

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 2

Education Committee Substitute Adopted 4/26/89
Education Committee Substitute #2 Adopted 6/6/89
Fourth Edition Engrossed 7/6/89
House Committee Substitute Favorable 8/2/89

Short Title: Education Reform Act of 1989.

(Public)

Sponsors:

Referred to:

January 12, 1989

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR THE IMPLEMENTATION OF THE
EDUCATION REFORM ACT OF 1989.

Whereas, the General Assembly in formulating its Budget for the 1989-91
Biennium has experienced great difficulty in balancing the needs of the people of this
State with the resources available; and

Whereas, the Highway Program which has been proposed would raise
approximately \$8.6 billion in new taxes; and

Whereas, a Career Ladder Plan recommended to the General Assembly
would require additional revenue growing to a point in the future that would require in
excess of \$1 billion per year in new funds; and

Whereas, the Basic Education Program now in its fifth year of
implementation will require when fully funded in excess of \$800,000,000 per year; and

Whereas, the new Teacher Salary Schedule and unfreezing the freeze will
require substantial additional revenue; and

Whereas, various new and different alternatives including local flexibility and
accountability models have been offered as possible solutions to improving the school
systems of this State; and

1 Whereas, various pilot programs including Career Ladder, Lead Teacher and
2 others have been in existence for sometime and have produced valuable data that should
3 be reviewed before committing the State revenues to any programs; and

4 Whereas, the report produced for the General Assembly which reviewed the
5 Career Ladder Plan stated that it appeared to have many good points, it also stated that
6 there was no measurable difference in student performance at that time and that the
7 program, if implemented, should be carefully studied before statewide implementation
8 and that a careful plan should be laid out for its implementation; and

9 Whereas, there appears to be no consensus now in this General Assembly or
10 in the State as to what initiatives should be funded in Education and where the resources
11 to carry out those initiatives can be found; and

12 Whereas, to fund all of the new requests which have been recommended to
13 the General Assembly would require new taxes of the citizens of this State well in
14 excess of \$1 billion annually and would require additional tax increases in the future,
15 and this far exceeds the ability of the citizens of this State to pay for these additional
16 services; and

17 Whereas, the fair employment and dismissal system has been a matter of
18 substantial discussion in the 1989 General Assembly and should be further studied;
19 Now, therefore,

20 The General Assembly of North Carolina enacts:

21 Section 1. Title of Act. – This act may be referred to as the "Education
22 Reform Act of 1989."

23 Sec. 2. Legislative Intent. – It is the intent of the General Assembly that this
24 act be implemented with a minimum of regulations.

25 Sec. 3. Study Commission on the Future of Education. – (a) The Study
26 Commission on the Future of Education is created. The Commission shall be located
27 administratively within the Department of Public Education. The Commission shall
28 consist of 48 members appointed as follows:

- 29 (1) Two members of the Senate, two members of the House of
30 Representatives, two classroom teachers, one education administrator,
31 two representatives of business or industry, and three members at
32 large, appointed by the Governor;
- 33 (2) Two members of the Senate, two members of the House of
34 Representatives, two classroom teachers, one education administrator,
35 two representatives of business or industry, and three members at
36 large, appointed by the State Superintendent of Public Instruction;
- 37 (3) Six members of the Senate, two classroom teachers, one supervisor of
38 student teachers, one representative of business or industry, and two
39 members at large, appointed by the President Pro Tempore of the
40 Senate; and
- 41 (4) Six members of the House of Representatives, two classroom teachers,
42 one supervisor of student teachers, one representative of business or
43 industry, and two members at large, appointed by the Speaker of the
44 House of Representatives.

1 (b) The President of the Senate shall appoint one member of the Commission
2 who is a member of the Senate, and the Speaker of the House of Representatives shall
3 appoint one member of the Commission who is a member of the House of
4 Representatives, to serve as cochairmen of the Commission.

