Changes Affecting Elementary and Secondary Education

By Laurie L. Mesibov and Robert P. Joyce

In 2006 the General Assembly rewrote the law regarding public school services for children with special needs, bringing it into closer harmony with federal law on the same subject. It backed away from a controversial eye-examination requirement passed in 2005 that was the subject of a challenge in court and could have kept some young children out of school. The General Assembly also directed schools to provide for daily recitation of the Pledge of Allegiance and provided for the largest pay raises for school employees in a number of years.

Financial Issues

Appropriations

The Current Operations and Capital Improvements Act of 2006, Section 2.1 of S.L. 2006-66 (S 1741), appropriates to the Department of Public Instruction (DPI) nearly $140 million in additional funds, for a total appropriation of close to $6.58 billion for 2006–2007. This appropriation includes $42 million for low-wealth supplemental funding, $27 million for disadvantaged student supplemental funding, as well as $90 million for incentive awards under the ABCs program and restoration of $44 million in base budget funding. Section 6.15 of S.L. 2006-66 sets the 2006–2007 appropriation from the Education Lottery at $425 million, which will be used for class-size reductions, prekindergarten programs, the Public School Capital Fund, and college scholarships for students who need financial aid.

School Capital Lease Authority[1]

Billed as a "public/private partnership" for schools, the capital lease legislation [S.L. 2006-232 (S 2009)] adds new provisions in G.S. Chapter 115C allowing local school administrative units to enter into capital leases of real or personal property for school buildings or school facilities. The new provisions, codified in G.S. 115C-531 and G.S. 115C-532, address the financing, bidding, and property issues in capital lease projects.

Under G.S. 115C-531(a), a capital lease may be used for projects involving existing buildings or for construction of new schools. The lease may be for a period of up to forty years (including renewal periods) from the date the local school unit expects to take occupancy of the property that is the subject of the lease. Projects constructed under the capital lease statute are exempt from the provisions of G.S. 115C-521(c) and (d), which include requirements that school building projects be under the control of the local school administrative unit and that they be built on property owned in fee simple by the administrative unit. Capital lease projects under the new statute are considered continuing contracts for capital outlay under G.S. 115C-441(c1) and require approval by the board of county commissioners. The statute provides, however, that capital leases are not a pledge of the taxing power or the full faith and credit of the local board of education or the board of county commissioners. As is the case for installment purchase contracts under existing G.S. 160A-20 and G.S. 115C-528, the law prohibits nonsubstitution clauses in capital lease agreements and deficiency judgments in any action for breach of the contractual obligation under a capital lease entered into under this section. The statute requires Local Government Commission approval if the contract falls within specified provisions of G.S. 159-148 that apply when the contract is

The authors are faculty members of the School of Government at the University of North Carolina at Chapel Hill. Laurie L. Mesibov specializes in school law and is the editor of the *School Law Bulletin*. Robert P. Joyce specializes in school personnel law, higher education law, and elections law.

1. This section was written by Frayda S. Bluestein and is excerpted from Chapter 21, "Public Purchasing and Contracting," in *North Carolina Legislation 2006*, ed. Martha H. Harris (Chapel Hill: University of North Carolina, School of Government, 2007).

for a period of five years or more (including renewals) and obligates the unit for more than $500,000 over the full term of the contract.

The new legislation also authorizes a "build-to-suit" capital lease governed by G.S. 115C-532, under which a private developer may be responsible for the construction, operation, and management of the school facility. The statute requires the local board of education to adopt a resolution approving the use of a build-to-suit capital lease upon ten days' notice. The statute sets forth specific findings that the board must make in the resolution and specific information that must be included in the notice of the meeting at which the resolution will be considered. A nonexclusive list of additional services that may be included in a build-to-suit capital lease agreement is set forth in G.S. 115C-532(h).

Local boards of education are authorized to enter into "predevelopment agreements" under G.S. 115C-532(f) in advance of a build-to-suit capital lease. These agreements must be approved by the board of county commissioners and may include provisions for site selection, acquisition and preparation, and building programming and design.

