

# Changes Affecting Elementary and Secondary Education

By Laurie L. Mesibov and Robert P. Joyce

The General Assembly made only a few significant changes to public elementary and secondary school law this year. The session's highest-profile issue, revision of the public school calendar, divided educators and the public alike. Starting in 2005, summer vacation will be longer for most students. With some exceptions, schools that operate on a traditional calendar will open for students no sooner than August 25 and close no later than June 10. In adopting these limits, the General Assembly took control of a decision that has traditionally been left to the discretion of local boards of education. As a part of the calendar revision, five teacher workdays were eliminated from the school year with no corresponding reduction in employee pay. Some observers viewed these changes as simply an effort to support the state's tourism industry; others said the act was responsive to family concerns; some were concerned that teachers' professional development would suffer; and yet others claimed it would improve and that student learning and performance would ultimately benefit. All agreed that the act was another step in the ongoing search for the proper balance between state and local control of public schools.

Although the calendar changes made headlines, their long-term significance pales in comparison with another issue: how to meet the state's constitutional obligation to offer all public school students a "sound basic education." Although the General Assembly did not directly address this obligation in 2004, it is sure to be a dominant concern in the years to come.

The obligation was first identified by the North Carolina Supreme Court in 1997,<sup>1</sup> but the high court did not decide at

that time whether the state was in fact meeting the obligation. Instead, the supreme court sent the case to a trial court to (1) determine whether students were being offered a sound basic education and (2) identify appropriate remedies if they were not. At trial, the parties agreed to examine these issues only with regard to Hoke County, one of the low-wealth plaintiffs in the lawsuit. The trial court found that the state is not meeting its obligation to all Hoke County's at-risk students and ordered the state to do more for them, including establishing prekindergarten programs. The court's ruling was appealed directly to the North Carolina Supreme Court.<sup>2</sup>

While the appeal was pending, state education leaders went ahead and asked the General Assembly for a \$22-million Disadvantaged Student Supplemental Fund as a first step in meeting the trial court's order. But before the supreme court ruled on the appeal, the General Assembly adjourned without appropriating the money. In late July, the governor made \$12 million available to fund a plan approved by the State Board of Education. Under that plan, eleven school systems were identified by a formula that looked at the percentages of (1) students performing at a proficient level on state tests, (2) teachers retained, (3) teachers with five or more years experience, and (4) students from families above the poverty line. Each of the eleven school systems will receive \$250 per student and must develop its own plan for using the money.

On July 30, 2004, a unanimous North Carolina Supreme Court issued its ruling on the appeal, making it clear that the state does have a constitutional duty to offer *every* child in North Carolina the opportunity for a sound basic education in

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1. *Leandro v. State of North Carolina*, 488 S.E.2d 249, 346 N.C. 336 (1997). Available through [www.nccourts.org](http://www.nccourts.org).

2. *Hoke County Bd. of Educ. v. State of North Carolina*, No. 95CVS 1158 (April 4, 2002). Available through [www.ncforum.org/resources](http://www.ncforum.org/resources), which also has other documents relating to this lawsuit.

public schools.<sup>3</sup> The court found that the state defendants have failed to meet this obligation—at least with regard to at-risk students in Hoke County (the only students considered in the trial)—and that the state must remedy this deficiency. Because the trial court did not address the issue with regard to non-at-risk students, low-wealth litigants other than those in Hoke County, or urban systems, neither did the supreme court. The supreme court did reverse the trial court’s ruling that prekindergarten programs for at-risk students in Hoke County were necessary to offer them a sound basic education.

In October the governor made available an additional \$10 million in state money for school administrative units with poverty, high teacher turnover, and low student achievement.

The proper way for the state to meet its obligation to offer all students the opportunity for a sound basic education will be one of the most critical issues facing the 2005 General Assembly.

## Financial Issues

### Appropriations

S.L. 2004-124 (H 1414) appropriates \$6.035 billion to the Department of Public Instruction (DPI) for 2004–2005. The largest new item in the budget is \$50 million to reduce class size in third grade; the new teacher–student allotment ratio for that grade is set at 1:18. A total of \$108 million was allocated for bonuses under the ABCs (the state’s accountability program) for employees in schools that met or exceeded their expected annual growth in student performance. Funds were once again allocated for low-performing schools, for small-county and low-wealth supplements, and to assist schools in achieving adequate yearly progress in each subgroup identified in the federal No Child Left Behind Act.

