

# Changes Affecting Elementary and Secondary Education

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By Laurie L. Mesibov and Robert P. Joyce

The General Assembly enacted no major changes in public school law in 2007. It continued to show its concern with the high dropout rate and with students and schools not performing as well as expected under two accountability programs: the state's ABCs Program and the federal No Child Left Behind Act. New programs and supplemental funds were targeted to students, schools, and school units that need extra assistance or resources.

## Appropriations

Section 2.1 of the 2007 appropriations act [S.L. 2007-323 (H 1473)] appropriates \$7.714 billion for 2007–2008 and \$7.708 billion for 2008–2009 to the Department of Public Instruction (DPI). The act earmarks funds for familiar programs and groups such as ABCs bonuses, small and low-wealth school units, disadvantaged students, and programs to reduce the dropout rate and help students succeed in school.

## Enrollment and Attendance

### KINDERGARTEN ENTRY AGE

North Carolina has some of the youngest children in the country entering public kindergarten. Currently, a child who turns five on or before October 16 of the school year is automatically entitled to enroll. Based on the General Assembly's assumption that slightly older and more mature kindergartners will be more likely to succeed in school, S.L. 2007-173 (H 150) amends Section 115C-364 of the North Carolina General Statutes (hereinafter G.S.) by pushing that date back to August 31. To give families time to plan for this change, the new age limit will not go into effect

until the 2009–10 school year. Exceptions to the standard entry age for enrollment in G.S. 115C-364 remain the same, as do the age requirements for children with disabilities in Article 9 of G.S. Chapter 115C.

### STUDENTS WITH DISABILITIES

G.S. 115C-366 identifies students who are entitled to enroll in a school administrative unit without payment of tuition. Students may enroll in a school unit where they are "domiciled," that is, living with a parent or guardian in a home the adult considers his or her primary home and in which the adult intends to remain. Students who are no longer minors may establish their own domicile. Students who fit into to the domicile exceptions in G.S. 115C-366 or G.S. 115C-366.3—such as homeless students—are also entitled to enroll.

A different standard formerly applied to students with disabilities. A student with a disability was entitled to enroll without payment of tuition wherever the student (or parent or guardian) *resided*—that is, happened to live at the time of enrollment. This standard allowed students with disabilities to enroll under circumstances in which students without disabilities could not automatically do so. For example, a student with a disability who resided with an aunt in a North Carolina school unit has had the right to enroll without paying tuition, even though the student's parents were domiciled in South Carolina and were fully capable of caring for the child. A student without a disability in the same situation has not had that right.

S.L. 2007-292 (H 18) amends several sections of Article 9 of G.S. Chapter 115C, including G.S. 115C-106.3, to apply the same standard to all children. It defines "residence" or "reside" to mean the place where a child with a disability is entitled to be enrolled in a North Carolina public school under G.S. 115C-366—the domicile standard.

To avoid disrupting a disabled child's free appropriate public education, this new standard does not apply to children with disabilities who were (1) enrolled in a particular school administrative unit on the last day of the 2006–2007

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school year, or (2) were enrolled in and attending a school in a particular school unit on August 1, 2007, of the 2007–2008 school year. These students may enroll in that school administrative unit for as long as they live in the unit and are continuously enrolled.

#### **CHILDREN OF MILITARY PERSONNEL**

In response to the large military population in the state and the current overseas deployment of many military personnel, the General Assembly identified another group of children entitled to enroll in a local school unit without payment of tuition. S.L. 2007-283 (H 1357) amends G.S. 115C-366(a3) to allow a child to enroll in a school unit if he or she resides with an adult domiciled in the school unit because the child's parent or legal guardian is on active military duty and deployed out of the school unit in which the child resides. Evidence of the deployment must be provided to the school. This exception to the domicile requirement does not apply when the parent or guardian is participating in an active duty training period of less than thirty days.

#### **EXCUSED ABSENCES FOR PAGES**

Children subject to the compulsory attendance law are expected to attend school unless they are out for a reason identified by the State Board of Education (State Board) as an excused absence. S.L. 2007-186 (H 1464) amends G.S. 115C-379, which makes the State Board responsible for formulating rules and regulations to enforce the compulsory attendance laws. The State Board now must adopt rules providing for excused absences from school for any student who serves as a legislative page or a governor's page.

