GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 113
House Committee Substitute Favorable 6/23/20

Short Title: Education Omnibus. (Public)

Sponsors: 

Referred to: 

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN SCHOOL PSYCHOLOGISTS FROM NORTH CAROLINA PSYCHOLOGY BOARD LICENSURE; TO REVISE ALLOCATIONS OF APPROPRIATIONS FROM THE CORONAVIRUS RELIEF FUND TO ESTABLISH THE SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT PROGRAM; TO MAKE MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR REQUIREMENTS TO EXPAND THE USE OF REMOTE LEARNING DAYS AND ALLOW MODIFICATIONS FOR SINGLE-TRACK YEAR-ROUND SCHOOLS; TO CLARIFY THAT SCHOOL NUTRITION FUNDS FROM THE CORONAVIRUS RELIEF FUND ARE FOR EMERGENCY SCHOOL NUTRITION SERVICES, AUTHORIZE THE USE OF THESE FUNDS FOR THE SUMMER FOOD SERVICE PROGRAM, AND EXTEND THE PERIOD OF USE FOR THESE FUNDS UNTIL DECEMBER 30, 2020; TO ALLOW LME/MCO REINVESTMENT PLANS TO INCLUDE PROVIDING ASSISTANCE TO PUBLIC SCHOOL UNITS; TO CHANGE A CHARTER SCHOOL REPORT DATE; TO DESIGNATE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS AN APPROVER OF PRIVATE ACTIVITY BONDS; TO REVISE THE CALCULATION OF THE SCHOOL ADMINISTRATOR INTERN STIPEND; AND TO EXTEND THE GRANT TERM FOR THE NORTH CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM.

The General Assembly of North Carolina enacts:

PART I. SCHOOL PSYCHOLOGIST LICENSURE EXEMPTION

SECTION 1. G.S. 90-270.4(c) reads as rewritten:

"(c) Persons certified licensed by the State Board of Education as school psychologists and serving as regular salaried employees or contractors of the Department of Public Instruction or local boards of education any public school unit are not required to be licensed under this Article in order to perform the duties for which they serve the Department of Public Instruction or local boards of education, public school unit, and nothing in this Article shall be construed as limiting their activities, services, or titles while performing those duties for which they serve the Department of Public Instruction or local boards of education, public school unit. If a person certified licensed by the State Board of Education as a school psychologist and serving as a regular salaried employee or contractor of the Department of Public Instruction or a local board of education public school unit is or becomes a licensed psychologist under this Article, he or she shall be required to comply with all conditions, requirements, and obligations imposed by statute or by Board rules upon all other licensed psychologists as a condition to retaining that license. Other provisions of this Article notwithstanding, if a person certified licensed by the
State Board of Education as a school psychologist and serving as a regular salaried employee or contractor of the Department of Public Instruction or a local board of education—public school unit is or becomes a licensed psychological associate under this Article, he or she shall not be required to comply with the supervision requirements otherwise applicable to licensed psychological associates by Board rules or by this Article in the course of his or her regular salaried employment or contractual relationship with the Department of Public Instruction or a local board of education—public school unit, but he or she shall be required to comply with all other conditions, requirements, and obligations imposed by statute or a local board of education public school unit or by Board rules upon all other licensed psychological associates as a condition to retaining that license."

PART II. SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT PROGRAM

SECTION 2.(a) Section 3.3 of S.L. 2020-4 reads as rewritten:

"SECTION 3.3. Allocations of Funds. – OSBM shall allocate the funds appropriated in Section 3.2 of this act as follows:

…

(12) $10,000,000–$9,000,000 to the Department of Public Instruction to be allocated in a manner consistent with the formula for the Instructional Support Allotment. These funds shall be used for contracted services provided no later than December 30, 2020, for school health support personnel to provide additional physical and mental health support services for students in response to COVID-19, including remote and in-person physical and mental health support services. For purposes of this subdivision, the term "school health support personnel" shall refer to school counselors, school nurses, school psychologists, and school social workers.

