroom, and shares the position with another person who meets all these criteria. The statute directs the State Board to develop rules under which such a person would receive paid holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. The statute also amends G.S. 135-1, 135-4(b), and 135-40.2 to provide that the "classroom teacher in a job-sharing position" will participate in the Teachers' and State Employees' Retirement System and the state health coverage on a pro rata basis. These changes will become effective January 1, 2003.

### **Personnel Records**

G.S. 115C-319 specifies that personnel records of school employees are confidential and not available for public inspection, except for certain specified elements. Section 7.36 of S.L. 2002-

126 (S 1115) amends the statute to specify that the provisions of the statute do not prevent local boards of education from disclosing the certification status and other information about employees as required by the federal No Child Left Behind legislation.

Also, the Address Confidentiality Program, discussed above and more fully in Chapters 5 and 6, removes from public inspection information that would otherwise be open in the personnel records of covered victims of domestic violence, sexual offense, or stalking.

### **Interpreters and Transliterators**

S.L. 2002-182 (H 1313), discussed in Chapter 10, “Health,” adds a new G.S. Chapter 90D, the Interpreter and Transliterator Licensure Act. The act also amends G.S. 115C-110, adding a provision that each interpreter or transliterator employed by a school system to provide services to hearing-impaired students must annually complete fifteen hours of job-related training that has been approved by the school system.

### **Foreign Exchange Teachers**

S.L. 2002-110 (H 1724) adds new provisions to G.S. 115C-325 clarifying the status of teachers from other countries who come to North Carolina to teach in programs under the auspices of the U.S. Department of State. Under the new provisions, such individuals are not eligible to acquire tenure but are eligible for personal leave, annual vacation leave, and sick leave if employed with the expectation of at least six full consecutive monthly pay periods for at least 20 hours a week. G.S. 135-1(25) is amended to clarify that these individuals are not participants in the Teachers’ and State Employees’ Retirement System.

### **Parental Leave**

S.L. 2002-159 (S 1217) adds a new G.S. 115C-336.1 specifying that a school employee may use annual leave or leave without pay to care for a newborn child or a newly adopted child or foster child. A school employee may also use up to thirty days of sick leave to care for an adopted child. The leave may be for consecutive workdays during the first 12 months after the birth or adoption, unless the employee and school board agree otherwise. There is a corresponding amendment to G.S. 115C-302.1(j).

### **Extra Vacation Days**

Section 28.3A of S.L. 2002-126 (S 1115), as subsequently amended by S.L. 2002-159 (S 1217), makes a one-time allocation of ten extra vacation days to employees of local boards of education. Employees who are employed on a twelve-month basis receive the full ten days. Employees who are employed on an eleven- or ten-month basis receive a prorated share. The extra days are to be accounted for separately and may be carried over indefinitely.

Teachers and principals who are paid on the relevant salary schedules do not get the ten extra vacation days, except those who, with twenty-nine or more years of service, are at the top of their salary schedule and therefore received no salary increase this year.

## **School Employment: Studies**

### **Job Sharing**

S.L. 2002-174 (S 1443) directs the Legislative Research Commission to study issues related to employee benefits for public school employees, community college employees, and state

employees in part-time and job-sharing positions and to study the need to facilitate job sharing. (See discussion above on the new public schools job-sharing law.)

### **Coordination of Central Office Duties between Systems**

S.L 2002-126 (S 1115), in Section 7.19, directs the State Board to study whether local school systems can effectively coordinate their central office operations and functions.

### **Duties of School Counselors**

Section 7.37 of S.L 2002-126 (S 1115) directs the Joint Legislative Education Oversight Committee to study the duties of school counselors and consider ways of providing them with adequate time to carry out a proper counseling program. The study is to determine, in particular, the amount of time counselors currently spend on test-coordination activities related to the ABCs Program.

### **Recruitment and Retention of Teachers**

Section 8.2 of S.L 2002-180 (S 98) authorizes the Joint Legislative Education Oversight Committee to study ways to improve the recruitment and retention of teachers, including weighting the salary schedule to increase first-year salaries, developing alternative licensure procedures, and other measures.

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