### **Efforts to Improve Student Success and Reduce Dropouts**

#### **SUSPENDED STUDENTS**

G.S. 115C-391 allows a principal or the principal's delegate to suspend a student for ten days or less for a willful violation of the school board's policy regulating student conduct. Students serving these short-term suspensions have long had the right to take any quarterly, semester, or grading period examinations missed during the suspension. S.L. 2007-466 (H 1739) amends G.S. 115C-391 to give students two additional rights to help them keep up with their schoolwork. Students now may take textbooks home and may inquire about homework assignments for the duration of the suspension. Before this change in the law, individual school units, schools, or teachers were free to offer students these same options. Now all students in North Carolina public schools have a statutory right to them. (Other provisions of S.L. 2007-466 are discussed below in the section on "School Board Responsibilities.")

#### **DROPOUT PREVENTION**

Section 7.32 of S.L. 2007-323 describes the state's dropout rate as "unacceptable" and notes that in 2005–2006 North Carolina's schools recorded 22,180 dropout events—a nearly 10 percent increase over 2004–2005 and the highest number since 1999–2000. Large school administrative units accounted for a disproportionate share of the increase, and black male students accounted for a disproportionate share of the overall increase. The General Assembly, recognizing that differing local needs and resources require development of locally generated responses to this situation, enacted new Section 7.32. Its provisions "focus attention and resources on innovative programs and initiatives that succeed in keeping students in school when other conflicting factors are pushing them to drop out before they are prepared to further their postsecondary education or enter the workforce."

Funds for dropout prevention grants will be available for local initiatives. A new fifteen-member Committee on Dropout Prevention will determine which school units, schools, agencies, and nonprofits will receive dropout prevention grants; the amount of each grant (maximum of \$150,000); and eligible uses of grant funds. Grants will be provided to innovative programs and initiatives that (1) target students at risk of dropping out; (2) demonstrate the potential to become effective, sustainable, and coordinated dropout prevention and re-entry programs in middle and high schools; and (3) serve as effective models for other programs. Programs and initiatives are to be based on "best practices" for preventing dropouts or increasing the high school completion rate of students who have already dropped out. Grants must be distributed geographically throughout the state.

Section 7.32 also creates the sixteen-member Joint Legislative Commission on Dropout Prevention and High School Graduation. The commission is assigned specific responsibilities, including

- evaluating initiatives and programs (including those implemented through the grants);
- reviewing research on factors related to student success;
- studying the emergence of major middle and high school reform efforts; and
- examining strategies, programs, and support services that should be provided if the compulsory school attendance age is raised.

The commission is also authorized to study any other issue it considers relevant and appropriate.

### ROPE SCHOLARS PROGRAM

Results of accountability programs and a high dropout rate have highlighted the need for additional assistance to some students and some schools. In a new effort to provide that help, S.L. 2007-277 (S 1030) directs the State Board, in cooperation with the University of North Carolina (UNC) Board of Governors and the State Board of Community Colleges, to develop a framework for the Reaching One's Potential for Excellence (ROPE) Program. Its purpose is to strengthen middle grades education and thereby reduce the high school dropout rate, increase high school and college graduation rates, and decrease the need for remediation in postsecondary educational institutions.

The program is intended to accomplish five goals.

1. Reduce class size to one teacher for every seventeen students
2. Provide annual salary incentives of up to \$5,000 to teachers certified in any high-need subject or to support personnel
3. Provide a coordinator position at each participating school to assist in community and parental support
4. Encourage participating students to meet specified academic standards and take certain standardized tests
5. Provide scholarships to students who are successful participants in the program

The State Board must use a competitive process to select three school units, including one urban and one rural unit, from different geographic areas to participate in a pilot program that will begin with the 2009–2010 school year. The State Board also must develop a process to evaluate the program's effectiveness.

### HIGH-NEED SCHOOLS

In some instances it is not only individual students who need additional assistance and support but also schools themselves. S.L. 2007-445 (S 1479) is designed to provide support to “high-need” schools—schools so designated by the State Board based on criteria related to teacher turnover, student performance, and the percentage of students eligible for free or reduced-price lunches. To help these schools, beginning with the 2008–2009 school year, teachers certified by the National Board for Professional Teaching Standards (NBPTS) who serve as mentors, literacy coaches, or in other nonadministrative instructional leadership positions at these schools will retain the 12-percent salary increment they earned by NBPTS certification. (G.S. 115C-296.2 would otherwise prohibit payment of this increment.) In addition, National Board–certified teachers, teachers of the year, and other categories of accomplished teachers designated by the State Board must be given “academic freedom at

these schools to use research-based practices in the classroom that go beyond the standard course of study.”<sup>1</sup> The State Board must consider strategies—including additional teacher positions, incentives to National Board–certified teachers, and employment of teachers for eleven months—to ensure that these schools have the staff and support they need.