(12a) $1,000,000 to the Department of Public Instruction to implement the School Psychologists Recruitment and Retention Pilot Program in accordance with Section 4.2E of this act.

…"

SECTION 2.(b) S.L. 2020-4 is amended by adding the following new section to read:

"SCHOOL PSYCHOLOGISTS RECRUITMENT AND RETENTION PILOT PROGRAM

"SECTION 4.2E.(a) School Psychologists Recruitment and Retention Pilot Program; Purpose. – Due to the coronavirus disease 2019 (COVID-19), the accompanying increased demand for school mental health services, and the insufficient number of school psychologists available in many local school administrative units to address the mental and psychological impacts of COVID-19 among students and school personnel, the State Board of Education shall use the funds allocated in subdivision (12a) of Section 3.3 of this act to establish the 2020 School Psychologists Recruitment and Retention Pilot Program (Program). The purpose of the Program is to do the following:

(1) Recruit high-quality school psychologists to qualifying local school administrative units.

(2) Retain high-quality school psychologists in qualifying local school administrative units by providing signing and retention bonuses to select school psychologists.

(3) To the extent funds are available after providing signing and retention bonuses for school psychologists, provide supplemental compensation for mentors of school psychologists hired pursuant to the Program and compensation for
school psychology interns working in a qualifying local school administrative unit.

"SECTION 4.2E.(b) Definitions. – For purposes of this section, the following definitions apply:

(1) High-need qualifying local school administrative unit. – A qualifying local school administrative unit that employed zero full-time school psychologists in the prior school year.

(2) Qualifying local school administrative unit. – A local school administrative unit that meets either of the following criteria:
   a. Employed two or fewer full-time school psychologists in the prior school year.
   b. Had a ratio of school psychologists to students that was at one school psychologist for every 1,900 or more students in the prior school year.

(3) Recruitment and retention coordinator. – The person at the Department of Public Instruction, under the direct supervision of the Superintendent of Public Instruction, who is responsible for administering the Program.

"SECTION 4.2E.(c) Implementation. – The recruitment and retention coordinator shall coordinate with qualifying local school administrative units to allocate funds for the Program, subject to the following requirements:

(1) Bonuses for school psychologists shall be conditioned on the existence of an agreement between the qualifying local school administrative unit and the school psychologist that is (i) approved by the recruitment and retention coordinator and (ii) at a minimum, includes the following provisions:
   a. The school psychologist agrees to remain employed in the qualifying local school administrative unit as a school psychologist for three to five years, as negotiated by the parties.
   b. The school psychologist agrees to return bonus funds to the Department of Public Instruction on a prorated basis if all of the following criteria are met:
      1. The school psychologist does not remain employed in the qualifying local school administrative unit as a school psychologist for the agreed upon period of time.
      2. The school psychologist has not been terminated due to death, a reduction in force, or disability that prohibits him or her from carrying out the essential functions of the job.

(2) No individual bonus for a school psychologist shall be greater than thirty thousand dollars ($30,000).

(3) In determining how to allocate funds for the Program, the recruitment and retention coordinator shall have as a first priority high-need qualifying local school administrative units. The recruitment and retention coordinator shall have as a second priority qualifying local school administrative units with a ratio in the prior school year of one school psychologist for every 2,000 or more students. The recruitment and retention coordinator shall also consider the unique factors of each qualifying local school administrative unit, including all of the following:
   a. The level of resources available to the qualifying local school administrative unit that would receive the funds.
   b. The overall impact on student mental health in the qualifying local school administrative unit if the funds are provided.
   c. The history of difficulty in recruiting or retaining school psychologists at the qualifying local school administrative unit.
d. The likelihood of success in recruiting or retaining school psychologists at the qualifying local school administrative unit without a bonus.

(4) The recruitment and retention coordinator shall not provide any funds to a qualifying local school administrative unit unless the unit agrees that the funds will be used to supplement, and not supplant, local funds for school psychologists.