5 (c) The Commission shall:

6 (1) Study the fair dismissal and employment system and all recent
7 education initiatives and goals, including the Basic Education
8 Program, Career Development Pilot Program, Lead Teacher Pilot
9 Program, and other differentiated pay programs recommended by local
10 school administrative units;

11 (2) Hold public hearings throughout the State on whether and how the
12 State should implement or continue to implement these initiatives and
13 goals; and

14 (3) Determine which of these initiatives and goals the State should
15 implement or continue to implement; how they should be implemented
16 to improve the quality of the State education system and to prepare
17 young people to be well-educated, productive citizens; and how they
18 should be funded.

19 (d) The Commission shall submit an interim report of its findings and
20 recommendations to the Governor, the State Superintendent of Public Instruction and
21 the General Assembly on or before May 1, 1990. The Commission shall submit a final
22 report of its findings and recommendations to the Governor, the State Superintendent of
23 Public Instruction, and the General Assembly on or before January 1, 1991. Upon filing
24 its final report, the Commission shall terminate.

25 (e) Members of the Commission who are legislators shall receive subsistence
26 and travel expenses at the rates set forth in G.S. 120-3.1. Members who are officials or
27 employees of the State shall be paid subsistence and travel allowances at the rates set
28 forth in G.S. 138-6. Other members of the Commission shall be paid per diem,
29 subsistence, and travel allowances at the rates established in G.S. 138-5.

30 (f) The Commission may contract for professional, clerical, or consultant
31 services as it deems appropriate.

32 (g) When a vacancy occurs in the membership of the Commission the
33 vacancy shall be filled by the same appointing officer who made the initial appointment.

34 (h) All State departments and agencies and local governments and their
35 subdivisions shall furnish the Commission with any information in their possession or
36 available to them.

37 Sec. 4. Performance-based Accountability Program. – Article 16 of Chapter
38 115C of the General Statutes is amended by adding a new Part to read:

39 **“PART 4. PERFORMANCE-BASED ACCOUNTABILITY PROGRAM.**
40 **“§ 115C-238.1. Performance-based Accountability Program; development and**
41 **implementation by State Board.**

42 The State Board of Education shall develop and implement a Performance-based
43 Accountability Program. The primary goal of the Program shall be to improve student
44 performance. The State Board of Education shall adopt:

- 1 (1) Procedures and guidelines through which, beginning with the 1990-91
2 fiscal year, local school administrative units may participate in the
3 Program;
- 4 (2) Guidelines for developing local school improvement plans with three-
5 to-five year student performance goals and annual milestones to
6 measure progress in meeting those goals; and
- 7 (3) A set of student performance indicators for measuring and assessing
8 student performance in the participating local school administrative
9 units. These indicators may include attendance rates, dropout rates,
10 test scores, parent involvement, and post-secondary outcomes.

11 **§ 115C-238.2. Local participation in the Program voluntary; the benefits of local**
12 **participation.**

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

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

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

39 **§ 115C-238.3. Elements of local plans.**

40 (a) The board of education of a local school administrative unit that elects to
41 participate in the Program shall submit a local school improvement plan to the State
42 Superintendent of Public Instruction before April 15 of the fiscal year preceding the
43 fiscal year in which participation is sought. The local board of education shall actively

1 involve a substantial number of teachers, school administrators, and other school staff
2 in developing the local school improvement plan.

3 (b) The local school improvement plan shall set forth (i) the student performance
4 goals established by the local board of education for the local school administrative unit
5 and (ii) the unit's strategies and plans for attaining them.

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

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

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

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

23 **"§ 115C-238.4. Differentiated pay.**

24 (a) Local school administrative units may include, but are not required to
25 include, a differentiated pay plan for certified instructional staff, certified instructional
26 support staff, and certified administrative staff as a part of their local school
27 improvement plans. Units electing to include differentiated pay plans in their school
28 improvement plans shall base their differentiated pay plans on:

29 (1) The Career Development Pilot Program, G.S. 115C-363 et seq.;

30 (2) The Lead Teacher Pilot Program, G.S. 115C-363.28 et seq.;

31 (3) A locally designed school-based performance program, subject to
32 limitations and guidelines adopted by the State Board of Education;

33 (4) A differentiated pay plan that the State Board of Education finds has
34 been successfully implemented in another state; or

35 (5) A locally designed plan including any combination or modification of
36 the foregoing plans.

