

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
Sixth Edition Engrossed 8/7/89

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) One member of the Senate, one member of the House of
34 Representatives, one classroom teacher, one education administrator,
35 one representative of business or industry, and one member at large,
36 appointed by the State Superintendent of Public Instruction;
- 37 (3) One member of the Senate, one member of the House of
38 Representatives, one classroom teacher, one education administrator,
39 one representative of business or industry, and one member at large,
40 appointed by the Chairman of the State Board of Education;
- 41 (4) Six members of the Senate, two classroom teachers, one supervisor of
42 student teachers, one representative of business or industry, and two
43 members at large, appointed by the President Pro Tempore of the
44 Senate; and

1 (5) Six members of the House of Representatives, two classroom teachers,
2 one supervisor of student teachers, one representative of business or
3 industry, and two members at large, appointed by the Speaker of the
4 House of Representatives.

5 (b) The President of the Senate shall appoint one member of the Commission
6 who is a member of the Senate, and the Speaker of the House of Representatives shall
7 appoint one member of the Commission who is a member of the House of
8 Representatives, to serve as cochairmen of the Commission.

9 (c) The Commission shall:

10 (1) Study the fair dismissal and employment system and all recent
11 education initiatives and goals, including the Basic Education
12 Program, Career Development Pilot Program, Lead Teacher Pilot
13 Program, and other differentiated pay programs recommended by local
14 school administrative units, comparing the results from those
15 initiatives and programs with the reasons and goals for which they
16 were started;

17 (2) Hold public hearings throughout the State on whether and how the
18 State should implement or continue to implement these initiatives and
19 goals; and

20 (3) Determine which of these initiatives and goals the State should
21 implement or continue to implement; how they should be implemented
22 to improve the quality of the State education system and to prepare
23 young people to be well-educated, productive citizens; and how they
24 should be funded.

25 (d) The Commission shall submit an interim report of its findings and
26 recommendations to the Governor, the State Superintendent of Public Instruction and
27 the General Assembly on or before May 1, 1990. The Commission shall submit a final
28 report of its findings and recommendations to the Governor, the State Superintendent of
29 Public Instruction, and the General Assembly on or before January 1, 1991. Upon filing
30 its final report, the Commission shall terminate.

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

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

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

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

43 Sec. 4. Performance-based Accountability Program. – Article 16 of Chapter
44 115C of the General Statutes is amended by adding a new Part to read:

1 **“PART 4. PERFORMANCE-BASED ACCOUNTABILITY PROGRAM.**

2 **”§ 115C-238.1. Performance-based Accountability Program; development and**
3 **implementation by State Board.**

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

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

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.

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

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

1 **"§ 115C-238.3. Elements of local plans.**

2 (a) The board of education of a local school administrative unit that elects to
3 participate in the Program shall submit a local school improvement plan to the State
4 Superintendent of Public Instruction before April 15 of the fiscal year preceding the
5 fiscal year in which participation is sought. The local board of education shall actively
6 involve a substantial number of teachers, school administrators, and other school staff
7 in developing the local school improvement plan.

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

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

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

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

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

28 **"§ 115C-238.4. Differentiated pay.**

29 (a) Local school administrative units may include, but are not required to
30 include, a differentiated pay plan for certified instructional staff, certified instructional
31 support staff, and certified administrative staff as a part of their local school
32 improvement plans. Units electing to include differentiated pay plans in their school
33 improvement plans shall base their differentiated pay plans on:

- 34 (1) The Career Development Pilot Program, G.S. 115C-363 et seq.;
- 35 (2) The Lead Teacher Pilot Program, G.S. 115C-363.28 et seq.;
- 36 (3) A locally designed school-based performance program, subject to
37 limitations and guidelines adopted by the State Board of Education;
- 38 (4) A differentiated pay plan that the State Board of Education finds has
39 been successfully implemented in another state; or
- 40 (5) A locally designed plan including any combination or modification of
41 the foregoing plans.

42 (b) Support among affected staff members is essential to successful
43 implementation of a differentiated pay plan; therefore, a local board of education that
44 decides that a differentiated pay plan should be included in its local school improvement

1 plan shall present a proposed differentiated pay plan to affected staff members for their
2 review and vote. The local board of education shall include the proposed differentiated
3 pay plan in its local school improvement plan only if the proposed plan has the approval
4 of a majority of the affected paid certificated instructional and instructional support staff
5 and a majority of the affected certificated administrators.

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

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

- 15 (1) 1990-91: two percent (2%) of teacher and administrator salaries, and
16 the employer's contributions for social security and retirement;
- 17 (2) 1991-92: three percent (3%) of teacher and administrator salaries, and
18 the employer's contributions for social security and retirement;
- 19 (3) 1992-93: four percent (4%) of teacher and administrator salaries, and
20 the employer's contributions for social security and retirement; and
- 21 (4) 1993-94 and thereafter: seven percent (7%) of teacher and
22 administrator salaries, and the employer's contributions for social
23 security and retirement.

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

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

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

34 **§ 115C-238.5. Flexible funding.**

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

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

1 "§ 115C-238.6. Approval of local school administrative unit plans by the State
2 Superintendent; conditions for continued participation.

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

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

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

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

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

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

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

39 ~~"(e) Competency Based Curriculum Testing. — In order to provide achievement~~
40 ~~information and educational accountability as part of the Basic Education Program, the~~
41 ~~State Board of Education may acquire, in the most cost-efficient manner, achievement~~
42 ~~tests and test information to evaluate achievement in those grades and courses as~~
43 ~~specified in the Basic Education Program. Information from these tests may be used as~~

1 ~~one criterion by teachers and local school personnel in arriving at student grades and in~~
2 ~~making administrative decisions.~~

3 (c) End-of-course and End-of-grade Tests. – The State Board of Education shall
4 adopt a system of end-of-course and end-of-grade tests for grades three through 12.
5 These tests shall be designed to measure progress toward selected competencies,
6 especially core academic competencies, described in the Standard Course of Study for
7 appropriate grade levels. With regard to students who are identified as not
8 demonstrating satisfactory academic progress, end-of-course and end-of-grade test
9 results shall be used in developing strategies and plans for assisting those students in
10 achieving satisfactory academic progress."

11 Sec. 6. Testing for Comparisons of Student Achievement. – Effective July 1,
12 1992, G.S. 115C-174.11(a) reads as rewritten:

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

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

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

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

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

- 1 a. To certify and regulate the grade and salary of teachers and
2 other school employees.
3 b. To adopt and supply textbooks.
4 c. To adopt rules requiring all local boards of education to
5 implement the Basic Education Program on an incremental
6 basis within funds appropriated for that purpose by the General
7 Assembly and by units of local government.

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

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

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

- 24 d. To formulate rules and regulations for the enforcement of the
25 compulsory attendance law.

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

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

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

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

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

1 (b) Beginning with the 1993-94 fiscal year, the career development and the
2 lead teacher pilot units shall receive only the amount of State funds available for school
3 units participating in a differentiated pay plan pursuant to the Education Reform Act of
4 1989; they shall receive no State funding as career development pilot units or lead
5 teacher pilot units.

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

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

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

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

31 Sec. 9. The Department of Public Education shall report prior to May 1,
32 1990, and annually thereafter, on the implementation of the Education Reform Act of
33 1989, to the chairmen of the Senate and House of Representatives committees on
34 education, appropriations, and appropriations on education.

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

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

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