## School Operations

### School Calendar

Although the number of instructional days for students remains unchanged at 180, many students will have a longer summer vacation. S.L. 2004-180 (H 1464) sets statewide limits on the school calendar for public schools other than year-round schools. Beginning in 2005, schools must open for students no earlier than August 25 and close no later than June 10. The requirement does not apply to “any school that a local board designated as having a modified calendar for the

2003–2004 school year or to any school that was part of a planned program in the 2003–2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.”

The State Board may waive the calendar restrictions for school systems and individual schools. To the extent that a school’s calendar provides sufficient days to accommodate anticipated makeup days due to school closings, the State Board may grant a waiver on a showing of good cause or for an educational purpose. “Good cause” means that schools in any school unit in a county have been closed for eight days during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations. “Educational purpose” means that a school unit can establish a need to adopt a different calendar for (1) a specific school to accommodate a special program offered generally to the student body, (2) a school that primarily serves a special population of students, or (3) a defined program within a school. The State Board may grant the waiver for an educational purpose if it finds that the purpose is reasonable, the accommodation is necessary to accomplish it, and the request is not an attempt to circumvent the statutory opening and closing dates. Waiver requests may not be used to accommodate systemwide class scheduling preferences. Local boards of education may offer supplemental or additional educational programs or activities at times outside the official school calendar.

For changes in the school calendar affecting school employees, see “School Employment,” below.

### K–2 Assessment

Under G.S. 115C-174.11, school administrative units have been prohibited from administering standardized tests to first- and second-grade students. That statute requires the State Board to provide developmentally appropriate individualized assessment instruments that local school units may use in place of standardized tests. Section 7.11 of S.L. 2004-124 amends the statute to allow schools to use standardized tests for first- and second-grade students if use of a test is a condition of receiving a federal grant under the Reading First Program.

### High School Workforce Development Program

DPI administers a high school workforce development program for students who are not planning to attend, or are not adequately prepared to attend, a two- or four-year degree program. The goal is to enable such students to earn an associate’s degree the year after their senior year in high school. Section 7.22 of S.L. 2004-124 requires that funds appropriated for this program be used to establish five pilot projects. In

3. Hoke County Bd. of Educ. v. State, No. 530PA02 (N.C. July 30, 2004).

each project, a local school unit, two- and four-year colleges and universities, and local employers are to work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers. The State Board must evaluate the programs annually.

Section 53 of S.L. 2004-199 (S 1225) amends Section 7.22 to direct the local school administrative unit and the colleges and universities to agree on the minimum age for students in the pilot projects.

### Accountability System Evaluation

North Carolina's School-Based Management and Accountability Program (also known as the ABCs) sets annual performance standards for each school to measure the growth in performance of the school's students. Section 7.12 of S.L. 2004-124 amends G.S. 115C-105.35 to require regular evaluations of the program to make sure that its standards reflect the state's high expectations for student performance. Beginning in the 2004–2005 school year, and at least every five years thereafter, the State Board must evaluate the accountability system. If necessary, the State Board must modify the testing standards to make certain that they reasonably reflect the level of performance necessary for students to be successful at the next grade level or to undertake more advanced study in the content area. Modified standards resulting from the first review must be in effect no later than the 2005–2006 school year.

### Agricultural Education Accountability Assessment

Section 7.20A of S.L. 2004-124 directs the State Board to submit an amended State Career-Technical Education Plan to the U. S. Department of Education during the 2005–2006 school year. The plan will allow the state to field-test the North Carolina Agricultural Education Program Standards and use the data collected as an alternative to the end-of-course tests in the Vocational Education Competency Achievement Tracking System (VoCATS). The plan also will require the DPI and the Department of Agricultural Education at North Carolina State University to monitor the program to ensure compliance with all standards. If the field testing is successful, the State Board can decide whether to implement the standards on a statewide basis.

### Alternate Competency Tests

G.S. 115C-174.11(b) requires the State Board to develop a high school competency test and at least one alternate test and standards for students who do not pass the regular competency test. Students with disabilities who fail the competency test twice must be given the opportunity to take an alternate test or to meet an alternate standard. Section 7.7 of S.L. 2004-124 requires the State Board to adopt or develop and validate

alternate tests no later than April 15, 2005, and to begin using them in the 2005–2006 school year.

