

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH30077-LE-47 (1/16)

Short Title: Schools to Use Nationally Standardized Tests. (Public)

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Sponsors: Representative Cleveland.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE USE OF NATIONALLY STANDARDIZED TESTS IN THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 2 of Article 10A of Chapter 115C of the General Statutes reads as rewritten:

"Part 2. Statewide Testing Program.

**"§ 115C-174.10. Purposes of the Statewide Testing Program.**

The three testing programs in this Article have ~~three~~four purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society; (ii) to provide a means of identifying strengths and weaknesses in the education process in order to improve instructional delivery; ~~and~~ (iii) to establish additional means for making the education system at the State, local, and school levels accountable to the public for ~~results.~~ results; and (iv) to facilitate comparison of student performance in North Carolina to student performance nationally.

Except as required by federal law or as provided by G.S. 115C-174.11(a) and (b), all State tests shall be nationally standardized.

**"§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving a federal grant under the Reading First Program.

1 (b) Competency Testing Program.

2 (1) The State Board of Education shall adopt nationally standardized tests  
3 or other nationally standardized measurement devices which may be  
4 used to assure that graduates of the public high schools and graduates  
5 of nonpublic schools supervised by the State Board of Education  
6 pursuant to the provisions of Part 1 of Article 39 of this Chapter  
7 possess the skills and knowledge necessary to function independently  
8 and successfully in assuming the responsibilities of citizenship.

9 ~~(2)~~ The tests shall be administered annually to all ninth grade students in  
10 the public schools. Students who fail to attain the required minimum  
11 standard for graduation in the ninth grade shall be given remedial  
12 instruction and additional opportunities to take the test up to and  
13 including the last month of the twelfth grade. Students who fail to pass  
14 parts of the test shall be retested on only those parts they fail. Students  
15 in the ninth grade who are enrolled in special education programs or  
16 who have been officially designated as eligible for participation in  
17 such programs may be excluded from the testing programs.

18 (3) The State Board of Education ~~shall:~~

19 a. ~~Adopt one or more nationally standardized tests or other~~  
20 ~~nationally standardized equivalent measures that measure~~  
21 ~~competencies in the verbal and quantitative areas; or~~

22 b. ~~Develop~~ shall develop and validate alternate means and  
23 standards for demonstrating minimum competence. These  
24 standards must be as difficult as the tests adopted pursuant to  
25 subdivision (1) of this subsection.

26 The State Board of Education shall adopt a policy to identify which  
27 students and under what circumstances students may pass one of these  
28 ~~tests~~ alternate means and standards for demonstrating minimum  
29 competence in lieu of the testing requirement of subdivision ~~(2)-(1)~~  
30 of this subsection.

31 (3a) Students with disabilities who fail to pass the competency test adopted  
32 pursuant to subdivision ~~(2)-(1)~~ of this subsection after two attempts  
33 shall be given the opportunity to take and pass one of the alternate ~~tests~~  
34 means and standards for demonstrating minimum competence adopted  
35 pursuant to subdivision (3) of this subsection.

36 (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14.

37 (c) Annual Testing Program.

38 (1) The State Board of Education shall adopt a system of annual testing  
39 for grades three through 12. These tests shall be ~~designed to~~ nationally  
40 standardized tests or other nationally standardized equivalent measures  
41 and shall measure progress toward reading, communication skills, and  
42 mathematics for grades three through eight, and toward competencies  
43 designated by the State Board for grades nine through 12. The State  
44 Board may ~~develop and implement a plan~~ adopt nationally standardized

1 tests for high school end-of-course tests that ~~must be~~ are aligned with  
2 the content standards developed under ~~G.S. 115C-12(9e).~~  
3 G.S. 115C-12(9c), to the extent such tests are available. Students who  
4 do not pass the tests adopted for eighth grade shall be provided  
5 remedial instruction in the ninth grade. This assistance shall be  
6 calculated to prepare the students to pass the competency test  
7 administered under subsection (b) of this section.

- 8 (2) ~~If the State Board of Education finds that additional testing in grades~~  
9 ~~three through 12 is desirable to allow comparisons with national~~  
10 ~~indicators of student achievement, that testing shall be conducted with~~  
11 ~~the smallest size sample of students necessary to assure valid~~  
12 ~~comparisons with other states.~~

13 **"§ 115C-174.12. Responsibilities of agencies.**

14 (a) The State Board of Education shall establish policies and guidelines  
15 necessary for minimizing the time students spend taking tests administered through  
16 State and local testing programs, ~~for minimizing the frequency of field testing at any~~  
17 ~~one school, programs~~ and for otherwise carrying out the provisions of this Article.  
18 These policies and guidelines shall ~~include the following:~~ ensure that schools devote no  
19 more than two days of instructional time per year to practice tests.