(5) Except as otherwise provided in this subsection, the recruitment and retention coordinator has discretion over the allocation of funds.

"SECTION 4.2E.(d) Report. – By September 30, 2020, and every subsequent three months in which funds are awarded, the recruitment and retention coordinator shall report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division on the identity of the qualifying local school administrative units receiving funds, the amount of funds received by each qualifying local school administrative unit, and the purposes for which the funds were used.

"SECTION 4.2E.(e) Funds. – Of the funds allocated to the Department of Public Instruction for the Program pursuant to subdivision (12a) of Section 3.3 of this act, the Department shall use up to one hundred thousand dollars ($100,000) to establish one new, full-time equivalent recruitment and retention coordinator position at the Department to administer the Program."

PART III. MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR

SECTION 3.(a) Subdivision (6) of Section 2.1 of S.L. 2020-3 reads as rewritten:

"(6) Year-round school. – A school with a single or multi-track instructional calendar that was adopted prior to March 1, 2020, and provides instructional days in compliance with Section 2.11(b)(1) of this Part throughout the entire school calendar year, beginning July 1 and ending June 30, by utilizing at least one of the following plans:

a. A plan dividing students into four groups and requiring each group to be in school for assigned and staggered quarters each school calendar year.

b. A plan providing students be scheduled to attend an average of between 44 and 46 instructional days followed by an average of between 15 and 20 days of vacation, repeated throughout the school calendar year.

c. A plan dividing the school calendar year into five nine-week sessions of classes and requiring each student to attend four assigned and staggered sessions out of the five nine-week sessions to complete the student's instructional year."

SECTION 3.(b) Section 2.11(b) of S.L. 2020-3 reads as rewritten:

"SECTION 2.11.(b) School Calendar. – Except as otherwise provided in this subsection, the requirements of G.S. 115C-84.2, including the requirement that a school calendar consist of 215 days, apply to the 2020-2021 school calendar for local school administrative units. The provisions of this subsection supersede any school calendar adopted by a public school unit prior to the enactment of this Part. For the 2020-2021 school year only, the following applies to the school calendar for public school units:

(1) Notwithstanding any provisions of G.S. 115C-75.8(d)(9), 115C-84.2(a)(1), 115C-150.12, 115C-218.85(a)(1), 115C-238.53(d), 115C-238.66(1)d., 116-239.8(b)(2)c., and Section 6(e) of S.L. 2018-32 to the contrary, each public school unit shall adopt a calendar that includes 190 days of instruction as follows:
a. 185 days or 1,025 hours of instruction that include five remote
instruction days in accordance with the Plan developed pursuant to
subsection (a) of this section. Each of the five remote instruction days
may be scheduled in the discretion of the public school unit, except as
provided in subdivision (2) of this subsection.

b. An additional five instructional days that shall be satisfied only by five
individually separate and distinct full instructional days and not by an
accumulation of instructional hours.

(2) Notwithstanding any provisions of G.S. 115C-84.2(d) to the contrary, each
local school administrative unit shall adopt a school calendar in accordance
with the following:

