

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 828\*  
Committee Substitute Favorable 5/13/91  
Third Edition Engrossed 5/15/91  
Senate Education Committee Substitute Adopted 6/20/91

Short Title: Local School Improvement.

(Public)

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Sponsors:

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Referred to:

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April 16, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE LAW REGARDING LOCAL SCHOOL  
2 IMPROVEMENT PLANS AND TO OTHERWISE IMPROVE THE OPERATION  
3 OF THE PUBLIC SCHOOLS.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 116 of the General Statutes is amended by adding the  
7 following new section to read:

8 "**§ 116-11.2. Duties regarding programs in education administration.**

9 The Board of Governors shall direct the constituent institutions with programs in  
10 education administration to evaluate these programs and to take the necessary steps to  
11 ensure adequate management training for public school principals and administrators."

12 Sec. 2. The General Assembly urges private colleges and universities with  
13 programs in education administration to evaluate these programs and to take the  
14 necessary steps to ensure adequate management training for public school principals  
15 and administrators.

16 Sec. 3. G.S. 115C-238.2 reads as rewritten:

17 "**§ 115C-238.2. Local participation in the Program voluntary; the benefits of local**  
18 **participation.**

19 (a) Local school administrative units may, but are not required to, participate in  
20 the Performance-based Accountability Program.

1 (b) Local school administrative units that participate in the Performance-based  
2 Accountability Program:

- 3 (1) Are exempt from State requirements to submit reports and plans, other  
4 than local school improvement plans, to the Department of Public  
5 Education; they are not exempt from federal requirements to submit  
6 reports and plans to the Department.
- 7 (2) Are subject to the performance standards but not the opportunity  
8 standards or the staffing ratios of the State Accreditation Program. The  
9 performance standards in the State Accreditation Program, modified to  
10 reflect the results of end-of-course and end-of-grade tests, may serve  
11 as the basis for developing the student performance indicators adopted  
12 by the State Board of Education pursuant to G.S. 115C-238.1.
- 13 (3) May receive funds for differentiated pay for teachers and  
14 administrators, in accordance with G.S. 115C-238.4, if they elect to  
15 participate in a differentiated pay plan.
- 16 (4) May be allowed increased flexibility in the expenditure of State funds,  
17 in accordance with G.S. 115C-238.5.
- 18 (4a) Shall receive waivers with regard to certain State laws, regulations,  
19 and policies, in accordance with G.S. 115C-238.6(a1).
- 20 (5) May be granted waivers of certain State laws, regulations, and policies  
21 that inhibit their ability to reach local accountability goals, in  
22 accordance with ~~G.S. 115C-238.6(a)~~ G.S. 115C-238.6(a2).
- 23 ~~(6) Shall continue to use the Teacher Performance Appraisal Instrument~~  
24 ~~(TPAI) for evaluating beginning teachers during the first three years of~~  
25 ~~their employment; they may, however, develop other evaluation~~  
26 ~~approaches for teachers who have attained career status."~~

27 Sec. 4. G.S. 115C-238.3 reads as rewritten:

28 **"§ 115C-238.3. Elements of local plans.**

29 (a) The board of education of a local school administrative unit that elects to  
30 participate in the Program shall submit a local school improvement plan to the State  
31 Superintendent of Public Instruction before April 15 of the fiscal year preceding the  
32 fiscal year in which participation is sought. The local board of education shall actively  
33 involve a substantial number of teachers, school administrators, and other school staff in  
34 developing the local school improvement plan. It is the intent of the General Assembly  
35 that teachers have a major role in developing the local school improvement plan;  
36 therefore, at least half of the staff members involved in developing the local plan shall  
37 be teachers. The teachers at each school shall select the teachers from that school who  
38 are involved in developing the local plan.

39 (b) ~~The~~ If the local school administrative unit is not currently meeting the highest  
40 level for accreditation for ninety-five percent (95%) or more of the student performance  
41 indicators adopted by the State Board of Education, the local school improvement plan  
42 shall set forth (i) the student performance goals established by the local board of  
43 education for the local school administrative unit and (ii) the unit's strategies and plans  
44 for attaining them.