- 20 (1) ~~Schools shall devote no more than two days of instructional time per~~  
21 ~~year to the taking of practice tests that do not have the primary purpose~~  
22 ~~of assessing current student learning;~~  
23 (2) ~~Students in a school shall not be subject to field tests or national tests~~  
24 ~~during the two week period preceding the administration of~~  
25 ~~end of grade tests, end of course tests, or the school's regularly~~  
26 ~~scheduled final exams; and~~  
27 (3) ~~No school shall participate in more than two field tests at any one~~  
28 ~~grade level during a school year unless that school volunteers, through~~  
29 ~~a vote of its school improvement team, to participate in an expanded~~  
30 ~~number of field tests.~~

31 ~~These policies shall reflect standard testing practices to insure reliability and validity~~  
32 ~~of the sample testing. The results of the field tests shall be used in the final design of~~  
33 ~~each test.~~

34 The State Board of Education's policies regarding the testing of children with  
35 disabilities shall (i) provide broad accommodations and alternate methods of assessment  
36 that are consistent with a child's individualized education program and section 504 (29  
37 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of  
38 decisions about a child's graduation or promotion, and (iii) provide parents with  
39 information about the Statewide Testing Program and options for students with  
40 disabilities. The State Board shall report its proposed policies and proposed changes in  
41 policies to the Joint Legislative Education Oversight Committee prior to adoption.

42 The State Board of Education may appoint an Advisory Council on Testing to assist  
43 in carrying out its responsibilities under this Article.

1 (b) The Superintendent of Public Instruction shall be responsible, under policies  
2 adopted by the State Board of Education, for the statewide administration of the testing  
3 program provided by this Article.

4 ~~(b1) The Superintendent shall notify local boards of education by October 1 of~~  
5 ~~each year of any field tests that will be administered in their schools during the school~~  
6 ~~year, the schools at which the field tests will be administered, and the specific field tests~~  
7 ~~that will be administered at each school.~~

8 (c) Local boards of education shall cooperate with the State Board of Education  
9 in implementing the provisions of this Article, including the regulations and policies  
10 established by the State Board of Education. Local school administrative units shall use  
11 the annual and competency testing programs to fulfill the purposes set out in this  
12 Article. Local school administrative units are encouraged to continue to develop local  
13 testing programs designed to diagnose student needs further.

14 **"§ 115C-174.13. Public records exemption.**

15 Any written material containing the identifiable scores of individual students on any  
16 test taken pursuant to the provisions of this Article is not a public record within the  
17 meaning of G.S. 132-1 and shall not be made public by any person, except as permitted  
18 under the provisions of the Family Educational and Privacy Rights Act of 1974, 20  
19 U.S.C. 1232g.

20 **"§ 115C-174.14. Provisions for nonpublic schools.**

21 All components of the Statewide Testing Program shall be made available to  
22 nonpublic schools in the manner prescribed in G.S. 115C-551 and G.S. 115C-559."

23 **SECTION 2.** G.S. 115C-12(9c) reads as rewritten:

24 **"§ 115C-12. Powers and duties of the Board generally.**

25 The general supervision and administration of the free public school system shall be  
26 vested in the State Board of Education. The State Board of Education shall establish  
27 policy for the system of free public schools, subject to laws enacted by the General  
28 Assembly. The powers and duties of the State Board of Education are defined as  
29 follows:

30 ...

31 (9c) Power to develop content standards and exit standards. – The Board  
32 shall develop a comprehensive plan to revise content standards and the  
33 standard course of study in the core academic areas of reading, writing,  
34 mathematics, science, history, geography, and civics. The Board shall  
35 involve and survey a representative sample of parents, teachers, and  
36 the public to help determine academic content standard priorities and  
37 usefulness of the content standards. A full review of available and  
38 relevant academic content standards that are rigorous, specific,  
39 sequenced, clear, focused, and measurable, whenever possible, shall be  
40 a part of the process of the development of content standards. The  
41 revised content standards developed in the core academic areas shall  
42 (i) reflect high expectations for students and an in-depth mastery of the  
43 content; (ii) be clearly grounded in the content of each academic area;  
44 (iii) be defined grade-by-grade and course-by-course; (iv) be

1 understandable to parents and teachers; (v) be developed in full  
2 recognition of the time available to teach the core academic areas at  
3 each grade level; and (vi) be measurable, whenever possible, by  
4 nationally standardized tests in a reliable, valid, and efficient manner  
5 for accountability purposes.

6 High school course content standards shall include the knowledge  
7 and skills necessary to pursue further postsecondary education or to  
8 attain employment in the 21st century economy. The high school  
9 course content standards also shall be aligned with the minimum  
10 undergraduate course requirements for admission to the constituent  
11 institutions of The University of North Carolina. The Board may  
12 develop exit standards that will be required for high school graduation.

13 The Board also shall develop and implement an ongoing process to  
14 align State programs and support materials with the revised academic  
15 content standards for each core academic area on a regular basis.  
16 Alignment shall include revising textbook criteria, support materials,  
17 ~~State tests,~~ teacher and school administrator preparation, and ongoing  
18 professional development programs to be compatible with content  
19 standards. The Board shall develop and make available to teachers and  
20 parents support materials, including teacher and parent guides, for  
21 academic content standards. The State Board of Education shall work  
22 in collaboration with the Board of Governors of The University of  
23 North Carolina to ensure that teacher and school administrator degree  
24 programs, ongoing professional development, and other university  
25 activity in the State's public schools align with the State Board's  
26 priorities."