### Vocational Education

In 2003 the General Assembly announced its intention to eliminate funding for vocational education in the seventh grade. This year, in Section 7.15 of S.L. 2004-124, the General Assembly retracted that intent. Instead, it directed schools using funds for vocational education to give priority to vocational education in grades eight through twelve. Section 7.15 amends G.S. 115C-151 and directs the State Board to administer a vocational and technical education program that gives priority to students in grades eight through twelve. A corresponding amendment to G.S. 115C-157 directs local school boards to give priority to these students for vocational education instruction, activities, and services.

### Purchasing and Contracting<sup>4</sup>

#### School Purchasing Clarifications

The legislature did not make any significant changes in the public purchasing and contract laws this session. Most of the changes are corrections and conforming changes relating to local school purchasing requirements. These requirements were changed significantly in the 2003 session;<sup>5</sup> some technical corrections contained in a bill that failed to pass during that session were enacted this year. This summary does not include the purely technical changes but, instead, focuses on a few substantive corrections that will be of interest to local school officials.

Until last year, state law required local school administrative units to purchase supplies, materials, and equipment through the state Division of Purchase and Contract under the provisions that apply to state agency purchases handled by that division. The statutes governing these purchase procedures are generally contained in Article 3 of Chapter 143 of the North Carolina General Statutes [hereinafter G.S.]. Last year the law was changed to make local school administrative units subject to the same purchase laws as other units of local government. These laws are generally contained in Article 8 of G.S. 142. One exemption, however, contained in Article 3 but not in Article 8, involved contracts that are regularly entered into by school administrative units. The Article 3

4. This section was written by Frayda S. Bluestein and is excerpted from "Purchasing and Contracting" in *North Carolina Legislation 2004*, Chapter 19 (Chapel Hill: School of Government, University of North Carolina, 2004).

5. For a summary of these changes, see Frayda S. Bluestein, "Changes Affecting Purchasing and Contracting," *School Law Bulletin* 34 (Summer 2003): 16–20.

exemption has been incorporated into G.S. 115C-522(a), which now provides that the procedures in Article 8 are not mandatory for this category of purchases.<sup>6</sup>

Another correction of a provision enacted last year provides clarification on beverage contracts entered into by local school administrative units. Last year the legislature enacted G.S. 143-64, which requires competitive bidding of all contracts that involve the sale of juice or bottled water. In Section 38 of S.L. 2003-199 (S 1225), the legislature added language to that statute clarifying that contracts for the sale of bottled water must be bid separately from any other contract, including contracts for other beverages or vending machine services.

### State Contract Preferences

Public officials at the state and local levels are very concerned about economic development and strive to promote, whenever possible, the use of local business. An existing law, G.S. 143-57, has required the state purchasing officer to make multiple awards on state requirements furniture contracts to at least three “qualified” vendors. That law was amended by S.L. 2004-115 (H 964) to specify that bids must be solicited on a historical weighted average of specific contract items. In addition, the statute now defines “qualified vendor” as one (1) whose products conform to the term contract specifications, (2) who is listed on the state’s qualified products list, and (3) who submits a responsive bid. Finally, the law now provides that if the three qualified vendors do not include vendors who offer furniture manufactured or produced in North Carolina, or who are incorporated in this state, the state purchasing officer must expand the number of contracts to include such vendors. The statute provides, however, that the state purchasing officer is not required to exceed a total of six qualified vendors.

The legislature also enacted a mild preference for products made in the United States. An existing statute, G.S. 143-59(a), establishes a preference for goods manufactured or produced in North Carolina, or furnished by or through citizens of North Carolina. However, this “preference” doesn’t actually authorize the award of a contract to an in-state bidder who does not submit the lowest responsible bid. The statute says that in giving a preference, “no sacrifice or loss in price or quality shall be permitted.” There is no statute that authorizes either state agencies or local governments to award a contract to a local contractor who is not the lowest responsible bidder. A new statute, G.S. 143-59.1A, is titled “Preference given to products made in the United States,” though it too falls short of actually authorizing a preference over a low bidder. Under the new law, which applies only to the state and not to local governments, if the state is unable to give preference to a North Carolina bidder under the statute summarized above, the state must give preference to products or services manu-

factured or produced in the United States.<sup>7</sup> The statute qualifies this directive, however, by stating that the preference may be given only to the extent permitted by state law, federal law, or any federal treaty, and that no sacrifice or loss in price or quality is permitted. Both statutes also provide that preference in all cases must be given to surplus products or articles produced and manufactured by other state departments, institutions, or agencies.