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

1 Every three years after a differentiated pay plan receives such approval, the local
2 board of education shall present a proposed plan to continue, discontinue, or modify that
3 differentiated pay plan to affected staff members for their review and vote. The local
4 board of education shall include the proposed plan in its local school improvement plan
5 only if the proposed plan has the approval of a majority of the affected paid certificated
6 instructional and instructional support staff and a majority of the affected certificated
7 administrators.

8 (c) Local school administrative units electing to participate in a differentiated pay
9 plan shall receive State funds according to the following schedule:

- 10 (1) 1990-91: two percent (2%) of teacher and administrator salaries, and
11 the employer's contributions for social security and retirement;
12 (2) 1991-92: three percent (3%) of teacher and administrator salaries, and
13 the employer's contributions for social security and retirement;
14 (3) 1992-93: four percent (4%) of teacher and administrator salaries, and
15 the employer's contributions for social security and retirement; and
16 (4) 1993-94 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 **"§ 115C-238.5. Flexible funding.**

30 For fiscal years beginning with the 1990-91 fiscal year, the State Board of
31 Education, only upon the recommendation of the State Superintendent, shall increase
32 flexibility in the use of State funds for schools by combining into a single funding
33 category the existing categories for instructional materials, supplies and equipment,
34 textbooks, testing support, and drivers education except for funds for classroom teachers
35 of drivers education. Only local school administrative units electing to participate in the
36 Performance-based Accountability Program shall be eligible to receive this flexible
37 funding.

38 Local boards of education shall provide maximum flexibility in the use of funds to
39 individual schools to enable them to accomplish their individual schools' goals.

40 **"§ 115C-238.6. Approval of local school administrative unit plans by the State**
41 **Superintendent; conditions for continued participation.**

42 (a) Prior to June 30 each year, the State Superintendent shall review local school
43 improvement plans submitted by the local school administrative units in accordance
44 with policies and performance indicators adopted by the State Board of Education. If

1 the State Superintendent approves the plan for a local school administrative unit, that
2 unit shall participate in the Program for the next fiscal year.

3 If a local plan contains a request for a waiver of State laws, regulations, or policies,
4 in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine
5 whether and to what extent the identified laws, regulations, or policies should be
6 waived. The State Superintendent shall present that plan and his determination to the
7 State Board of Education. If the State Board of Education deems it necessary to do so
8 to enable a local unit to reach its local accountability goals, the State Board, only upon
9 the recommendation of the State Superintendent, may grant waivers of:

- 10 (1) State laws pertaining to class size, teacher certification, assignment of
11 teacher assistants, the use of State-adopted textbooks, and the purposes
12 for which State funds for the public schools may be used, and
13 (2) All State regulations and policies, except those pertaining to State
14 salary schedules and employee benefits for school employees, the
15 instructional program that must be offered under the Basic Education
16 Program, the system of employment for public school teachers and
17 administrators set out in G.S. 115C-325, health and safety codes,
18 compulsory school attendance, the minimum lengths of the school day
19 and year, and the Uniform Education Reporting System.

20 (b) Local school administrative units shall continue to participate in the Program
21 and receive funds for differentiated pay, if their local plans call for differentiated pay, so
22 long as (i) they demonstrate satisfactory progress toward student performance goals set
23 out in their local school improvement plans; or (ii) once their local goals are met, they
24 continue to achieve their local goals and they otherwise demonstrate satisfactory
25 performance, as determined by the State Superintendent in accordance with guidelines
26 set by the State Board of Education.