Construction, repair, or renovation work undertaken by a private developer for a capital lease project is exempt from the bidding requirements in Article 8 of G.S. Chapter 143 unless the project is estimated to cost $300,000 or more, in which case the statute requires the private developer to solicit bids from prime contractors for construction or repair work and to comply with the minority participation requirements that apply to public projects under G.S. 143-128.2. The private developer may also use a construction manager at risk, who would be subject to the same requirements for bidding and minority participation. Existing requirements for the selection and use of licensed architects and engineers, as well as for state review of design and specifications, apply to capital lease projects. The local board of education may require the private developer to provide a performance and payment bond for construction work and may require a bond or "other appropriate guarantee" to cover any other guarantees, products, or services to be provided by the private developer. A private developer must provide a letter of credit in an amount not less than 5 percent of the total cost of improvements for the benefit of those who supply material or labor to the project.

The applicability of the lien laws to capital lease projects on property owned by a private developer was the subject of significant discussion during the legislative process. As amended by the technical corrections act [S.L. 2006-259 (S 1523) Section 54(a)], the pertinent provision in the new law, G.S. 115C-531(i), states that the lien laws apply to private property interests in a capital lease project.

The authority provided in these statutes became effective July 18, 2006, and expires July 1, 2011.

Sales Tax Refunds

Section 7.20 of S.L. 2006-66 amends G.S. 105-467(b) to allow school administrative units to apply for a partial sales tax refund.[2]

Effective County Tax Rate

Section 7.15 of S.L. 2006-66 clarifies the definition of "effective county tax rate" that is used to determine the distribution of capital funds from the lottery. The term now includes any countywide supplemental tax levied for the public schools.

Student Issues

Admission

The most basic question about a child's public education—whether that child has a right to enroll in a public school in North Carolina—is not always easy to answer. The general rule is that a child has a right to enroll, without payment of tuition, in the local school administrative unit where the child's parent, guardian, or legal custodian (the person or agency to which the court has awarded legal custody of the student) is domiciled; a child's domicile is that of the adult. However, state law, primarily G.S. 115C-366 and G.S. 115C-366.2, has also long allowed certain students who are not domiciled in a school administrative unit to enroll there without payment of tuition.

S.L. 2006-65 (H 1074) rewrites several sections of G.S. 115C-366 and repeals G.S. 115C-366.2 (essentially incorporating its provisions into G.S. 115C-366) to clarify the standard for admission and make enrollment decisions less complicated. The act brings state law into accord with the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001 and directs the State Board of Education (State Board) and all local school boards to comply with that statute.[3]

S.L. 2006-65 adds to G.S. 115C-366(a3) a new category of students entitled to admission: students whose parent or guardian has relinquished physical custody and control of the student on the recommendation of the county department of social services or the North Carolina Division of Mental Health.

2. This provision is discussed in Chapter 15, "Local Government and Local Finance," in *North Carolina Legislation 2006*, ed. Martha H. Harris (Chapel Hill: University of North Carolina, School of Government, 2007).

3. For a discussion of McKinney-Vento, see "Education Rights of Homeless Children and Youths: The McKinney-Vento Act and Its Impact on North Carolina's Schools" by Joseph D. Ableidinger, *School Law Bulletin* 35 (Fall 2004): 1–11. Also available at www.sogpubs.unc.edu/index.php?tl=1&l1=4 (last accessed December 29, 2006).

In all cases when a child admitted under G.S. 115C-366(a) resides with an adult other than a parent, guardian, or legal custodian, that caregiver adult must assume responsibility for making educational decisions for the minor student and has the same legal authority and responsibility as a parent. However, the minor student's parent, guardian, or legal custodian retains liability for the student's acts.

New G.S. 115C-366(a6) helps schools identify the adult who has the authority and responsibility to make educational decisions for a student placed in or assigned to a licensed facility by the student's legal custodian. The individual to whom this authority and responsibility are assigned must reside in or be employed within the local school administrative unit and must provide the school with a signed statement accepting responsibility for the student.

Students with Disabilities

North Carolina public schools have long provided special education to "children with special needs." The state's special education programs have operated under a complex mix of federal and state statutes and regulations. S.L. 2006-69 (H 1908) rewrites the state's special education statutes, Article 9 of G.S. Chapter 115C (G.S. 115C-106.1 through 115C-112.1), and renames Article 9 "Education of Children with Disabilities."