### NO-COST REMEDIATION

G.S. 115C-105.41 prohibits school boards from charging students at risk for academic failure tuition or fees for activities designed to help them improve their academic performance. Section 7.26 of S.L. 2007-323 requires local school units to formally notify at-risk students and their parents that school units may not charge for the students' participation in any intervention activities or practices or for transportation to the activity. In addition, school units must formally communicate that tuition and fees may not be charged for summer school courses required for remediation or for meeting graduation requirements.

### LEARN AND EARN ONLINE PROGRAM

The Learn and Earn Online Program will allow high school students to enroll in college courses through the University of North Carolina or the community colleges to qualify for college credit. Section 7.27 of S.L. 2007-323 details the State Board's responsibilities for the program and defines acceptable uses of program funds. It also enacts G.S. 115D-1.2 to allow public school students in grades 9, 10, 11, or 12 who are participating in the program to enroll in online courses through a community college and to earn college credit. Students may enroll in any of the program's courses regardless of the college service area in which they reside.

### SCHOOL CONNECTIVITY INITIATIVE

Section 7.28 of S.L. 2007-323 requires that funds earmarked for enhancing schools' technology infrastructure must be used to implement a State Board–approved plan to support the use of technology for teaching and learning in the classroom. The State Board must contract with an entity to serve as an administrator of the School Connectivity Initiative and may use up to \$1 million to establish eight regional positions to assist local school units in implementing the initiative or may contract for such services regionally.

1. This provision is striking in that it creates a statutory right to academic freedom for a small set of teachers. Courts have held that teachers in North Carolina have no First Amendment right to academic freedom (that is, to participate in decisions about the development and means of delivery of the curriculum). *Lee v. York County Sch. Div.*, 484 F.3d 687 (4th Cir. 2007); *Boring v. Buncombe County Bd. of Educ.*, 136 F.3d 364 (4th Cir. 1998) (en banc), *cert. denied*, 525 U.S. 813 (1998).

The Education Cabinet, defined in G.S. 116C-1, has new responsibilities; they include developing a plan to coordinate e-learning activities at all levels of education and establishing a clear purpose and goals for the North Carolina Virtual Public School.

## **School Board Responsibilities and Authority**

### **TOBACCO USE**

Tobacco has been a significant part of North Carolina's history and economic growth, as well as a product enjoyed by many individuals. Nonetheless, in recent decades new knowledge about the health effects of tobacco have led to a dramatic shift in laws regulating its use. S.L. 2007-236 (S 1086) is the latest, and perhaps final, step in banning tobacco use on public school property and at school activities.

Every local board of education must adopt, implement, and enforce a written policy prohibiting the use of any tobacco product (not just cigarettes) at all times by any person in school buildings, in school facilities, on school campuses, or in or on any other property owned or operated by the school board. All policies must prohibit the use of all tobacco products by persons attending a school-sponsored event at any location when in the presence of students or school personnel or in any area where smoking is otherwise prohibited by law. Policies must provide for adequate notice to students, parents, school personnel, and the public and must require school personnel to enforce the policy. Signs prohibiting tobacco use on school property must be posted. School boards have until August 1, 2008, to meet the act's requirements.

The North Carolina Health and Wellness Trust Fund Commission must assist local school boards, including providing information regarding smoking cessation and prevention resources.

S.L. 2007-236 is not inconsistent with S.L. 2007-193 (H 24), which deals with smoking in state buildings and restrictions on smoking imposed by local governments.

### **STUDENT REASSIGNMENT APPEALS**

G.S. 115C-369 gives parents who are dissatisfied with their child's assignment to a particular school a right to appeal that assignment to the local board of education. The board is responsible for making the final determination on that appeal. S.L. 2007-501 (H 488) amends G.S. 115C-369 to provide the board with procedural options to follow before reaching its decision. The board may establish initial hearings prior to its decisions, either by using a hearing panel composed of at least two board members or by designating a hearing officer to hear appeals for fact-finding and make a recommendation; or the board may use both of these

methods. If both are designated, the parents select the entity to hear the appeal. A hearing panel must submit a recommendation to the board, and a hearing officer must submit both recommended findings of fact and a recommendation for final action.