### Clarification of Surety Bonding Requirements

For most major public construction projects, public agencies are required to secure bid, performance, and payment bonds from surety companies legally authorized to do business in North Carolina.<sup>8</sup> Last year, the legislature enacted G.S. 58-31-66 to restrict the ability of public agencies to require a contractor, bidder, or proposer to procure a bid, performance, or payment bond from a particular surety, agent, producer, or broker. As originally enacted, the subsection (b) of the new statute provided that public agencies were not prohibited from approving the form, sufficiency, or manner of execution of the bonds; nor were they prohibited from disapproving bonds on a reasonable and nondiscriminatory basis because of the financial condition of the surety. Subsection (c) provided that a violation of the statute would invalidate the construction contract.

This session, in Section 74(b) of S.L. 2004-203 (H 281), the legislature amended G.S. 58-31-66 by deleting a particular bonding company. These changes are effective October 1, 2004. It is unclear how a court would interpret the effect of the repeal, but a safe interpretation would be that there is no authority for public agencies to reject a bond for any of the reasons contained in the repealed language.

## Student Health

### Meningococcal Meningitis and Influenza Information

In an attempt to prevent illness and tragic deaths, S.L. 2004-118 (S 444)—called “Garrett’s Law” after a high school student who died—is intended to make sure that parents receive information about two serious diseases and the vaccines that might prevent them. G.S. 115C-47(44), added by the new act, directs local boards of education to ensure that schools provide parents and guardians with information about meningococcal meningitis and influenza at the beginning of every school year. The information must include each disease’s causes, symptoms, and methods of transmission and also must identify places where parents and guardians can get additional information and vaccinations for their children. Amendments to G.S. 115C-238.29F,

6. S.L. 2004-199, sec. 29 [S 1225].

7. S.L. 2004-124, sec. 6.1 [H1414].

8. G.S. 44A-26 and G.S. 143-129.

G.S. 115C-548, G.S. 115C-556, and G.S. 115C-565 place the same responsibility on the DPI with regard to charter schools and on the Division of Nonpublic Education, Department of Administration, for private church schools, schools of religious charter, qualified nonpublic schools, and home schools.

The Division of Public Health, Department of Health and Human Services, must develop sample educational materials schools can provide to parents and guardians and must make the materials available to local school units, the DPI, and the Division of Nonpublic Education.

### School Food Programs

This year has seen a remarkable jump in attention paid to child obesity and nutrition. As one small reflection of that concern, Section 7.20 of S.L. 2004-124 amends G.S. 115C-264 to provide that after July 31, 2005, public schools may not (1) use cooking oils containing trans-fatty acids in their school food programs or (2) sell processed foods containing trans-fatty acids formed during commercial processing.

### Healthful School Food Choices Pilot Program

Because thousands of students regularly eat food supplied by their schools, efforts to reduce obesity and improve health naturally look to school food programs. Section 1.17 of S.L. 2004-124 directs the State Board to develop and implement a pilot program to support local school units in offering students only healthful, nutritious food choices. In the 2004–2005 school year, the pilot program will be conducted in all the elementary schools of eight school units distributed geographically throughout the state. If food service revenues in a pilot unit decrease because students do not purchase the healthful food, the State Board will reimburse the unit for any reduction in revenues for the year. The State Board will set the standards for the food offered to students.

### Criminal Law Issues

#### Taking Indecent Liberties with a Student

G.S. 14-202.4 makes it unlawful for school personnel to take indecent liberties with a student at any time during or after the time the defendant and victim are together in the school the victim attends. Section 19 of S.L. 2004-203 (H 181) clarifies that this statute applies both to the school where the student is enrolled and to a school-related or school-sponsored activity at another school where the defendant is employed, volunteers, or is otherwise present.

#### Discharging a Firearm on School Property

S.L. 2004-198 (H 1453) adds a provision to G.S. 14-269.2(b) making any person who willfully discharges a firearm of any kind on educational property guilty of a Class F felony unless

that conduct is covered under another statute that provides a greater punishment. S.L. 2004-198 also excepts from G.S. 14-269.2(b) weapons used for hunting purposes when used with the written permission of the governing body of the school that controls the educational property.