One major goal of the rewrite is to make state law consistent with the federal Individuals with Disabilities Education Act (IDEA). G.S. 115C-106.2 says, "If this Article is silent or conflicts with IDEA, and IDEA has specific language that is mandatory, then IDEA controls." This statement will reduce some of the confusion that has made administering special education programs a challenging task.

S.L. 2006-69 is explicit about its other goals. The state's goal is "to provide full educational opportunity to all children with disabilities who reside in the State." The specific purposes of Article 9 are to

- ensure that all children with disabilities ages three through twenty-one years old have available a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- ensure that the rights of these children and their parents are protected; and
- enable the State Board and local educational agencies (LEAs) to provide for the education of all students with disabilities.

The act clarifies eligibility for special education services. Under G.S. 115C-107.1 all children with disabilities (as defined in the act) aged three through twenty-one years old who reside in North Carolina and who have not graduated from high school are entitled to a FAPE. A student who turns twenty-two during the school year must be served for that entire school year. Students with disabilities who are suspended or expelled from school and who are entitled to receive a FAPE under IDEA must continue to receive a FAPE during their suspension or expulsion. Schools are not required to provide a FAPE to an adult in an adult correctional facility unless that person was identified as a student with a disability and was being served under an Individualized Education Program (IEP) in his or her educational placement immediately before being incarcerated. The State Board and the Department of Health and Human Services may enter into agreements to exempt schools from providing a FAPE to a preschool child with a disability if the child continues to receive early intervention services as provided in the agreement.

S.L. 2006-69 sets out the State Board's duty to adopt rules for programs serving students with disabilities. The board must, among other duties, set standards for special education programs and personnel working with children with disabilities, train hearing officers, and provide technical assistance to LEAs. G.S. 115C-107.4 requires the board to monitor all LEAs for compliance with IDEA and Article 9 and for their effectiveness in meeting the educational needs of children with disabilities. Under a new provision, the State Board must implement an effective and efficient system of sanctions and incentives—including recognition of LEAs that demonstrate significant improvement over time—in order to improve results and meet the requirements of IDEA and Article 9. Sanctions include identifying schools as level one (needs assistance), level two (needs intervention), and level three (needs substantial intervention). For each of these levels the State Board is directed to take particular steps. The State Board must also develop sanctions for LEAs that fail to implement a corrective action or hearing decision.

G.S. 115C-108.1 states that the State Board "shall cause all local educational agencies to provide special education and related services to children with disabilities in their care, custody, management, jurisdiction, control, or programs." In addition, the State Board's jurisdiction with respect to the design and content of special education programs includes the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency, and the Department of Correction.

Article 9 also sets out LEAs' duties for the education of children with disabilities, including duties with regard to enrollment, fees or other charges, and discipline.

Children with disabilities and their parents have a special set of rights that other children do not have. These rights allow parents to have significant involvement in the

development of their child's IEP and the opportunity to formally resolve disputes with the school board over their child's disability identification, educational program, or placement. Article 9 contains many procedural safeguards to protect these rights. These safeguards include publication and distribution of a parents' handbook, access to and explanation of school records, and notice of actions the schools propose to take related to a child's identification, evaluation, or IEP.

When a dispute arises over any of these issues, informal efforts to resolve the dispute occur at the local level. One option is mediation. G.S. 115C-109.4 states that it is the state's policy to encourage LEAs and parents to seek mediation for any dispute under Article 9 and sets out the requirements for mediation. If the parties resolve a dispute through mediation, they must execute a legally binding document stating the terms of the agreement.

If parents are not satisfied with the results of mediation, they have one year (except under two narrow exceptions) to file a petition with the Office of Administrative Hearings (OAH) to request an impartial due process hearing. To protect the parties' rights to a fair and impartial hearing, the State Board and OAH must enter a binding memorandum of understanding to ensure compliance with IDEA procedures, timelines, and provisions applicable to the hearing and to the hearing officers' decisions. An amendment to G.S. 150B-22.1 specifies that the timelines and other procedural safeguards of IDEA and Article 9 must be followed in an impartial due process hearing initiated by a petition filed under Article 9.