Parents appealing an assignment are entitled to a prompt and fair hearing. Once the board has reached a decision, it must give the parents notice of the decision by mail, telephone, telefax, e-mail, or any other method designed to achieve notice. The former version of the law required that notice be delivered by registered or certified mail.

### **NOTICE OF SUSPENSION**

S.L. 2007-466 (H 1739) changes the notice requirements for a student suspension or expulsion. When a student is suspended for no more than ten days, the principal or the principal's delegate must give the student's parent or guardian notice of the suspension and of the student's rights. Notice may be provided by telephone, telefax, e-mail, or any other method reasonably designed to achieve actual notice. When a student is suspended for more than ten days, or is expelled, the school board must notify the parent or guardian of the disciplinary action and of the student's rights. Notice may be delivered by any of the methods listed above or by certified mail.

### **EDUCATIONAL SERVICES AND HOMEBOUND INSTRUCTION FOR STUDENTS WITH DISABILITIES**

Students with disabilities are entitled to a free appropriate education, which is to be delivered in the least restrictive environment. Students are entitled to their own individualized education program (IEP), which sets out the special education and related services the school will provide. Student placements range from the regular classrooms to special classes to homebound instruction and, occasionally, to a residential school setting. In certain limited circumstances a student's placement may be changed under the discipline procedures of the federal Individuals with Disabilities Education Act. For some students the placement may be changed to homebound instruction. S.L. 2007-429 (H 20) defines "homebound instruction" as educational services provided to a student outside the school setting.

S.L. 2007-425 (H 14) amends G.S. 115C-107.7 by adding new requirements when such a change in placement occurs. A local educational agency may assign a student to homebound instruction because of discipline problems only after the student's IEP team—which develops the child's IEP and includes the student, teachers and parents, and others familiar with the student—determines that homebound placement is the least restrictive alternative environment for that student. The team must then meet to identify the educational services that will be provided. In addition, the head

of the IEP team must evaluate the continued appropriateness of homebound instruction on a monthly basis.

S.L. 2007-429 amends G.S. 115C-106.3 to define “educational services” for children with disabilities as (1) the necessary instructional hours per week in the form and format determined by the child’s IEP team and consistent with state and federal law, (2) related services specified in the IEP, and (3) behavior intervention services designed to prevent a recurrence of the behavior violation that caused a disciplinary change of placement.

#### **DISABILITY HISTORY AND AWARENESS**

S.L. 2007-274 (S 753) enacts new G.S. 103-11 designating every October as Disability History and Awareness Month in North Carolina. An amendment to G.S. 115C-81 requires local boards of education to provide instruction on disability, people with disabilities, and the disability rights movement in conjunction with Disability History and Awareness Month. The instruction is to be incorporated into the standard curriculum. Local school boards are encouraged to incorporate individuals with disabilities or knowledgeable guest speakers from the disability community into the delivery of this instruction.

#### **INFORMATION ON VACCINES**

Local school boards often provide information to parents on topics outside the educational program. S.L. 2007-59 (S 260) amends G.S. 115C-47 to make it a duty of local boards to provide information concerning cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. The information must explain the causes and symptoms of the diseases, their means of transmission, and the use of vaccinations, including their benefits and possible side effects. The school board must also identify places where parents may obtain additional information and vaccinations. Information must be provided at the beginning of each school year to parents and guardians of children entering grades five through twelve.

S.L. 2007-59 makes similar amendments to G.S. 115C-238.29F (charter schools), G.S. 115C-548 (private church schools and schools of religious charter), G.S. 115C-556 (qualified nonpublic schools), and G.S. 115C-565 (home schools) to ensure that this information is provided to parents and guardians of students enrolled in these schools.

The Division of Public Health in the Department of Health and Human Services must make available sample educational materials that can be provided to parents. Materials must be provided to local school units for public schools other than charter schools; to DPI for charter schools; and to the Division of Nonpublic Education, Department of Administration, for nonpublic schools (including home schools).

#### **INFORMATION ON LAWFUL ABANDONMENT OF A BABY**

G.S. 7B-500 sets out the manner in which a parent may lawfully abandon a newborn baby with a responsible person. S.L. 2007-126 (H 485) amends G.S. 115C-47 to require local school boards to adopt policies ensuring that students in grades nine through twelve receive information annually on the lawful abandonment of a newborn. These policies must be adopted no later than August 1, 2008.