1 The performance goals for the local school administrative unit shall address specific,  
2 measurable goals for all student performance indicators adopted by the State Board.  
3 Factors that determine gains in achievement vary from school to school; therefore,  
4 socioeconomic factors and previous student performance indicators shall be used as the  
5 basis of the local school improvement plan.

6 The strategies for attaining the local student performance goals shall be based on  
7 plans for each individual school in the local school administrative unit. The principal of  
8 each school and his staff shall develop a plan to address student performance goals  
9 appropriate to the school from those established by the local board of education.

10 (b1) If the local school administrative unit is currently meeting the highest level of  
11 accreditation for ninety-five percent (95%) or more of the student performance  
12 indicators adopted by the State Board of Education, the local school improvement plan  
13 may continue to set forth the student performance goals established by the local board  
14 of education for the local school administrative unit, and the unit's strategies and plans  
15 for attaining them, in accordance with subsection (b) of this section. If the unit chooses  
16 to concentrate on locally designed accountability goals focused on such things as  
17 thinking and reasoning skills, improving the school climate, and improving parental or  
18 student satisfaction levels, the local school improvement plan may set forth the locally  
19 designed accountability goals, and the unit's strategies and plans for attaining them.

20 The strategies for attaining the local student performance goals or the locally  
21 designed accountability goals shall be based on plans for each individual school in the  
22 local school administrative unit. The principal of each school and his staff shall develop  
23 a plan to address student performance goals or the locally designed accountability goals  
24 appropriate to the school from those established by the local board of education.

25 If at the end of any school year, the unit failed to meet the highest level for  
26 accreditation for ninety-five percent (95%) or more of the student performance  
27 indicators adopted by the State Board of Education, the local unit shall develop a new  
28 plan in accordance with subsection (b) of this section.

29 (c) The local school administrative unit shall consider a plan for differentiated  
30 pay. The local plan shall include a plan for differentiated pay, in accordance with G.S.  
31 115C-238.4, unless the local school administrative unit elects not to participate in any  
32 differentiated pay plan.

33 (d) The local plan may include a request for a waiver of State laws, regulations,  
34 or policies. The request for a waiver shall identify the State laws, regulations, or  
35 policies that inhibit the local unit's ability to reach its local accountability goals and  
36 shall explain how a waiver of those laws, regulations, or policies will permit the local  
37 unit to reach its local goals.

38 (e) Support among affected staff members is essential to successful implementation  
39 of a local school improvement plan; therefore, a local board of education that decides to  
40 participate in the Program shall present a proposed local school improvement plan,  
41 including waiver requests, to its teachers and administrators for their review. Any  
42 modifications to an existing plan, including waiver requests, shall also be presented by  
43 the local board to its teachers and administrators for their review.

1 (f) At the end of the first year of implementation of a local school improvement  
2 plan or in December 1991, whichever is later, and every three years after the end of the  
3 first year of implementation, the teachers in the local school administrative unit shall be  
4 surveyed regarding their attitudes about the plan and educational reform in the local  
5 school administrative unit. The survey instrument shall be developed by the State  
6 Board of Education, after consultation with the Joint Legislative Education Oversight  
7 Committee. The State Board of Education shall report the results of the surveys to the  
8 Joint Legislative Education Oversight Committee and to the Joint Legislative  
9 Commission on Governmental Operations.

10 This subsection shall be implemented within funds available to the State Board of  
11 Education for aid to local school administrative units."