Mediation is available even after a petition for a hearing is filed. Unless the parties agree to use mediation at this point, a "resolution session" must be held before the hearing, although the parties may agree to waive the session. The purpose of the session is to give the parents an opportunity to discuss the petition and the basis for it and to give the LEA an opportunity to resolve the dispute. If the dispute is resolved in this session, the parties must execute a legally binding agreement.

If a due process hearing is held, the parents or the LEA may appeal the decision and have the matter heard by a review officer selected by the State Board. The review officer's decision is final unless a lawsuit is filed in state or federal court.

G.S. 115C-121, which re-establishes the Council on Educational Services for Exceptional Children as an advisory group to the State Board, increases the membership of the council from twenty-three to twenty-four. The State Board must appoint a state or local official to carry out activities under the McKinney-Vento Homeless Assistance Act.

S.L. 2006-29 amends many other statutes to bring them in line with the terminology and requirements of new Article 9.

Providing education for children with disabilities may often be expensive as well as complicated. Section 7.7 of S.L. 2006-66 directs the State Board to allocate funds for children with disabilities on the basis of $2,972.52 per child for a maximum of 170,240 children in the 2006–2007 school year. Each local unit will receive funds for the lesser of all children identified as children with disabilities or 12.5 percent of the average daily membership of the school unit.

Pregnant and Parenting Students

Until this year's rewrite of the state's special education statutes (S.L. 2006-69, discussed above), pregnant students were included within the definition of "children with special needs," although they were never entitled to the protections of IDEA. References to pregnant students are now in a separate new section, G.S. 115C-375.5, which addresses the educational rights of parenting as well as pregnant students.[4]

Pregnant and parenting students must receive the same educational instruction as other students, or its equivalent. A local school board may offer programs to meet pregnant or parenting students' special scheduling and curriculum needs. The curriculum in these programs must be comparable to that provided other students. A student's participation in any such program must be voluntary.

All local boards of education must adopt a policy to ensure that pregnant and parenting students are not discriminated against or excluded from school or from any program, class, or extracurricular activity because they are pregnant or parenting. Such a policy must include several provisions.

- Pregnant and parenting students must be given excused absences from school for pregnancy and related conditions for the length of time the student's physician finds them medically necessary. This includes absences caused by a child's illness or medical appointments if the student is the child's custodial parent.
- Homework and make-up work must be made available to pregnant and parenting students so that they can keep current with assignments and avoid losing course credit. In addition, to the extent necessary, a homebound teacher must be assigned to the student.

Vision Screening

A provision in Section 10.59F of the Current Operations and Capital Improvements Appropriations Act of 2005,

4. The School of Government's Adolescent Pregnancy Project has a wealth of information for professionals and for students and their families. Guides for schools, teens and parents, health professionals, and social services are available at http://www.adolescentpregnancy.unc.edu/ (last accessed December 29, 2006).

S.L. 2005-276 (S 622), required children entering public kindergarten to have a "comprehensive eye examination" conducted by a North Carolina optometrist or ophthalmologist; it provided that children who did not have that examination within six months of starting school would be barred from attending school. Many ophthalmologists, pediatricians, educators, and others spoke out against this requirement as unnecessary. In a more formal protest, the North Carolina School Boards Association, along with over eighty local school boards, sued, alleging that the law created an unreasonable barrier to access to the public schools and denied students a FAPE. A consent order issued on March 14, 2006, prohibited the state from implementing the eye examination requirement until July 1, 2007.[5]

The General Assembly responded this year, amending the law to eliminate mandatory comprehensive eye examinations for all students and to prohibit barring any student from attending public school because he or she had not had a comprehensive eye examination. S.L. 2006-240 (H 2699) amends G.S. 130A-440.1 to require that every child entering public kindergarten must have a vision screening in accordance with standards adopted by the Governor's Commission on Early Childhood Vision Care. Children entering first grade who attended a kindergarten that did not require vision screening also must be screened. Within 180 days of the start of the school year, a parent, guardian, or person standing in loco parentis must present to the school principal or principal's designee certification that the child has had the screening within the past twelve months. The health assessment transmittal form required by G.S. 130A-440 satisfies this requirement. Screening is mandatory beginning with the 2007–2008 school year.