a. Except for schools defined in subdivision (4) or (6) of Section 2.1 of
this Part, an opening date for students of August 17, 2020.
b. Except for schools defined in subdivision (4) or (6) of Section 2.1 of
this Part, a closing date for students no later than June 11, 2021.
c. No remote instruction day shall be scheduled prior to August 24, 2020,
unless the school operates on a year-round or modified calendar
schedule. A year-round or modified calendar school shall not schedule
a remote instruction day prior to the sixth instructional day of the
year-round or modified calendar.
c1. A local board of education may alter the adopted calendar of a
single-track year-round school in a manner that no longer meets the
requirements of Section 2.1(6)b. of this act, if both of the following
are met:
1. The local board of education determines the modification is
necessary to ensure the health and safety of students.
2. The altered calendar complies with all other requirements for
year-round schools in this section.
d. Remote instruction days may be scheduled for use as teacher
workdays, including as teacher workdays on which teachers may take
accumulated vacation leave, provided that remote instruction material
is prepared and provided for students to use during the remote
instruction days. Local school administrative units may, in their
discretion, schedule remote instruction days as teacher workdays to
facilitate completion of first semester course exams prior to a winter
holiday period. This sub-subdivision only applies to the five remote
instruction days scheduled as required by sub-subdivision a. of
subdivision (1) of this subsection.
e. The following apply for a local school administrative unit granted a
good cause waiver for the 2020-2021 school year:
1. The opening date for students shall not be earlier than August
17, 2020, except for schools defined in subdivision (4) or (6)
of Section 2.1 of this Part.
2. Up to an additional five remote instruction days may be used,
if those days are (i) provided in accordance with the
requirements of this subsection for remote instruction days and
(ii) used solely as make-up days for days on which schools
have been closed due to inclement weather or other emergency
situations.

(3) If, during the 2020-2021 school year, a state of emergency or disaster is
declared under Chapter 166A of the General Statutes ordering school closure
for more than five days. If the governing board of a public school unit determines that additional remote instruction beyond the five days required by subdivision (1) of this subsection is needed to ensure the health and safety of students, a public school unit providing may provide remote instruction in accordance with the Plan developed pursuant to subsection (a) of this section may use additional remote instruction days as necessary to satisfy instructional time requirements. The public school unit shall ensure that it is in compliance with all required COVID-19 guidance related to the operation of elementary and secondary schools issued by the State Board of Education, the Department of Public Instruction, and the Department of Health and Human Services."

SECTION 3.(c) This section is effective when it becomes law.

PART IV. MODIFY USE OF SCHOOL NUTRITION FUNDS

SECTION 4. Subdivision (6) of Section 3.3 of S.L. 2020-4 reads as rewritten:

"(6) $75,000,000 to the Department of Public Instruction for emergency school nutrition services, including innovative school meals, provided to students in response to COVID-19 by public school units participating in the National School Lunch Program or Program, School Breakfast Program, or Summer Food Service Program from March 16, 2020, through the end of the 2019-2020 school year. December 30, 2020. Funds for these services shall be allocated in the same manner as if the participating public school units were reimbursed by school meal receipts or federal funds."

PART V. LME/MCO EXPENDITURE FOR STUDENT BEHAVIORAL HEALTH NEEDS

SECTION 5. G.S. 122C-125.2(a) reads as rewritten:

"(a) Beginning on September 1, 2018, the Department shall calculate on a quarterly basis a solvency range for each LME/MCO as a sum of the following figures to produce upper and lower range values:

1. Incurred but not reported claims figure. – The incurred but not reported claims figure shall be calculated by multiplying an LME/MCO's service spending for the preceding 12 months by six and eight-tenths percent (6.8%). If an LME/MCO experiences extenuating circumstances supported by actuarial documentation, then the Department may utilize a percentage other than six and eight-tenths (6.8%) for that LME/MCO.

2. Net operating liabilities figure. – The net operating liabilities figure shall be calculated by subtracting noncash current accounts receivable from the nonclaims current liabilities, as reported on the LME/MCO's most recent balance sheet. If the noncash accounts receivable are greater than the nonclaim liabilities, then the value for the net operating liabilities figure is zero.

3. Catastrophic or extraordinary events range. – The catastrophic or extraordinary events range shall be calculated as the range between a lower figure and an upper figure. The lower figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by four and fifteen-hundredths percent (4.15%). The upper figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by eight and three-tenths percent (8.3%).

4. Required intergovernmental transfers figure. – The required intergovernmental transfers figure is the amount of funds needed by an
LME/MCO to make any intergovernmental transfers required by law over the subsequent 24 months.