12 Sec. 5. G.S. 115C-238.4 reads as rewritten:

13 **"§ 115C-238.4. Differentiated pay.**

14 (a) Local school administrative units may include, but are not required to  
15 include, a differentiated pay plan for certified instructional staff, certified instructional  
16 support staff, and certified administrative staff as a part of their local school  
17 improvement plans. Units electing to include differentiated pay plans in their school  
18 improvement plans shall base their differentiated pay plans on:

- 19 (1) The Career Development Pilot Program, G.S. 115C-363 **et seq.**;
- 20 (2) The Lead Teacher Pilot Program, G.S. 115C-363.28 **et seq.**;
- 21 (3) A locally designed school-based performance program, subject to  
22 limitations and guidelines adopted by the State Board of Education;
- 23 (4) A differentiated pay plan that the State Board of Education finds has  
24 been successfully implemented in another state; ~~or~~
- 25 (5) A locally designed plan including any combination or modification of  
26 the foregoing ~~plans; plans; or~~
- 27 (6) A unique plan designed by their administrators and teachers.

28 (a1) A differentiated pay plan may authorize the use of up to one-third of all State  
29 differentiated pay funds for staff development and planning activities and for paying  
30 substitute teachers as is necessary to provide time for staff development and planning  
31 activities. A differentiated pay plan may also authorize extending the use of  
32 differentiated pay funds to include noncertified employees in the plan.

33 (b) Support among affected staff members is essential to successful  
34 implementation of a differentiated pay plan; therefore, a local board of education that  
35 decides that a differentiated pay plan should be included in its local school improvement  
36 plan shall present a proposed differentiated pay plan to affected staff members for their  
37 review and vote. The vote shall be by secret ballot. The local board of education shall  
38 include the proposed differentiated pay plan in its local school improvement plan only if  
39 the proposed plan has the approval of a majority of the affected paid certificated  
40 instructional and instructional support staff and a majority of the affected certificated  
41 administrators.

42 Every three years after a differentiated pay plan receives such approval, the local  
43 board of education shall present a proposed plan to continue, discontinue, or modify that  
44 differentiated pay plan to affected staff members for their review and vote. The vote

1 shall be by secret ballot. The local board of education shall include the proposed plan in  
2 its local school improvement plan only if the proposed plan has the approval of a  
3 majority of the affected paid certificated instructional and instructional support staff and  
4 a majority of the affected certificated administrators.

5 (c) Local school administrative units electing to participate in a differentiated pay  
6 plan shall receive State funds according to the terms of the plan but not to exceed:

- 7 (1) 1990-91: two percent (2%) of teacher and administrator salaries, and  
8 the employer's contributions for social security and retirement;
- 9 (2) 1991-92: three percent (3%) of teacher and administrator salaries, and  
10 the employer's contributions for social security and retirement;
- 11 (3) 1992-93: four percent (4%) of teacher and administrator salaries, and  
12 the employer's contributions for social security and retirement;
- 13 (4) 1993-94: five and one-half percent (5 1/2%) of teacher and  
14 administrator salaries, and the employer's contributions for social  
15 security and retirement; and
- 16 (5) 1994-95 and thereafter: seven percent (7%) of teacher and  
17 administrator salaries, and the employer's contributions for social  
18 security and retirement.

19 Any differentiated pay plan developed in accordance with this section shall be  
20 implemented within State and local funds available for differentiated pay.

21 (d) Attainment of the equivalent of Career Status I shall be rewarded through a  
22 new salary schedule that provides a salary differential when a certified educator  
23 successfully completes his probationary period.

24 (e) Any additional compensation received by an employee as a result of the unit's  
25 participation in the Program shall be paid as a bonus or supplement to the employee's  
26 regular salary. If an employee in a participating unit does not receive additional  
27 compensation, such failure to receive additional compensation shall not be construed as  
28 a demotion, as that term is used in G.S. 115C-325.

29 Payments of bonuses or supplements shall be made no more frequently than once  
30 every calendar quarter: Provided, however, prior to the 1994-95 school year, payments  
31 in the career development pilot units may be made on a monthly basis.