Vision screening may be performed by a licensed physician, optometrist, physician assistant, nurse practitioner, registered nurse, orthoptist, or a vision screener certified by Prevent Blindness North Carolina. A comprehensive eye examination performed by an ophthalmologist or optometrist also fulfills the requirement. Screeners must provide parents with written results of the screening on forms supplied by the commission. Screeners must also orally communicate the results to parents and take reasonable steps to ensure that parents understand the information.

If the child does not pass the screening, he or she must have a comprehensive eye examination. School personnel may also recommend to parents that a child have a comprehensive examination if they notice that a child in kindergarten through third grade is having vision problems. When school personnel notify parents of a child's need for a comprehensive eye examination, they must also tell parents that funds may be available from the commission to pay for the examination and for corrective lenses, if needed.

The results of a comprehensive eye examination must be included on the transmittal form developed by the commission pursuant to G.S. 143-216.75. The form must contain a summary of the examination and any treatment recommendations, which must also be entered on the student's school health card. After the examination, the screener must provide the parent a signed form, and the parent must submit the form to the school.

No child may be excluded from school because of a parent's failure or refusal to obtain a comprehensive eye examination for the child. If a parent does not obtain the examination or does not provide the necessary certification, the school must send a written reminder to the parent. The reminder must include information about commission funds that may be available for the examination.

Schoolchildren's Health Act

S.L. 2006-143 (H 1502), the Schoolchildren's Health Act, is one new step in the ongoing effort to protect and improve the health of public school students. The act's particular concern is toxicants (poison or poisonous agents) in the classroom and on school grounds.

S.L. 2006-143 amends G.S. 115C-12 to provide that the State Board must develop guidelines to

- deal with arsenic-treated wood on playgrounds and the possible contamination of the soil;
- reduce students' exposure to diesel emissions produced by school buses;
- adopt Integrated Pest Management; and
- provide notification of pesticide use on school grounds to parents, guardians, and custodians and to school staff.

The State Board must also study methods of mold and mildew prevention and mitigation and incorporate related recommendations into public school facilities guidelines.

New G.S. 115C-47(45) through G.S. 115C-47(48) place related responsibilities on local boards of education as follows:

- Boards must adopt policies that address use of pesticides in schools; the policies must include notification requirements. Effective October 1, 2011, the policy must require the use of Integrated Pest Management as defined in the act.
- Boards may not purchase or accept chromated copper arsenate-treated wood for future use on school grounds. Boards must seal existing arsenic-treated wood or establish a timeline for removing it. Boards are encouraged to test the soil on school grounds for

5. Available through www.ncsba.org (last accessed December 29, 2006).

contamination caused by leaching of arsenic-treated wood.
- Boards are encouraged to remove and properly dispose of teaching aids in science classrooms that have mercury in them, excluding barometers. Schools may not use teaching aids in science classrooms that contain bulk elemental mercury, chemical mercury compounds, or bulk mercury compounds, except for barometers.
- Boards must adopt policies and procedures to reduce students' exposure to diesel emissions.

The act does not create a private right of action against the State Board, local school boards, or their agents or employees. It bars individual lawsuits against the protected entities and individuals for an injury resulting from an act or failure to act under the Schoolchildren's Health Act.

Flag Display and Pledge of Allegiance

S.L. 2006-137 (S 700) amends G.S. 115C-47(29a) to require, rather than merely encourage, local boards of education to adopt policies relating to the display of flags in classrooms and to the Pledge of Allegiance. Now, when available, the United States and North Carolina flags must be displayed in each classroom. The Pledge of Allegiance must be recited daily. (As before, students cannot be compelled to stand during the pledge, salute the flag, or recite the pledge.)

New G.S. 115C-238.29F extends to charter schools all the requirements of G.S. 115C-47(29a), including providing age-appropriate instruction on the flag and pledge.

Memorial Day

S.L. 2006-75 (H 836) adds new G.S. 115C-12(33) requiring the State Board to develop recommended instructional programs to enable students to develop a better understanding of the meaning and importance of Memorial Day. In addition, the act requires all schools to recognize the significance of Memorial Day, though it is silent on the manner in which schools should do so.