27 **SECTION 3.** G.S. 115C-81(g) reads as rewritten:

28 "(g) Civic Literacy. –

- 29 (1) Local boards of education shall require during the high school years  
30 the teaching of the nation's founding and related documents, which  
31 shall include at least the major principles in the Declaration of  
32 Independence, the United States Constitution and its amendments, and  
33 the most important of the Federalist Papers.
- 34 (2) Local boards of education shall require that high school students  
35 demonstrate knowledge and understanding of the nation's founding  
36 and related documents in order to receive a certificate or diploma of  
37 graduation from high school.
- 38 (3) Local boards of education shall include among the requirements for  
39 graduation from high school a passing grade in all courses that include  
40 primary instruction in the Declaration of Independence, the United  
41 States Constitution and its amendments, and the most important of the  
42 Federalist Papers.
- 43 (3a) Local boards of education shall allow and may encourage any public  
44 school teacher or administrator to read or post in a public school

1 building, classroom, or event, excerpts or portions of writings,  
2 documents, and records that reflect the history of the United States,  
3 including, but not limited to, (i) the preamble to the North Carolina  
4 Constitution, (ii) the Declaration of Independence, (iii) the United  
5 States Constitution, (iv) the Mayflower Compact, (v) the national  
6 motto, (vi) the National Anthem, (vii) the Pledge of Allegiance, (viii)  
7 the writings, speeches, documents, and proclamations of the founding  
8 fathers and Presidents of the United States, (ix) decisions of the  
9 Supreme Court of the United States, and (x) acts of the Congress of the  
10 United States, including the published text of the Congressional  
11 Record. Local boards, superintendents, principals, and supervisors  
12 shall not allow content-based censorship of American history in the  
13 public schools of this State, including religious references in these  
14 writings, documents, and records. Local boards and professional  
15 school personnel may develop curricula and use materials that are  
16 limited to specified topics provided the curricula and materials are  
17 aligned with the standard course of study or are grade level  
18 appropriate.

19 (3b) A local school administrative unit may display on real property  
20 controlled by that local school administrative unit documents and  
21 objects of historical significance that have formed and influenced the  
22 United States legal or governmental system and that exemplify the  
23 development of the rule of law, such as the Magna Carta, the  
24 Mecklenburg Declaration, the Ten Commandments, the Justinian  
25 Code, and documents set out in subdivision (3a) of this subsection.  
26 This display may include, but shall not be limited to, documents that  
27 contain words associated with a religion; provided however, no display  
28 shall seek to establish or promote religion or to persuade any person to  
29 embrace a particular religion, denomination of a religion, or other  
30 philosophy. The display of a document containing words associated  
31 with a religion shall be in the same manner and appearance generally  
32 as other documents and objects displayed and shall not be presented or  
33 displayed in any fashion that results in calling attention to it apart from  
34 the other displayed documents and objects. The display also shall be  
35 accompanied by a prominent sign quoting the First Amendment of the  
36 United States Constitution as follows: "Congress shall make no law  
37 respecting an establishment of religion, or prohibiting the free exercise  
38 thereof; or abridging the freedom of speech, or of the press; or the  
39 right of the people peaceably to assemble, and to petition the  
40 government for a redress of grievances."

41 (4) The State Board of Education shall require that any high school level  
42 curriculum-based tests ~~developed and~~ administered statewide  
43 beginning with academic year 1990-91 include questions related to the  
44 Declaration of Independence, the United States Constitution and its

1 amendments, and the most important of the Federalist ~~Papers~~.Papers, if  
2 nationally standardized tests containing such questions are available.

- 3 (5) The State Department of Public Instruction and the local boards of  
4 education, as appropriate, shall establish curriculum content and  
5 provide for teacher training to ensure that the intent and provisions of  
6 this subsection are carried out. The curriculum content established  
7 shall include a review of the contributions made by Americans of all  
8 races."

9 **SECTION 4.** G.S. 115C-105.35(a) reads as rewritten:

10 "(a) The School-Based Management and Accountability Program shall (i) focus  
11 on student performance in the basics of reading, mathematics, and communications  
12 skills in elementary and middle schools, (ii) focus on student performance in courses  
13 required for graduation and on other measures required by the State Board in the high  
14 schools, and (iii) hold schools accountable for the educational growth of their students.  
15 To those ends, the State Board shall design and implement an accountability system that  
16 sets annual performance standards based on nationally standardized tests for each  
17 school in the State in order to measure the growth in performance of the students in each  
18 individual school. During the 2004-2005 school year and at least every five years  
19 thereafter, the State Board shall evaluate the accountability system and, if necessary,  
20 modify the testing standards to assure the testing standards continue to reasonably  
21 reflect the level of performance necessary to be successful at the next grade level or for  
22 more advanced study in the content area.

23 As part of this evaluation, the Board shall, where available, review the historical  
24 trend data on student academic performance on State tests. To the extent that the  
25 historical trend data suggest that the current standards for student performance may not  
26 be appropriate, the State Board shall adjust the standards to assure that they continue to  
27 reflect the State's high expectations for student performance."

28 **SECTION 5.** This act is effective when it becomes law.