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

32 Sec. 5. End-of-course and End-of-grade Tests. – G.S. 115C-174.11(c) reads
33 as rewritten:

34 ~~"(e) Competency Based Curriculum Testing. — In order to provide achievement~~
35 ~~information and educational accountability as part of the Basic Education Program, the~~
36 ~~State Board of Education may acquire, in the most cost efficient manner, achievement~~
37 ~~tests and test information to evaluate achievement in those grades and courses as~~
38 ~~specified in the Basic Education Program. Information from these tests may be used as~~
39 ~~one criterion by teachers and local school personnel in arriving at student grades and in~~
40 ~~making administrative decisions.~~

41 (c) End-of-course and End-of-grade Tests. – The State Board of Education shall
42 adopt a system of end-of-course and end-of-grade tests for grades three through 12.
43 These tests shall be designed to measure progress toward selected competencies,
44 especially core academic competencies, described in the Standard Course of Study for

1 appropriate grade levels. With regard to students who are identified as not
2 demonstrating satisfactory academic progress, end-of-course and end-of-grade test
3 results shall be used in developing strategies and plans for assisting those students in
4 achieving satisfactory academic progress."

5 Sec. 6. Testing for Comparisons of Student Achievement. – Effective July 1,
6 1992, G.S. 115C-174.11(a) reads as rewritten:

7 "(a) Annual Testing Program. ~~In order to assess the effectiveness of the~~
8 ~~educational process, and to ensure that each pupil receives the maximum educational~~
9 ~~benefit from the educational process, the State Board of Education shall implement an~~
10 ~~annual statewide testing program in basic subjects. It is the purpose of this testing~~
11 ~~program to help local school systems and teachers identify and correct student needs in~~
12 ~~basic skills rather than to provide a tool for comparison of individual students or to~~
13 ~~evaluate teacher performance. The annual testing program shall be conducted each~~
14 ~~school year for the third, sixth and eighth grades. Students in these grade levels who are~~
15 ~~enrolled in special education programs or who have been officially designated as~~
16 ~~eligible for participation in such programs may be excluded from the testing program if~~
17 ~~special testing procedures are required for testing such students. The State Board of~~
18 ~~Education shall select annually the type or types of tests to be used in the testing~~
19 ~~program.~~

20 The State Board of Education shall also adopt and provide to the local school
21 administrative units developmentally appropriate individualized assessment instruments
22 consistent with the Basic Education Program for the first and second grades, rather than
23 standardized tests. Local school administrative units may use these assessment
24 instruments provided to them by the State Board for first and second grade students, and
25 shall not use standardized tests. The State Board of Education shall report to the Joint
26 Legislative Commission on Governmental Operations prior to May 1, 1988, and to the
27 Senate and House Appropriations Committees on Education prior to March 1, 1989, on
28 the assessment instruments it develops.

29 If the State Board of Education finds that testing in grades other than the first and
30 second grade is necessary to allow comparisons with national indicators of student
31 achievement, that testing shall be conducted with the smallest size sample of students
32 necessary to assure valid comparisons with other states."

33 Sec. 7. Annual Report Cards for Schools. – G.S. 115C-12(9) reads as
34 rewritten:

35 "(9) Miscellaneous Powers and Duties. – All the powers and duties
36 exercised by the State Board of Education shall be in conformity with
37 the Constitution and subject to such laws as may be enacted from time
38 to time by the General Assembly. Among such duties are:

- 39 a. To certify and regulate the grade and salary of teachers and
40 other school employees.
- 41 b. To adopt and supply textbooks.
- 42 c. To adopt rules requiring all local boards of education to
43 implement the Basic Education Program on an incremental

1 basis within funds appropriated for that purpose by the General
2 Assembly and by units of local government.

3 The Board shall develop a State accreditation program that
4 meets or exceeds the standards and requirements of the Basic
5 Education Program. The Board shall require each local school
6 administrative unit to comply with the State accreditation
7 program to the extent that funds have been made available to
8 the local school administrative unit for implementation of the
9 Basic Education Program.