School-Sponsored Travel

S.L. 2006-208 (H 1155) concerns the safe transportation of students during school-sponsored travel. The act amends G.S. 115C-247 to require local school boards that operate activity buses to adopt a policy setting forth the proper use of the vehicles. The policy must permit use of the buses for travel to and from school-sponsored activities, including regular season and playoff athletic events.

The DPI, in cooperation with the Department of Transportation, must develop a program for issuing statewide permits to commercial motor coach companies seeking contracts with local school systems to transport students, school employees, and other persons on school-sponsored trips. S.L. 2006-208 sets out a number of substantive and procedural requirements for developing the program.

This act does not affect the regular school buses that provide daily transportation to and from school.

Miscellaneous

Identity Theft Protection Act of 2005

In 2005 the General Assembly enacted the Identity Theft Protection Act (S.L. 2005-414) as one response to the problems presented by breaches of data security and identity theft in public agencies. S.L. 2006-173 (H 1248) amends the act to clarify the relationship between confidential information protected by the act and the state's public records law.

An amendment to G.S. 132-1.10(b)(5) provides that "identifying information," as defined in the statute, must be kept confidential; such information is not a public record. However, the act states that "[t]he presence of identifying information in a public record does not change the nature of the public record." This means that a record with identifying information removed or redacted remains a public record. If a request is made for a record that contains identifying information and otherwise meets that definition, a public agency must respond to the request "as promptly as possible" by providing the record with the identifying information removed or redacted.

An amendment to G.S. 132-1.10 directs that in the event of a security breach, the affected public agency must comply with the notice requirements and procedures of G.S. 75-65.

More at Four and Office of School Readiness

Section 7.8 of S.L. 2006-66 transfers the More at Four Pre-Kindergarten Program and the Office of School Readiness from the Office of the Governor to DPI and amends G.S. 115C-242(1) to allow the use of school buses to transport children enrolled in a More at Four program.

Passing Stopped School Buses

S.L. 2006-106 (H 2880) amends G.S. 20-217(e) to prevent a person found guilty of passing a stopped school bus from receiving a prayer for judgment continued (PJC). A PJC is a determination of guilt by a jury or court without the imposition of a sentence.

North Carolina School of Science and Mathematics

Section 9.11 of S.L. 2006-66 makes the North Carolina School of Science and Mathematics a constituent institution of the University of North Carolina. This change is discussed in this issue in "Changes Affecting Higher Education" by Robert P. Joyce.

Cable Service

S.L. 2006-151 (H 2047), the Video Service Competition Act, enacts new Article 42 of G.S. Chapter 66. G.S. 66-360 requires cable service providers operating under a state-issued franchise to provide, upon request by a city or county, basic cable service without charge to public buildings located within 125 feet of the provider's system. A "public building" is a building used as a public school, charter school, a county or city library, or a function of the county or city.[6]

Registered Sex Offenders

An Act to Protect North Carolina's Children/Sex Offender Law Changes, S.L. 2006-247 (H 1896), make several changes to statutes dealing with sex offenders. The most important change for elementary and secondary schools is new G.S. 14-208.16, which prohibits a registered sex offender from knowingly residing within 1,000 feet of the property on which any public or nonpublic school or child care center is located. A violation of this restriction is a Class G felony. This provision does not affect sex offenders residing near home schools.[7]

Diplomas for Veterans

G.S. 115C-12(29) authorizes the State Board of Education to issue special high school diplomas for veterans of World War II. S.L. 2006-260 (S 862) extends the authority to issue diplomas to American veterans of the wars in Korea and Vietnam.

Studies and Reports

DPI Budget

Part L of the Studies Act, S.L. 2006-248 (H 1723), creates the Legislative Study Commission on the Budget of the Department of Public Instruction. The commission must review the DPI, including a zero-based budget review, and then determine the level of funding and staff necessary to accomplish DPI's goals and mission. The commission must report its results and recommendations to the 2007 General Assembly when it convenes.

School Counselors

S.L. 2006-176 (S 571) directs the State Board to report to the Joint Legislative Education Oversight Committee on the role public school counselors play in providing effective and efficient dropout prevention and intervention services to students in middle and high schools.