### Studies

#### Local School Construction Financing

G.S. 115C-408(b) says, “It is the policy of the State of North Carolina that the facilities requirements for a public education system will be met by county governments.” Many counties are finding it difficult to meet facilities requirements, even though the state has contributed funds for this purpose over the years. In order to look for ways to help counties, Section 7.32 of S.L. 2004-124 establishes the Local School Construction Financing Study Commission. This twenty-member commission is directed to examine the present system of school facilities financing and study options for financing local school construction, renovation, repair, and maintenance. The commission may consider public–private partnerships, sale lease-back arrangements, private and commercial financing arrangements, design standards, alternative local revenue sources, use of real estate investment trusts, state and local construction bond pools, and other applicable financing methods. The commission must make a final report no later than March 31, 2006, when its commission will expire.

Part XI (sec. 11.1 through 11.10) of this year’s study bill, S.L. 2004-161 (S 1152) also establishes the Local School Construction Financing Study Commission in terms identical to those of S.L. 2004-124 except that the membership does not include the chair of the State Board and the funding provisions for the Commission itself differ.

#### Teacher Workdays

The same act that changes the school calendar, S.L. 2004-180, requires the State Board to study the scheduling and purposes of noninstructional teacher workdays. As part of the study, the State Board must consult with interested stakeholders.

#### Antiviolence Education

Violence in schools and in communities continues to be a serious problem. Section 3.1 of S.L. 2004-186 (H 1354) directs the DPI to study the issue of antiviolence programs in schools. Topics to be studied include (1) whether all public schools should be required to incorporate an antiviolence program of instruction into the curriculum and (2) minimum requirements to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence. In addition, the DPI must study providing training to school personnel dealing with students who are victims of

physical violence and mental or verbal abuse. The study must consider whether school personnel should be required to undergo training, and, if so, which personnel and what type of training they should receive.

S.L. 2004-116 (H 1459) directs the State Board of Education to determine whether teacher preparation programs should require courses in diversity training, anger management, conflict resolution, and classroom management.

### Sales and Use Tax Exemption

Section 14 of S.L. 2004-161 authorizes the Revenue Laws Study Commission to study (1) granting local school administrative units a sales and use tax exemption instead of a tax refund and (2) methods of funding such a change.

### Children with Multiple Service Needs

Section 24.2 of S.L. 2004-161 directs the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Service to convene a task force to comprehensively review the state's system of care for children with multiple service needs.

### Teacher Recruitment and Retention

Section 28 of S.L. 2004-161 directs the State Board to form a task force to study issues related to effective recruitment and retention of teachers.

Section 7.19A of S.L. 2004-124 directs the Joint Legislative Education Oversight Committee to study strategies for increasing the number of students in teacher training programs. Among the matters to be reviewed are increased collaboration between universities and community colleges, distance learning programs, branch campuses, and other nontraditional approaches.

### Regional Staff Development

Section 7.31 of S.L. 2004-124 authorizes the Joint Legislative Education Oversight Committee to consider the efficacy of providing for staff development in the core curricular areas through teacher-on-loan positions at Regional Education Service Alliances (RESA). These alliances would provide direct training services to member school systems.

### Legislative Research Commission

The Studies Act of 2004, S.L. 2004-161 (S 1152), authorizes the Legislative Research Commission to study

- Purchasing alternative-fuel or low-emission school buses
- Job sharing
- Reemployment of retirees
- Postretirement earnings for state and local government employees

- VoCATS, the accountability system for vocational education courses
- The relationship between the state and local governments with respect to the provision of services
- The school calendar, the first instructional day, and the number of teacher workdays

### Joint Legislative Education Oversight Committee

Part XIII of S.L. 2004-161 authorizes the Joint Legislative Education Oversight Committee to study

- Establishment of a teacher assistant salary schedule
- Issues unique to rural schools
- Use of physical restraints and seclusion in schools
- Bonuses to principals for increased high school graduation rates
- A single funding stream targeted to at-risk students
- Best practices for closing the achievement gap among various demographic groups performing below grade level
- Availability and use of E-textbooks
- Attracting teachers to become coaches
- Kindergarten admission requirements
- School counselor job description
- The state's testing program
- The Total Teacher Program
- School construction and capacity issues
- Computer-based math and literacy programs for students under six years of age
- Appropriate education for students on long-term suspension
- School nutrition and opportunities for healthful physical activity
- Low-wealth school funding

### Miscellaneous

#### License Plates

The Division of Motor Vehicles, which issues many kinds of special license plates every year, is now able to offer special license plates with a phrase or insignia representing a North Carolina public high school. S.L. 2004-200 (S 1118) amends G.S. 20-79.4 to direct the division to issue these plates in accordance with G.S. 20-81.12, which requires that three hundred applications be received before plates are issued. The fee for a plate is \$25 in addition to the regular registration fee. Under an amendment to G.S. 20-81.12, DPI will receive the money and transfer it annually to each school in proportion to the number of plates sold representing that school. A high school must use the money for academic enhancement.