S.L. 2007-126 makes similar amendments to G.S. 115C-238.29F (charter schools), G.S. 115C-548 (private church schools and schools of religious charter), G.S. 115C-556 (qualified nonpublic schools), and G.S. 115C-565 (home schools) to ensure that this information is provided to students enrolled in these schools.

#### **AMERICAN SIGN LANGUAGE**

S.L. 2007-154 (H 915) amends G.S. 115C-81.3 to direct the State Board to encourage local boards of education to offer American Sign Language (ASL) in high schools as a modern foreign language. The State Board must adopt and implement standards for the certification of ASL teachers and for teacher preparation programs that prepare students for certification as ASL teachers.

#### **FOOD SERVICE EQUIPMENT CONTRACTS**

Local school boards have long had the authority to enter lease purchase or installment purchase contracts for purposes listed in G.S. 115C-528. S.L. 2007-519 (H 705) amends that statute by adding food service equipment to that list.

#### **Miscellaneous**

##### **REMOVAL OF SCHOOL BOARD MEMBERS**

S.L. 2007-498 (H 349) repeals G.S. 115C-39(a), which required a cumbersome procedure for removing a local board of education member that involved both the State Board and the local board.

##### **SCHOOL FUNDING DISPUTES**

The School Budget and Fiscal Control Act (Article 31 of G.S. Chapter 115C) has a procedure for resolving funding disputes between a board of county commissioners and a local board of education. This procedure may be used by the school board to challenge a county’s appropriation to the school capital outlay fund, the current expense fund, or both.

The statute calls for a joint meeting and mediation as means to resolve the dispute. If no agreement is reached, the school board may file an action in superior court, and the court’s decision can be appealed. S.L. 2007-92 (H 1519) amends the provisions of G.S. 115C-431 related to these appeals. Notice of appeal must be given in writing within

ten days after entry of judgment. Once the appeal is pending, the conclusion of the school or fiscal year may not be deemed to resolve the issue. Any final judgment will be legally binding on the parties at the conclusion of the appellate process. If the school board prevails and the county pays a final judgment, the county may not, as a way of offsetting the payment, consider the payment a prepayment or use it to deny or reduce appropriations to the school unit in fiscal years following the one at issue.

These changes delete provisions relating to a county's appropriations to the school board's current expense fund during the appeal and solve the problem of mootness in these appeals.<sup>2</sup>

#### **CHILD NUTRITION STANDARDS**

G.S. 115C-264.3 makes the State Board responsible for setting nutrition standards in schools. These standards are to be implemented first in elementary schools. Section 7.36A of S.L. 2007-323 amends the statute to give elementary schools an additional year to meet a "basic level" by postponing the date for compliance from the end of the 2007–2008 school year to the end of the 2008–2009 school year.

#### **DIESEL FUEL FOR SCHOOL BUSES**

According to S.L. 2007-465 (H 1912) diesel emissions are associated with severe and multiple health risks to the citizens of North Carolina. The United States Environmental Protection Agency (EPA) has issued new fuel and engine emission standards that will significantly reduce the harmful particulate matter in diesel fuel. New technology that makes possible 90 percent reductions from new engines can be retrofitted onto existing engines.

S.L. 2007-465 directs the Department of Environment and Natural Resources, in consultation with DPI, the Department of Transportation, and stakeholders, to develop a pilot program to award grants to retrofit school buses to reduce diesel emissions in any county located in an area designated by the EPA as "nonattainment or maintenance for ozone or particulate matter." Local school boards in these areas may apply for a grant for bus retrofitting.

S.L. 2007-423 (S 1452) amends G.S. 115C-240, G.S. 115C-249, and G.S. 115C-253 to require that public school buses or other vehicles for student transportation capable of operating on diesel fuel be capable of operating on diesel fuel with a minimum biodiesel concentration of

B-20, as defined in G.S. 143-58.4. These requirements apply to vehicles transferred or purchased on or after June 1, 2008.

#### **SCHOOL FINANCE OFFICER FIDELITY BOND**

S.L. 2007-85 (S 772) raises the minimum fidelity bond required of school finance officers from \$20,000 to \$50,000 and removes the maximum amount of the bond, which was \$250,000.

#### **PROPERTY SUBJECT TO CAPITAL LEASES**

S.L. 2007-477 (H 63) amends G.S. 105-275 to exclude from property tax any real or personal property that is subject to a capital lease with a school administrative unit pursuant to G.S. 115C-531.