Red-Light Camera Programs

Article IX, Section 7, of the North Carolina Constitution provides that the clear proceeds of all penalties and forfeitures and of all fines collected in counties for any breach of the penal laws must be used for public schools. The North Carolina Court of Appeals recently ruled that this provision applies to the proceeds of city and county red-light camera programs, which collect penalties from the owner or driver of a vehicle found to have committed a traffic violation.[8] The court noted that "the Legislature feels it has the authority to clarify the meaning of clear proceeds in the context of red light camera programs."

S.L. 2006-248 and S.L. 2006-189 (S 1442) authorize the Legislative Research Commission to study the impact of court decisions on the funding and operation of red-light camera programs. The commission may recommend statutory changes to the definition of "clear proceeds" in a manner that will allow these funds to be used for the operation of red-light programs.

Technology Plan

S.L. 2006-248 establishes the Legislative Study Commission on Information Technology to review the North Carolina Education Technology Plan developed by the State Board. The review must include best practices for using technology to enhance teaching and learning in the schools.

State and Local Fiscal Modernization

S.L. 2006-248 establishes the State and Local Fiscal Modernization Study Commission. Its duties include examining state and local responsibilities for public education.

Other Authorized Studies

S.L. 2006-248 authorizes the Legislative Research Commission to conduct the following studies related to public schools:

- Adequate public facilities ordinances
- Employee sick-leave bank and family leave
- Public building contract laws
- Impact of undocumented immigrants
- Impact of ethics legislation on locally elected officials

6. Other provisions of this act are discussed in Chapter 15, "Local Government and Local Finance," in *North Carolina Legislation 2006*, ed. Martha H. Harris (Chapel Hill: University of North Carolina, School of Government, 2007).

7. Other provisions of S.L. 2006-247 are discussed in Chapter 7, "Criminal Law and Procedure," in *North Carolina Legislation 2006*, ed. Martha H. Harris (Chapel Hill: University of North Carolina, School of Government, 2007).

8. Shavitz v. City of High Point, 630 S.E.2d 4 (N.C. App. 2006), available at www.aoc.state.nc.us/www/public/html/opinions.htm (last accessed December 29, 2006).

S.L. 2006-248 authorizes the Joint Legislative Education Oversight Committee to study the following subjects:

- Changes in education districts
- Raising the compulsory school-attendance age
- Child nutrition services
- Class-size funding formula for children with special needs
- Tracking students throughout their education
- Impact of student mobility on academic performance
- Corporal punishment
- Appropriate education for suspended students
- Strategies for targeting educational programs and resources
- Workforce preparation in the public schools
- Information requirements for school admission and assignment
- Establishment of a Joint Education Leadership Team for Disadvantaged Students
- Education facility funding
- School psychologists
- Civics education
- Local school construction financing
- Teacher assistant salary schedule
- Sales tax exemption for local school units
- High school graduation and dropout rates
- Strategies and resources that contribute to the opportunity for students to obtain a sound basic education

The Joint Legislative Study Committee on Sex Offender Registration and Internet Crimes Against Children, created by Part LIII of S.L. 2006-248, has many tasks, including evaluating whether law enforcement should have an affirmative duty to notify schools that a sex offender lives in the neighborhood and evaluating proposals that require sex offenders to stay a certain distance from schools and day care centers.

The State Board, in cooperation with Division TEACCH and the North Carolina Justice Academy, must study training for public school personnel to facilitate effective communication and transfer of information about students with autism and other disabilities between school personnel and school resource officers.

The Environmental Review Commission may study mercury reduction and prohibitions on the use of mercury in primary and secondary schools.

Selected Local Acts

Cherokee County Schools Attendance

S.L. 2006-13 (H 2527) provides that any student who was not a resident of Cherokee County but who attended public school there during the 2005–2006 school year may continue to attend without paying tuition until the student graduates or leaves the school system. This local act is significant because it overrides the local board of education's decision to charge tuition, a decision that is specifically authorized by G.S. 115C-366.1.

Affordable Housing

Attracting and retaining highly qualified teachers is a challenge for all school systems, particularly where teachers may have a hard time finding affordable housing. A few school boards now have the authority to provide housing, and others may seek similar authority in the future.

S.L. 2006-61 (S 1896) authorizes the Bertie County Board of Education to provide affordable rental housing for teachers and other school system employees. S.L. 2006-86 (S 1903) authorizes the Hertford County Board of Education to provide affordable rental housing for the school system's professional staff, with priority given to teachers.