## Educating Suspended Students

Many students who are suspended from school for more than ten days do not receive any public education during the term of the suspension, which has a direct impact on their learning and performance. Several bills that were not enacted—including H 1135, H 1460, H 1457, and H 1458—would have examined or changed the schools' obligation to serve these students.

Instead of enacting these measures, the General Assembly took several smaller steps, including authorizing the study listed above. S.L. 2004-73 (H 1456) directs the State Board to recommend a specified percentage of the Alternative Schools/At-Risk Student Allotment to be designated for services to students who have been suspended from school for more than ten days. S.L. 2004-76 (H 1145) requires the State Board to develop and recommend a formula for allotting funds to alternative learning programs and schools based on the number of students expelled or suspended from school for more than ten days and assigned to an alternative learning program or an alternative school.

A related act, S.L. 2004-111 (H 1459), requires the State Board to determine whether teacher preparation programs should require courses in diversity training, anger management, conflict resolution, and classroom management.

## Local Acts

Although local acts affect only named governmental units, at times these acts turn out to be harbingers of more widespread change. In 2004 the two local acts described below may fit this description.

### Teacher Housing

S.L. 2004-16 (H 1640) authorizes the Dare County Board of Education to construct and provide affordable rental housing for teachers on property owned or leased by the school board. The school board may enter into a lease, partnership, joint venture, or similar arrangement with governmental and non-profit entities to construct or provide such housing. The act authorizes the building of up to three affordable housing projects, which may contain a mix of below-market and at-market rental units. The program must include a provision giving teachers priority in renting the units.

### County Funds for Charter Schools

Charter schools receive county funds for current operations but not for construction of school facilities. Section 7.25 of S.L. 2004-124 applies only to the Mount Airy City School Administrative Unit and to Surry County. It permits the

board of education to submit a charter school's request for construction of facilities to the board of county commissioners along with the school board's own budget request. The county may appropriate funds for the charter school facilities if certain conditions are met.

## School Employment

### Shortening the Teacher Work Year and Related Changes

S.L. 2004-180 (H 1464) amends G.S. 115C-84.2 to require that the opening date for students in most school systems be no earlier than August 25 and the closing date no later than June 10. (For a further discussion, *see* "School Calendar," above.) An accompanying change to the statute reduces the statutorily set school calendar year by five days, from a total of 220 to a total of 215.

Before the change, the 220 days in the school calendar year included 200 working days for teachers. (The other 20 days were vacation days and holidays). Because the normal total of student-attendance days is 180, that left 20 for scheduling teacher workdays. The statute provided that the local board of education would assign 8 of the 20 workdays (and could make some or all of those 8 additional student-attendance days) and individual school principals would assign the other 12.

With the change, the school calendar year includes 215 days, of which 195 are working days for teachers and the remaining 20 are vacation days and holidays. The normal total of student-attendance days is still 180, leaving 15 teacher workdays to be scheduled. Five of the 15 are to be scheduled by the local board of education—one day each at the beginning of the school year and the end of each quarter—and are to be reserved solely for completing instructional and classroom administrative duties without additional tasks. Local school boards are to schedule the remaining 10 days, in consultation with each school's principal, as workdays, additional instructional days, or other uses, including make-up days caused by inclement weather.

Of the 15 teacher workdays, at least 7 must be designated as days on which teachers who have additional accrued vacation may take leave. (G.S. 115C-84.2 provides—both before and after the changes introduced by S.L. 2004-180—that teachers be given 14 days' notice in advance if particular workdays are to be scheduled as required-attendance days on which vacation leave may not be taken. SL 2004-203 [H 281], a technical corrections act, purports to amend the statute to remove the 14-day notice requirement, but as it makes reference to incorrect portions of G.S. 115C-84.2, the effect of the purported change is unclear.)

