

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 251

Short Title: State Bd. of Ed./Education Changes.-AB (Public)

Sponsors: Representatives Hurley, Hardister, Blackwell, and Horn (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - K-12, if favorable, Finance, if favorable, Rules, Calendar, and
Operations of the House

March 4, 2019

A BILL TO BE ENTITLED

AN ACT TO RESTORE THE STATE SALES TAX REFUND FOR SCHOOLS; EXTEND THE
STATE BOARD OF EDUCATION RULE MAKING DATES; PROVIDE FOR A RULE
MAKING EXEMPTION FOR TEACHER LICENSURE; EXPAND THE USE OF FUNDS
IN THE TEXTBOOK AND DIGITAL RESOURCES ALLOTMENT TO INCLUDE
ELECTRONIC DEVICES; AND MODIFY CERTAIN PROVISIONS RELATED TO
CLASS SIZE, AS RECOMMENDED BY THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

PART I. STATE SALES TAX REFUND FOR SCHOOLS

SECTION 1.1. Subdivision (2b) of subsection (c) of G.S. 105-164.14 is reenacted
as it existed immediately before its repeal.

SECTION 1.2. Subdivision (2c) of subsection (c) of G.S. 105-164.14 is reenacted
as it existed immediately before its repeal.

SECTION 1.3. G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in Article
5 of Subchapter I of this Chapter, except for the exemption for food in G.S. 105-164.13B, apply
to the local sales and use tax authorized to be levied and imposed under this Article. The State
refund provisions contained in G.S. 105-164.14 and G.S. 105-164.14A apply to the local sales
and use tax authorized to be levied and imposed under this Article. A refund of an excessive or
erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales
tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the
local sales and use tax authorized to be levied and imposed under this Article. The aggregate
annual local refund amount allowed an entity under G.S. 105-164.14(b) for the State's fiscal year
may not exceed thirteen million three hundred thousand dollars (\$13,300,000). A

~~Except as provided in this subsection, a taxing county may not allow an exemption, exclusion,
or refund that is not allowed under the State sales and use tax. A local school administrative unit
and a joint agency created by interlocal agreement among local school administrative units
pursuant to G.S. 160A 462 to jointly purchase food service related materials, supplies, and
equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this
Article on direct purchases of tangible personal property and services. Sales and use tax liability
indirectly incurred by the entity as part of a real property contract for real property that is owned
or leased by the entity and is a capital improvement for use by the entity is considered a sales or
use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The~~



1 refund allowed under this subsection does not apply to purchases of electricity,
2 telecommunications service, ancillary service, piped natural gas, video programming, or a
3 prepaid meal plan. A request for a refund is due in the same time and manner as provided in
4 G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred."

5 **SECTION 1.4.** Effective July 1, 2019, G.S. 105-164.44H is repealed.

6 **SECTION 1.5.** Except as otherwise provided, this Part becomes effective July 1,
7 2019, and applies to sales made on or after that date.

8 9 **PART II. STATE BOARD OF EDUCATION RULE MAKING**

10 **SECTION 2.1.** G.S. 150B-1(d) reads as rewritten:

11 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
12 following:

13 ...

14 (30) The State Board of Education in administering the provisions of Article 17E
15 of Chapter 115C of the General Statutes."

16 **SECTION 2.2.** G.S. 115C-2 reads as rewritten:

17 "**§ 115C-2. Administrative procedure.**

18 ~~All~~ With the exception of action taken by the State Board of Education in administering the
19 provisions of Article 17E of this Chapter, all action of agencies taken pursuant to this Chapter,
20 as agency is defined in G.S. 150B-2, is subject to the requirements of the Administrative
21 Procedure Act, Chapter 150B of the General Statutes."

22 **SECTION 2.3.** Section 27(b) of S.L. 2018-114 reads as rewritten:

23 "**SECTION 27.(b)** The General Assembly finds that the North Carolina Supreme Court, in
24 *North Carolina State Board of Education v. State of North Carolina and North Carolina Rules*
25 *Review Commission*, No. 110PA16-2 (June 8, 2018), affirmed the authority of the General
26 Assembly to delegate authority to the Rules Review Commission to review and approve the
27 administrative rules that are proposed by the State Board of Education for codification. To ensure
28 that administration of the free public schools shall continue without interruption, the existing
29 policies of the State Board of Education subject to rule making as provided in Chapter 150B of
30 the General Statutes shall be deemed interim rules so long as they do not conflict with any
31 provisions of the General Statutes. Any interim rule authorized by this section shall become null
32 and void May 30, ~~2019, 2020,~~ if the State Board of Education has failed to publish a notice of
33 text in the North Carolina Register to adopt that interim rule as a permanent rule, as required by
34 G.S. 150B-21.2. Any interim rule authorized by this section shall become null and void May 30,
35 ~~2020, 2021,~~ if the State Board of Education has failed to adopt that interim rule as a permanent
36 rule by that date in accordance with Article 2A of Chapter 150B of the General Statutes."
37

38 **PART III. EXPAND TEXTBOOK AND DIGITAL RESOURCES ALLOTMENT TO** 39 **INCLUDE ELECTRONIC DEVICES**

40 **SECTION 3.1.** G.S. 115C-105.25(b)(12) reads as rewritten:

41 "(12) Funds allotted for textbooks and digital resources may only be used ~~for the~~
42 ~~purchase of textbooks and to~~ acquire, by purchase, rental, or lease, (i)
43 textbooks, which includes technology-based programs, (ii) other digital
44 ~~resources.~~ resources to be used in the learning process, and (iii) electronic
45 equipment used to access technology-based programs and digital resources,
46 such as online curriculum and instructional content. These funds shall not be
47 transferred out of the allotment for any other purpose."