#### **CONSTRUCTION PLAN REVIEW PROCESS**

Fire safety is an obvious concern in public school construction. Plans for buildings over a certain size that will be used by school units must be approved for safety from fire. S.L. 2007-303 (H 735) amends G.S. 58-31-40(b) to require approval of the plans by the commissioner of insurance if the building comprises 20,000 square feet or more. The former standard was 10,000 square feet.

#### **FALSE REPORT OF MASS VIOLENCE**

A report of potential mass violence at school is a serious matter and requires a major response. A false report may lead to fear, confusion, and a significant waste of resources. S.L. 2007-196 (H 1347) enacts new G.S. 14-277.5 to make it a Class H felony to communicate a report—knowing or having reason to know that the report is false—that an act of mass violence will occur on educational property or at a curricular or extracurricular school-sponsored event. A court may order a person convicted under this statute to pay restitution, including the costs and consequential damages resulting from disruption of normal activities by the false report.

#### **SURPLUS PROPERTY**

S.L. 2007-430 (H 1060) authorizes cities and counties to donate surplus personal property to another governmental unit, including a local board of education.

#### **MEDICAID COSTS PHASED OUT FOR COUNTIES**

Section 10.36 of S.L. 2007-323 phases out the counties' share of Medicaid costs over the next three years.<sup>3</sup> Although the

2. See *Cumberland County Bd. of Educ. v. Cumberland County Bd. of Comm'rs*, 113 N.C. App. 164, 438 S.E.2d 424 (1993) (Appeal under G.S. 115C-431 was moot because the school year for which funds were disputed had ended.).

3. This change is discussed in detail in Janet Mason and John L. Saxon, "Social Services," in *North Carolina Legislation 2007*, ed. Martha H. Harris and Christine B. Wunsche (Chapel Hill: University of North Carolina, School of Government, 2008).

act says nothing about using the additional funds that counties will have available for any particular purpose, school boards across the state view this change as an opportunity to get increased funding for school construction.

### LOCAL OPTION COUNTY TAXES

Counties continue to need more revenue, and the General Assembly has given them two new options for raising funds. Subject to approval by the voters of the county, a county may use either of these options, but not both. Section 31.17 of S.L. 2007-323 enacts two new articles in G.S. Chapter 105. Article 60 is the County Land Transfer Tax Act. This act authorizes counties that follow its procedures to levy a transfer tax when title to real property in the county is transferred. The maximum tax rate is 0.4 percent of the value of the real property. New Article 46, the One-Quarter Cent County Sales and Use Tax, authorizes counties that meet the act's requirements and follow its procedures to increase the local sales and use tax by 0.25 percent.<sup>4</sup> The use of the additional tax revenue is not specified. School boards may consider it a potential source of funds from counties, especially for school construction needs.

## School Employment

### SALARIES

S.L. 2007-323 sets provisions for the salaries of teachers and school administrators. For teachers the act sets a salary schedule for 2007–2008 that ranges from \$29,750 for a ten-month year for new teachers holding an “A” certificate to \$64,160 for teachers with thirty-one or more years of experience, an “M” certificate, and national certification. For school-based administrators (principals and assistant principals), the ten-month pay range is from \$37,300 for a beginning assistant principal to \$82,680 for a principal in the largest category of schools with more than forty years of experience. Of course, many school-based administrators are employed not for ten but for eleven or twelve months, which adds a proportionate amount to their salaries.

In addition, beginning teachers on the first step of the salary range will receive a one-time bonus payment of \$250 at the end of the school year.

For central office administrators (assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers), the ten-month range is \$32,170 to \$81,130, and many are employed for more than ten months. For superintendents, the twelve-month range is \$55,128 to \$130,752.

Noncertified public school employees paid with state funds receive a salary increase of 4 percent.

Funds provided in the act allow payment of incentive awards under the ABCs of Public Education program up to the following amounts: \$1,500 per teacher and \$500 per teacher assistant in schools that achieve higher than expected improvements and \$750 per teacher and \$375 per teacher assistant in schools that meet expectations.

### ALTERNATIVE SALARY PLAN PILOTS

Teachers throughout the state are paid from state funds according to the state salary schedule. The state-paid salary of an individual teacher is determined by the teacher's years of service and educational level. Most school administrative units add small amounts to teachers' salaries through local supplements.