The statute specifies that the reduction in the work year is not to result in a reduction in pay for any employee.

### Retired Teachers Returning to Work

Beginning in 1998, the General Assembly, faced with severe teacher shortages, amended provisions of the statutes related to the Teachers' and State Employees' Retirement System to permit retired teachers to return to teaching and collect, under certain circumstances, both salary for teaching and full retirement benefits. Over the years, the statutory provisions have been amended and the sunset deadlines extended.

Section 31.18A of SL 2004-124 (H 1414) extends the sunset deadline to June 30, 2005, continuing for at least one more year the provisions for employing retired teachers. It also imposes a new requirement that for each retired teacher so employed, the school administrative unit must pay into the retirement system a sum equal to 11.7 percent of that teacher's salary.

Section 57 of SL 2004-199 (S 1225), the main technical corrections act, amends G.S. 135-3(8)c, a portion of the retirement system statute, to make it clear that retired teachers may return to teach in charter schools on the same basis as they do in regular public schools. The act makes corresponding changes in G.S. 115C-325(a)(5a).

### State Board Authorized to Drop Licensure Exam

G.S. 115C-296 has required the State Board of Education to impose an examination requirement as part of its licensure requirements for all teachers. S.L. 2004-124 (H 1414) amends the statute to provide that the State Board may require an examination, not that it must do so.

### Salaries

S.L. 2004-124 (H 1414) sets provisions for the salaries of teachers and school-based administrators. For teachers, the act sets a salary schedule for 2004–2005 that ranges from \$25,420 for a ten-month year for new teachers holding an "A" certificate to \$56,280 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 range is from \$32,480 for a beginning assistant principal to \$75,420 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, adding the proportionate amount to their salaries.

These salaries at the various steps of the schedules are 0.67 percent higher than the salaries on the same steps of the schedules that have been in effect for the past three years. The effective average salary increase for teachers and administra-

tors is 2.5 percent, which results from the combined effects of the 0.67 percent increase in the step amounts and the increase that each individual receives by virtue of moving up one step in the experience ranks.

In addition, teachers with twenty-nine or more years of experience, who are at the top of the salary schedule, receive a one-time bonus equivalent to the average increase of teachers at the twenty-six- to twenty-nine-year steps. Principals and assistant principals at the top of their salary schedule receive a one-time bonus of 2 percent.

Salaries of central office administrators are set by local school boards within salary ranges fixed by the General Assembly, not according to a salary schedule. For 2004–2005, each central office administrator is to receive a salary increase of 2.5 percent or \$1,000, whichever is greater.

Similarly, noncertified public school employees paid with state funds receive an increase of 2.5 percent or \$1,000, whichever is greater.

A special \$1,800 annual bonus, introduced in 2003 and paid to certain mathematics, science, or special education teachers in grades six through twelve, was repealed. It formerly went to teachers of those subjects at schools having either 80 percent or more of their students eligible for free or reduced-cost lunch or 50 percent or more students performing below grade level in Algebra I or Biology.

A provision in SL 2004-180 (H 1464) (the school calendar and teacher work-year act discussed above) amends G.S. 115C-302.1(b). The new provision directs that teachers—except for those in year-round schools or paid in accordance with a year-round calendar—be paid a full month's salary by August 31. In effect, because they will not yet have worked a full month by that date, they will be prepaid.

### ABCs Incentives

S.L. 2004-124 directs the State Board of Education to provide incentive funding for schools that met or exceeded levels of improvement in student performance during the 2003–2004 school year, in accordance with the ABCs of Public Education Program. The awards are to be made 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.

### Agriculture Teachers

SL 2004-124 (H 1414), in Section 7.20, amends G.S. 115C-302.1(b) to specify that local boards of education may not reduce the term of employment of any vocational agriculture teaching position that was a twelve-month position for the 2003–2004 school year for any subsequent school year.



### Teacher Allotments for Small, Rural Schools

Section 7.28 of SL 2004-124 (H 1414) directs the State Board of Education to modify its policy on the allotment of classroom teachers for certain small schools to provide them with additional teachers. In administrative units where average daily membership as a whole is less than 1.5 per square mile, the new provision directs the State Board to allot

teachers on the basis of one teacher per grade level to small schools where

- consolidation is not feasible due to the geographic isolation of the school, and
- average daily membership is 110 or less.

Teachers should be assigned to other schools in the unit according to the regular allotment formula. ■