10 The Board shall use the State accreditation program to
11 monitor the implementation of the Basic Education Program.

12 c1. To issue an annual 'report card' for the State and for each local
13 school administrative unit, assessing each unit's efforts to
14 improve student performance and taking into account progress
15 over the previous years' level of performance and the State's
16 performance in comparison with other states. This assessment
17 shall take into account demographic, economic, and other
18 factors that have been shown to affect student performance.

19 d. To formulate rules and regulations for the enforcement of the
20 compulsory attendance law.

21 e. To manage and operate a system of insurance for public school
22 property, as provided in Article 38 of this Chapter.

23 In making substantial policy changes in administration, curriculum,
24 or programs the Board should conduct hearings throughout the regions
25 of the State, whenever feasible, in order that the public may be heard
26 regarding these matters."

27 Sec. 8. Existing Career Development and Lead Teacher Pilot Programs.

28 (a) Notwithstanding the provisions of Article 24B of Chapter 115C of the
29 General Statutes, Article 24D of Chapter 115C of the General Statutes, or any other
30 provision of law, funding for the career development pilot projects and the lead teacher
31 pilot projects shall continue through the 1989-90 fiscal year: Provided, however, that
32 any additional compensation received by an employee as a result of the unit's
33 participation in the pilot program for the 1989-90 fiscal year and for subsequent fiscal
34 years shall be paid as a bonus or supplement to the employee's regular salary.

35 Funding of these pilot projects shall continue for subsequent fiscal years only
36 if the pilot units successfully submit local school improvement plans pursuant to the
37 Performance-based Accountability Program, during the 1989-90 school year and during
38 subsequent school years.

39 (b) Beginning with the 1993-94 fiscal year, the career development and the
40 lead teacher pilot units shall receive only the amount of State funds available for school
41 units participating in a differentiated pay plan pursuant to the Education Reform Act of
42 1989; they shall receive no State funding as career development pilot units or lead
43 teacher pilot units.

1 (c) The local school improvement plan for each career development pilot
2 program shall include a schedule of modifications to the career development program.
3 This schedule shall result in an incremental reduction or increase, as appropriate, in the
4 amount of funds allocated for differentiated pay so that, for the 1993-94 fiscal year and
5 subsequent fiscal years, the cost of the differentiated pay plan equals the amount of
6 State and local funds available for differentiated pay for school units participating in
7 differentiated pay plans pursuant to the Education Reform Act of 1989.

8 (d) If an employee in a career development pilot unit is recommended for
9 Career Status I or II and that status is approved by the local board of education prior to
10 the beginning of the 1989-90 school year, the local board of education may pay that
11 employee a bonus or supplement to his regular salary. For the 1989-90 fiscal year only,
12 the local board of education may use any State or local funds available to it for the
13 career development pilot program to pay these bonuses or supplements.

14 (e) Effective at the beginning of the 1989-90 school year, an employee may
15 be considered for Career Status II no earlier than his third year in Career Status I; an
16 employee may be considered for Career Status III no earlier than his third year in Career
17 Status II.

18 (f) Any career ladder pilot project in a school unit that has resulted from a
19 merger of school units, within the last calendar year preceding the effective date of this
20 act, may be modified by the local school board, upon the recommendation of the State
21 Superintendant of Public Instruction and with the approval of the State Board of
22 Education. This modification shall require no more funds than allocated to the
23 particular project by the State Board of Education from funds appropriated to the State
24 Board of Education in Chapter 500 of the 1989 Session Laws, the Current Operations
25 Appropriations Act of 1989.

26 Sec. 9. The Department of Public Education shall report prior to May 1,
27 1990, and annually thereafter, on the implementation of the Education Reform Act of
28 1989, to the chairmen of the Senate and House of Representatives committees on
29 education, appropriations, and appropriations on education.

30 Sec. 10. There is appropriated from the General Fund to the General
31 Assembly the sum of \$100,000 for the 1989-90 fiscal year for the Study Commission on
32 the Future of Education.

33 Sec. 10.1. The provisions of this act related to differentiated pay shall be
34 implemented concurrently with the other provisions of this act during the 1990-91
35 school year.

36 Sec. 11. This act is effective upon ratification.