32 (f) If a local school administrative unit bases its differentiated pay plan on a  
33 locally designed school-based performance program, pursuant to subdivision (a)(3) of  
34 this section, the plan shall provide that following the attainment of the local school  
35 goals, the local board of education shall make a determination of which certified staff  
36 members contributed to the attainment of those goals. Differentiated pay bonuses shall  
37 then be distributed to those designated employees. The local board of education shall  
38 make the determination upon recommendation of (i) the superintendent and (ii) any  
39 other person or committee designated in the local differentiated pay plan. The other  
40 person or committee designated in the local differentiated pay plan may be the principal,  
41 a school-based committee, or any other person or local committee."

42 Sec. 6. G.S. 115C-238.6 reads as rewritten:

43 "**§ 115C-238.6. Approval of local school administrative unit ~~plans by the State~~**  
44 **Superintendent; plans; conditions for continued participation.**

1 (a) Prior to June 30 each year, the State Superintendent shall review local school  
2 improvement plans submitted by the local school administrative units in accordance  
3 with policies and performance indicators adopted by the State Board of ~~Education.~~  
4 Education and shall make his recommendations to the State Board regarding the plans.  
5 The State Board shall approve or disapprove each plan. If the State Superintendent-~~State~~  
6 Board approves the plan for a local school administrative unit, that unit shall participate  
7 in the Program for the next fiscal year.

8 (a1) If the State Board approves the plan for a local school administrative unit,  
9 State laws, regulations, and policies pertaining to the following are waived for the unit:

10 (1) Assignment, allocation, reduction, and use of positions for teacher  
11 assistants;

12 (2) Class size: Provided, however, local school administrative units shall  
13 report on class size as required by the State Board;

14 (3) Employee certification, so as to permit the use of noncertified  
15 personnel for teaching and administrative roles if their academic and  
16 professional backgrounds demonstrate potential: Provided, however,  
17 that the Department of Public Instruction shall assess the relevant work  
18 experience of any such noncertified employee and shall place any such  
19 noncertified employee on the teacher salary schedule: Provided,  
20 further, that units exercising flexibility in this area shall perform  
21 annual evaluations certifying that students are being well served, as  
22 evidenced by student achievement;

23 (4) Evaluation of career status teachers and administrators, so as to allow  
24 the development of an alternative procedure to be used in lieu of the  
25 Teacher Performance Appraisal Instrument: Provided, however, any  
26 such alternative procedure shall not be referred to as the Teacher  
27 Performance Appraisal Instrument or TPAI;

28 (5) The provision of driver education services so as to limit access to  
29 students who (i) are meeting reasonable local attendance standards, (ii)  
30 are making progress toward high school graduation, and (iii) have not  
31 dropped out of school;

32 (6) The use of staff development funds;

33 (7) Traditional class units and the scheduling of end-of-course and end-of-  
34 grade testing so as to (i) enable students who can demonstrate mastery  
35 of a course to move into more demanding course work at a faster pace,  
36 (ii) enable slower students more than a traditional one-year course to  
37 master the course content required, and (iii) aid the transition to year-  
38 round schooling;

39 (8) The obligation of offering summer school by authorizing the  
40 substitution of after-school or Saturday remedial or tutorial programs  
41 for at-risk students: Provided, however, students who fail to meet  
42 promotion standards for grades three, six, and eight shall be eligible  
43 for summer school;

1           (9) The use of State-provided buses for field trips or for transporting  
2 parents and under-school-aged children if the transportation will  
3 enhance a local school administrative unit's educational program:  
4 Provided, however, that any additional insurance and operating costs  
5 for the buses shall be paid with non-State funds;

6           (10) The placement of additional students in individual classes of  
7 academically gifted programs if the programs for State-identified  
8 gifted children are not overenrolled;

9           (11) The system of calculating graduation requirements so as to enable  
10 schools to count advanced course work toward graduation regardless  
11 of the grade level at which the courses were taken, or whether the  
12 courses were taken through a cooperative program with a community  
13 college or a four-year college: Provided, however, this subdivision is  
14 not intended to reduce the requirement that all high school students  
15 shall take three units of mathematics during the high school years.