(5) Projected operating loss figure. – The projected operating loss figure is the projected net loss for an LME/MCO over the subsequent 24 months. In projecting the net loss for an LME/MCO, the Department shall use the net loss of the LME/MCO in the preceding 12 months adjusted for any changes in single-stream funding, intergovernmental transfers, or other factors known to the Department that will impact the LME/MCO’s net loss over the subsequent 24 months. If a net profit is projected for an LME/MCO, then this figure is zero.

(6) Reinvestment plan figure. – The reinvestment plan figure is the amount required for all qualifying expenditures contained in an LME/MCO’s reinvestment plans over the subsequent 36 months. To qualify as an expenditure under this subdivision, the expenditure must be related to one of the following:

a. An initiative that supports specific goals or health status outcomes of the State in relation to the State’s behavioral health needs.

b. An initiative that meets a State behavioral health need, as defined in law or by the Department.

c. Funding for infrastructure that supports the effective and efficient operation of the LME/MCO.

d. Funding for a facility within the LME/MCO catchment area that is necessary to meet to the needs of the population served by the LME/MCO.

e. New or expanded initiatives and programmatic improvements to the State behavioral health system.

f. Working capital to be utilized to fund changes in rates, operations, or programs.

g. Assistance to public school units within the LME/MCO catchment area for student behavioral health needs."

PART VI. CHANGE CHARTER SCHOOL REPORT DATE

SECTION 6. G.S. 115C-218.110(b) reads as rewritten:

"(b) The State Board of Education shall review and evaluate the educational effectiveness of the charter schools authorized under this Article and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than February 15 to the Joint Legislative Education Oversight Committee on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools’ operation.

(3) Best practices resulting from charter school operations.

(4) Other information the State Board considers appropriate."

PART VII. SUPERINTENDENT MAY APPROVE BONDS TO FINANCE OR REFINANCE A CHARTER SCHOOL FACILITY

SECTION 7. Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-218.37. Public approval for private activity bonds."
For purposes of this section, the following definitions shall apply:

1. **Charter school facility.** – Real property, personal property, or both that is used or intended for use in connection with the operation of a charter school.

2. **Applicable elected representative.** – An elected official of a governmental unit having jurisdiction over the area in which a charter school facility is located, as defined in section 147(f)(2) of the Internal Revenue Code (26 U.S.C. § 147(f)(2)).

The Superintendent of Public Instruction is hereby designated as an applicable elected representative who may approve the issuance of one or more private activity bonds to finance or refinance a charter school facility, after a public hearing following reasonable public notice, in accordance with section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable State and federal laws and regulations. Procedures for the public hearing shall be determined by the Superintendent of Public Instruction, and the public hearing shall be conducted by the Superintendent or his or her designee, in the county where the charter school facility is or will be located."

**PART VIII. REVISE SCHOOL ADMINISTRATOR INTERNSHIP STIPEND**

SECTION 8. If Senate Bill 818, 2019 Regular Session, becomes law, then Section 6(c) of that act reads as rewritten:

"SECTION 6.(c) Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend during the internship period of the master's program. The stipend shall be at the beginning salary of an assistant principal during the internship period of the master's program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program, or, for a teacher who becomes an intern, at least as much as that person would earn as a teacher on the teacher salary schedule. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns."

**PART IX. EXTEND MAXIMUM GRANT TERM TO SIX YEARS FOR THE NORTH CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM**

SECTION 9.(a) G.S. 116-74.46(c)(1) reads as rewritten:

"(1) The duration of grants shall be as follows:

a. Grants shall be no more than five to six years and no fewer than two years in duration, unless the Commission finds early termination of a grant is necessary due to noncompliance with grant terms.

b. The Commission may renew a grant based on compliance with the grant terms and performance, including allowing the grantee to scale up or replicate the successful program as provided in subdivision (3) of this subsection."

SECTION 9.(b) This section becomes effective July 1, 2020, and applies to grants awarded or renewed on or after that date.

**PART X. EFFECTIVE DATE**

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.