These two acts follow the example of the Dare County Board of Education, which was authorized by S.L. 2004-16 to construct and provide affordable rental housing, with priority given to teachers, on property owned or leased by the school board.

School Employment

Salaries

S.L. 2006-66 sets provisions for the salaries of teachers and school-based administrators. On average, teachers received an 8-percent salary increase, principals and assistant principals received 7 percent, and most other school employees received 5.5 percent.

For teachers, the act sets a salary schedule for 2006–2007 that ranges from $28,510 for a ten-month year for new teachers holding an "A" certificate to $61,380 for teachers with thirty or more years of experience, an "M" certificate, and national certification. For school-based administrators (meaning principals and assistant principals), the ten-month pay range is from $35,920 for a beginning assistant principal to $80,630 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, which adds a proportionate amount to their salaries.

In addition, teachers with thirty or more years of experience who are, consequently, at the top of the salary schedule, and principals and assistant principals who are at the top of their salary schedule received a one-time bonus of 2 percent.

Central office administrators are paid salaries set by the local school board within salary ranges fixed by the General Assembly, not salaries determined by a salary schedule. For

2006–2007, each central office administrator received a salary increase of 5.5 percent.

Similarly, noncertified public school employees paid with state funds received an increase of 5.5 percent. Every permanent, full-time noncertified public school employee whose salary is paid from state funds and who is employed on a twelve-month basis is to receive at least $20,112. Such employees employed for less than twelve months are paid at least this minimum on a pro rata basis.

Funds provided in the act enable the following payments to be made under the ABCs of Public Education program: $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.

Math and Science Salary Supplement Pilot

S.L. 2006-66 sets aside $515,115 to fund a pilot program in three school administrative units. Under the program, newly hired teachers who are licensed in and teaching middle school mathematics or science or high school mathematics, science, earth science, biology, physics, or chemistry will receive a salary supplement of $15,000. The State Board is to focus the program on low-performing school units, and the units selected are to use the salary supplements for teachers at low-performing schools. A maximum of ten teachers per administrative unit may receive the bonus.

Instructional Planning Time and Duty-Free Lunch

G.S. 115C-301.1 has long required that school boards provide full-time classroom teachers with a duty-free period during student contact hours, but only "insofar as funds are provided for this purpose by the General Assembly." S.L. 2006-153 (H 1151) amends that statute only to define the duty-free period as "duty-free instructional planning time." It does not repeal the "insofar as funds are provided" provision. The act does, however, amend G.S. 115C-105.27, which mandates that each school adopt a school improvement plan and provides that the plan shall include provision of duty-free instructional planning time for every teacher "under G.S. 115C-301.1." The new provision specifies that the plan should have the "goal" of providing an average of at least five hours of planning time per week.

The act also specifies that each school's improvement plan should include plans to provide every teacher a duty-free lunch period "on a daily basis or as otherwise approved by the school improvement team."

These provisions apply to school improvement plans beginning with the 2007–2008 school year.

Health Benefits in Retirement

S.L. 2006-174 (S 837) amends G.S. 135-40.2 regarding the provision of health coverage for retired employees under the Teachers' and State Employees' Comprehensive Major Medical Plan. As the provision previously stood, all vested, retired employees (that is, those with five years' service) received coverage on a noncontributory basis—that is, without having to make premium payments—just as current employees do. Under the amendment, employees who were first hired on or after October 1, 2006, must have twenty years' service before they receive such noncontributory coverage after retirement. Those hired after that date who accumulate at least ten years of service but less than twenty years will have to contribute 50 percent of the cost of the premium.

Employee Citizenship Verification

In S.L. 2006-259 (S 1523), the General Assembly enacted a new G.S. 126-7.1(f), requiring that state agencies, departments, institutions, universities—and, perhaps, community colleges and local boards of education—verify the citizenship or right-to-work status of each person hired after January 1, 2007, through the Basic Pilot Program of the U.S. Department of Homeland Security.

It is not clear whether the new requirement applies to employees of community colleges and local boards of education. These employees are exempt from Article 2 of Chapter 126, to which the new provision was added.