S.L. 2007-453 (H 966) directs the State Board of Education to establish a pilot program of up to five school administrative units to develop alternative teacher salary plans. The goal is to improve student performance through differentiated teacher pay. Instead of the lockstep structure of the salary schedule, teachers would be rewarded through performance pay plans or paid extra for teaching in positions that are hard to fill, such as particular subject areas.

To participate in the pilot program, a local school administrative unit must submit a business plan detailing, among other things, the ways in which the alternative plan will accomplish improvements in student performance, the structure of the plan, the laws or other regulations that must be waived to implement the plan, and relevant benchmarks and timelines.

Before submitting an application to participate, the school administrative unit must conduct a verifiable secret ballot among all teachers. A majority of the teachers in schools that would participate in the plan must vote to approve participation.

The State Board is empowered to grant waivers of laws and other regulations as necessary to implement approved plans. The State Board and the DPI are to report to the Joint Legislative Education Oversight Committee of the General Assembly by June 30, 2010.

### CERTIFICATION RENEWAL REQUIREMENTS

To keep their certificates in current status, all teachers must complete professional development activities that earn renewal credits within specified periods of time throughout their teaching careers. S.L. 2007-409 (S 1292) adds a requirement that three of the credits in every five-year renewal cycle be in a teacher's academic subject area.

4. For a more detailed discussion of these options, see Shea Riggsbee Denning, “Local Taxes and Tax Collection,” in *id.*

**LIFETIME TEACHING CERTIFICATION**

G.S. 115C-296(b) provides that initial teacher certificates remain in effect for three years and that subsequent certificates are for periods of five years, renewed throughout a teacher's career. S.L. 2007-478 (H 1308) adds to the statute a provision that after fifty years of teaching, a teacher receives a lifetime certificate.

**COMMUNITY COLLEGE LATERAL-ENTRY PROGRAM**

Through lateral entry, an individual with a bachelor's degree from an accredited institution of higher education may begin teaching without a regular certificate and earn a certificate by meeting certain academic requirements while teaching. G.S. 115C-296(c1) permits the community college system to provide the academic offerings needed to meet the requirements. The statute formerly provided that lateral-entry teachers participating in the community college program must, in addition to holding a bachelor's degree, (1) have completed the bachelor's degree at least five years previously and (2) be currently employed as a lateral-entry teacher in a school unit. S.L. 2007-166 (H 583) removes both of these requirements, leaving only the requirement of a bachelor's degree.

**PILOT LATERAL-ENTRY CERTIFICATION PROGRAMS**

As described in the paragraph above, individuals may begin teaching without a regular certificate and earn a certificate by meeting certain academic requirements while teaching. Those academic requirements are met through programs approved by the State Board of Education. S.L. 2007-376 (S 1115) authorizes the State Board to approve pilots for "innovative" programs for lateral-entry certification operated by a school administrative unit, a community college, a college, or a university. The statute does not set specific requirements for the pilot programs but does provide that a teacher who leaves a unit with an approved program before completing the program and is hired by another unit in the state will receive credit for work completed in the program. The State Board is to report to the Joint Legislative Education Oversight Committee of the General Assembly by October 15, 2010, regarding the effectiveness of the pilot programs approved.

**ACCUMULATION AND USE OF TEACHER PERSONAL LEAVE**

G.S. 115C-302.1(d) authorizes teachers to earn personal leave at a rate of five days a school year. S.L. 2007-378 (S 914) amends the statute to make some changes in the way teachers' personal leave is accumulated and stored. Formerly, personal leave could be accumulated up to a maximum of five days, after which any further accumulation was forfeited. Now, accumulated personal leave of more than five days converts to sick leave. Formerly, if a teacher requested

personal leave at least five days in advance, no inquiry as to the purpose of the request could be made. Now, if the request is made at least five days in advance, not only may no inquiry be made but the request must be automatically granted, subject to the availability of a substitute teacher. A request for personal leave on a day scheduled for state testing, however, must be approved by the principal.

**ACCESS TO PERSONNEL RECORDS**

S.L. 2007-508 (S 1546) amends G.S. 115C-320, which specifies what information in a school employee's personnel file is public. The statute has provided that salaries are public information. The new language makes it clear that the term *salary* includes benefits, incentives, bonuses, and deferred and other forms of compensation paid by the school system—not just straight pay. The act also specifies that the terms of any employment contract, "whether written or oral, past or current," are public records.