16           (a2) If a local plan contains a request for a waiver of State laws, regulations, or  
17 policies, in accordance with ~~G.S. 115C-238.3(e)~~, G.S. 115C-238.3(d), the State  
18 Superintendent shall determine whether and to what extent the identified laws,  
19 regulations, or policies should be waived. The State Superintendent shall present that  
20 plan and his determination to the State Board of Education. If the State Board of  
21 Education deems it necessary to do so to enable a local unit to reach its local  
22 accountability goals, the State Board, only upon the recommendation of the State  
23 Superintendent, may grant waivers of:

24           (1) State laws pertaining to ~~class size, teacher certification, assignment of~~  
25 ~~teacher assistants,~~ the use of State-adopted textbooks, and the purposes  
26 for which State funds for the public schools may be used, and

27           (2) All State regulations and policies, except those pertaining to State  
28 salary schedules and employee benefits for school employees, the  
29 instructional program that must be offered under the Basic Education  
30 Program, the system of employment for public school teachers and  
31 administrators set out in G.S. 115C-325, health and safety codes,  
32 compulsory school attendance, the minimum lengths of the school day  
33 and year, and the Uniform Education Reporting System.

34 The State Board shall either grant or deny each waiver within 90 days after it is  
35 requested. The State Board shall provide a written explanation of why a waiver is  
36 denied.

37 If twenty-five percent (25%) of the local school administrative units in the State  
38 request a waiver of the same policy or regulation, the State Board shall assess whether  
39 the policy or regulation should be modified or deleted.

40           (b) Local school administrative units shall continue to participate in the Program  
41 and receive funds for differentiated pay, if their local plans call for differentiated pay, so  
42 long as (i) they demonstrate satisfactory progress toward student performance goals set  
43 out in their local school improvement plans; or (ii) once their local goals are met, they  
44 continue to achieve their local goals and they otherwise demonstrate satisfactory

1 performance, as determined by the State Superintendent in accordance with guidelines  
2 set by the State Board of Education.

3 If the local school administrative units do not achieve their goals after two years, the  
4 Department of Public Instruction shall provide them with technical assistance to help  
5 them meet their goals. If after one additional year they do not achieve their goals, the  
6 State Board of Education shall decide what steps shall be taken to improve the  
7 education of students in the unit."

8 Sec. 7. G.S. 115C-264 reads as rewritten:

9 **"§ 115C-264. Operation.**

10 In the operation of their public school food programs, the public schools shall  
11 participate in the National School Lunch Program established by the federal  
12 government. The program shall be under the jurisdiction of the Division of School Food  
13 Services of the Department of Public Instruction and in accordance with federal  
14 guidelines as established by the Child Nutrition Division of the United States  
15 Department of Agriculture.

16 Each school may, with the approval of the local board of education, sell soft drinks  
17 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at  
18 elementary schools, or (iii) contrary to the requirements of the National School Lunch  
19 Program.

20 All school food services shall be operated on a nonprofit basis, and any earnings  
21 therefrom over and above the cost of operation as defined herein shall be used to reduce  
22 the cost of food, to serve better food, or to provide free or reduced-price lunches to  
23 indigent children and for no other purpose. The term 'cost of operation' shall be defined  
24 as actual cost incurred in the purchase and preparation of food, the salaries of all  
25 personnel directly engaged in providing food services, and the cost of nonfood supplies  
26 as outlined under standards adopted by the State Board of Education. 'Personnel' shall  
27 be defined as food service supervisors or directors, bookkeepers directly engaged in  
28 food service record keeping and those persons directly involved in preparing and  
29 serving food: Provided, that food service personnel shall be paid from the funds of food  
30 services only for services rendered in behalf of lunchroom services. Any cost incurred  
31 in the provisions and maintenance of school food services over and beyond the cost of  
32 operation shall be included in the budget request filed annually by local boards of  
33 education with boards of county commissioners. It shall not be mandatory that the  
34 provisions of G.S. 115C-522(a) and 143-129 be complied with in the purchase of  
35 supplies and food for such school food services."

36 Sec. 8. This act is effective upon ratification.