48 **SECTION 3.2.** Section 8.18(b) of S.L. 2015-241 reads as rewritten:

49 "**SECTION 8.18.(b)** The State Board of Education shall establish the purposes for which
50 the funds within the new Textbooks and Digital Resources funding allotment may be used for as
51 follows: (i) ~~to acquire textbooks as defined in G.S. 115C-85,~~ by purchase, rental, or lease, (i)

1 textbooks, which includes technology-based programs, programs, (ii) other digital resources to
2 be used in the learning process, and (ii) only for allowable expenditures as were permitted under
3 the Textbooks funding allotment as of June 30, 2015.(iii) electronic equipment used to access
4 technology-based programs and digital resources, such as online curriculum and instructional
5 content."

6 **SECTION 3.3.** This Part becomes effective July 1, 2019.

7 **PART IV. CLASS SIZE CHANGES**

8 **SECTION 4.1** G.S. 115C-301 reads as rewritten:

9 **"§ 115C-301. Allocation of teachers; class size.**

10 ...

11 (c) **Maximum Class Size for Kindergarten Through Third Grade.** – The average class size
12 for kindergarten through third grade in a local school administrative unit shall ~~at no time not~~
13 exceed the funded allotment ratio of teachers to students in kindergarten through third ~~grade. At~~
14 grade at the end of the second school month and for the remainder of the school year, year.
15 Additionally, at the end of the second school month and for the remainder of the school year, the
16 size of an individual class in kindergarten through third grade shall not exceed the allotment ratio
17 by more than three students. The funded class size allotment ratio for kindergarten through third
18 grade shall be as follows:

19 ...

20 (g) **Waivers and Allotment Adjustments.** – Local boards of education shall report
21 exceptions to the class size requirements set out for kindergarten through third grade and
22 significant increases in class size at other grade levels to the State Board and shall request
23 allotment adjustments at any grade level, waivers from the requirements for kindergarten through
24 third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within
25 funds available, may allot additional positions at any grade level. The State Board shall not grant
26 waivers for excess class size in kindergarten through third grade, except under the following
27 circumstances:

- 28 (1) ~~Emergencies or acts of God that impact the availability of~~ Inadequate
29 classroom space or facilities.~~facilities that would require a facility expansion~~
30 or relocation.
- 31 (2) An unanticipated increase in student population of an individual school in
32 excess of two percent (2%) of the average daily membership of that school.
- 33 (3) Organizational problems in geographically isolated local school
34 administrative units in which the average daily membership is less than one
35 and one-half per square mile.
- 36 (4) Classes organized for a solitary curricular area.
- 37 (5) A charter school closure.
- 38 (6) A shortage of qualified, licensed teachers available to teach in the grade level
39 for the number of classrooms required at the individual school.

40 The State Board shall report on all waivers to the Joint Legislative Commission on
41 Governmental Operations within 30 days of the grant of the waiver. The report shall include the
42 local school administrative unit, school, and class or classes for which the waiver was granted,
43 the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size
44 in kindergarten through third grade shall not become effective until the State Board submits the
45 report to the Joint Legislative Commission on Governmental Operations.

46 Upon notification from the State Board that the reported exception does not qualify for an
47 allotment adjustment or a waiver, the local board of education shall take action to correct the
48 exception within 30 days. Within 60 days of notification by the State Board, the Superintendent
49 of Public Instruction shall request an updated report from the local board of education on the size
50 of each class in kindergarten through third grade for each school within the local school
51 administrative unit. If the Superintendent of Public Instruction finds that a local board of

1 education is continuing to exceed class size requirements, the State Board may impose the
2 penalty set forth in subsection (j) of this section until such time the schools in the unit meet the
3 class size requirements for kindergarten through third grade.

4"

5 **SECTION 4.2** Section 2(b) of S.L. 2018-2 reads as rewritten:

6 "**SECTION 2.(b)** Notwithstanding G.S. 115C-301, as amended by this act, and any other
7 provision of law, for the 2019-2020 school year, the average class size for kindergarten through
8 third grade in a local school administrative unit shall not exceed one teacher per 19 ~~students. At~~
9 students at the end of the second school month and for the remainder of the school year.
10 Additionally at the end of the second school month and for the remainder of the school year, the
11 size of an individual class in kindergarten through third grade shall not exceed one teacher per
12 22 students."

13 **SECTION 4.3** Section 2(c) of S.L. 2018-2 reads as rewritten:

14 "**SECTION 2.(c)** Notwithstanding G.S. 115C-301, as amended by this act, and any other
15 provision of law, for the 2020-2021 school year, the average class size for kindergarten through
16 third grade in a local school administrative unit shall not exceed one teacher per 18 ~~students. At~~
17 students at the end of the second school month and for the remainder of the school year.
18 Additionally, at the end of the second school month and for the remainder of the school year, the
19 size of an individual class in kindergarten through third grade shall not exceed one teacher per
20 21 students."

21 **SECTION 4.4** This part becomes effective July 1, 2019. Section 4.1 of this part
22 applies beginning with the 2019-2020 school year.

23 **PART V. EFFECTIVE DATE**

24 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
25 law.
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