In addition, S.L. 2007-192 (H 550) amends G.S. 115C-321, adding three new subsections; they specify that information in a school employee's personnel file that is relevant to possible criminal conduct may be made available to law enforcement personnel and the district attorney investigating a principal's report of certain criminal acts on campus or reports by anyone regarding arson, theft, embezzlement, or destruction of school system property. An employee must be given written notice five working days before the disclosure to allow time to apply to the court for review of the disclosure decision. Statements or admissions by the employee that are contained in the file are not admissible in any subsequent criminal proceeding.

**RETIRED TEACHERS RETURNING TO TEACH**

Under the provisions of the Teachers' and State Employees' Retirement System, covered employees may retire, begin to draw retirement benefits, and then return to work, drawing both salary and retirement benefits. For most covered employees, retirement benefits for a retiree who returns to work are suspended at the point in the year when the retiree's earnings reach 50 percent of his or her pre-retirement annual salary. This limitation is commonly referred to as the "salary cap." Faced with severe teacher shortages, the General Assembly, beginning in 1998, amended provisions of the retirement statutes as they related to teachers to permit retired teachers, under certain circumstances, to return to teaching and collect full salary for teaching while drawing full retirement benefits—that is, the salary cap did not apply to retired teachers returning to teach.

S.L. 2007-326 (H 956) amends G.S. 135-3(8)c (in the retirement system statutes) and G.S. 115C-325(a)(5a) (in the public school statutes) to provide that, for individuals retiring on October 1, 2007, or later, the opportunity



to return to teaching outside the salary cap applies only to teachers who have retired at age sixty-five or greater, at age sixty or greater with twenty-five years of service, or at any age with thirty years of service.

#### **ADMINISTRATOR PREPARATION**

S.L. 2007-517 (H 536) enacts new G.S. 115C-284(c2), directing the State Board of Education to adopt new standards for school administrator preparation programs in North Carolina universities. Such standards must mandate, among other things, that programs require all degree candidates to complete a year-long internship and that the university have written agreements with local school administrative units to govern their shared responsibility for the recruitment and preparation of school administrators and, once employed, for their success.

#### **SERVICE ON THE PROFESSIONAL TEACHING STANDARDS COMMISSION**

G.S. 115C-295.1 provided that members of the Professional Teaching Standards Commission serve two-year terms. S.L. 2007-174 (H 1449) extends the terms to four years and directs that terms be staggered so that a quarter of the terms on the commission end each year. The act specifies the length of terms for future new appointments that will result in staggered four-year terms.

### **Studies**

#### **PUBLIC SCHOOL FUNDING FORMULAS**

Section 7.31 of S.L. 2007-323 creates the Joint Legislative Study Committee on Public School Funding Formulas. The committee is charged with studying the funding formulas for children with disabilities, children with limited English proficiency, academically or intellectually gifted students, and disadvantaged students; and for at-risk student services/alternative schools, improvements in student accountability, low-wealth and small counties, and pupil transportation. The committee must also study the State Board's model for projecting average daily membership.

#### **SERVICES FOR HIGH SCHOOL STUDENTS WITH DISABILITIES**

S.L. 2007-295 (H 17) directs the DPI to identify the models currently being used to deliver educational and other services to children with disabilities in the state's high schools. DPI must consider the efficacy of these models and review the research to identify best-practice models used in other states.

#### **TEACHER PREPARATION**

S.L. 2007-284 (H 26) directs the UNC Board of Governors, in consultation with the State Board, to study how effectively current teacher education programs prepare teachers for educating students with disabilities.

#### **TEXTBOOK COSTS**

S.L. 2007-275 (H 232) directs the Joint Legislative Education Oversight Committee to study strategies for recovering the costs related to damaged and lost textbooks.

#### **BUS PASSENGER SAFETY RESTRAINTS**

S.L. 2007-191 (S 812) directs the North Carolina Child Fatality Task Force to study and analyze the feasibility of using safety restraints for passengers on school buses and school activity buses.

### **Bills Not Passed**

Among the controversial bills that did not pass in the 2007 session were

- House Bill 1740, creating an independent taxing authority for boards of education,
- House Bill 1366, mandating school board policies prohibiting bullying or harassing behavior,
- House Bill 359, allowing local flexibility for school calendars,
- Senate Bill 808, allowing sales and use tax exemption for local school administrative units, and
- House Bill 30, raising the cap on the number of charter schools. ■