

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: S1139 2nd Edition

SHORT TITLE: ABC's Plan

SPONSOR(S): Winner, Dannelly, Hartsell, Hobbs, Lucas, Perdue, Plexico, Simpson

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|----------------|---------------------------|--------------|--------------|
| FISCAL IMPACT: | Expenditures: | Increase (x) | Decrease () |
| | Revenues: | Increase () | Decrease () |
| | No Impact () | | |
| | No Estimate Available () | | |

Bill Summary

Senate Bill 1139, recommended by the Joint Legislative Education Oversight Committee, was recommended by the State Board of Education in its March, 1996, Report on the ABCs Plan, is divided into five parts: School-based Management and Accountability Program; Local Flexibility; Conforming Changes; Streamline APA for ABC Plan; and Effective Dates.

SCHOOL-BASED MANAGEMENT AND ACCOUNTABILITY PROGRAM

Section 1 rewrites G.S. 115C-12(9), which spells out the duties of the State Board, by deleting the duty to develop management accountability standards, and by amending the provisions concerning the duties to (i) issue annual report cards for each school unit, and (ii) develop a system of school improvement reports. This section also adds a new "c4" to direct the Board to develop guidelines, procedures, and rules to establish, implement, and the "School-based Management and Accountability Program" (the new name given for the ABC's Plan).

Section 2 recodifies Part 4 of Article 16 of Chapter 115C of the General Statutes, G.S. 115C-238.1 through G.S. 115C-238.8, as Article 8B of Chapter 115C. This moves the current statutes on the Performance-Based Accountability Program (PBAP) to a new place in Chapter 115C. Currently, it is located under Article 16, Optional Programs.

Section 3 rewrites Article 8B (the recodified PBAP).

G.S. 115C-105.20 (was 115C-238.1) is amended to change the name of the program, to direct the Board to establish guidelines to assist local boards of education and schools in the implementation of the new program.

G.S. 115C-105.21 (was 115C-238.2) is amended to make the program mandatory, rather than optional. A new subsection (b1) is added to clarify that local boards are allowed increased flexibility in the expenditure of State funds, and may be granted waivers of certain State laws, regulations, and policies that inhibit their ability to reach local accountability goals. Under PBAP, this flexibility only was given to participating school systems.

G.S. 115C-105.21A (new section, but language comes from PBAP statutes): School boards will no longer have to request waivers on the

expenditure of State funds from the State Board. They will continue to be subject to the same flexibility and limitations set out in House Bill 6.

G.S. 115C-105.21B (new section, but language comes from PBAP statutes): Local boards may continue to seek waivers of certain laws, rules, and policies.

G.S. 115C-105.22 (was 115C-238.3) is amended to eliminate systemwide plans, advisory panels (G.S. 115C-55 allows local boards to appoint advisory councils), and school and student performance goals. The same people will create the school improvement plan, and, generally, the procedure for the local board to accept or reject the plan remains the same. However, if the board does not accept a plan within 60 days after its first submission to the board, the board or the school may use a process for resolving disagreements that will be recommended in the Board's guidelines. If neither asks to use this process, then the local board may develop a school improvement plan for the school. Plans will remain in effect for three years, but may be amended. The local board may vacate any portion of a plan if the board finds it is impeding student performance at a school or if that portion becomes unlawful at any time. The board must then direct the school to revise the relevant portions of the plan.

G.S. 115C-105.23 (was 115C-238.4), differentiated pay, is repealed.

(FYI -- G.S. 115C-238.5 was repealed July, 1995)

G.S. 115C-105.24 (was 115C-238.6) is repealed; however, most of the language is moved to other places, such as G.S. 115C-105.21A and G.S. 115C-105.21B.

G.S. 115C-105.25 (was 115C-238.6A) is amended to require local boards to distribute 75% of their State staff development funds to the schools to be used in accordance with the schools' school improvement plans. Other amendments to this section make conforming changes.

G.S. 115C-105.26 (was 115C-238.7) is amended to change the name of the Task Force on Site-Based Management to the Task Force on School-based Management, to substitute the "State Board" for the "Superintendent", to slightly modify the duties of the Task Force, and to make conforming changes.

G.S. 115C-105.27 (was 115C-238.8) is amended to make conforming changes.

Part 3. "School-based Accountability" is new:

G.S. 115C-105.28 directs the State Board to design and implement a system that sets annual performance standards for each of the schools in the State in order to measure the growth in performance of students in each individual school.

G.S. 115C-105.29 directs the State Board to establish a procedure to reward the personnel in schools that exceed their expected growth. The personnel, who are the same as those entitled to vote on the school improvement plans, may receive the financial awards on an individual basis, or may choose to make and vote on a plan to use the funds differently. The local board must approve this plan unless it involves expenditures that are not for a public purpose or are otherwise unlawful.

G.S. 115C-105.30 directs the Board to design and implement a procedure to identify schools that fail to meet the minimum growth standards, as defined by the State Board, and in which a majority of students are performing below grade level. These "low-performing" schools are required to notify the parents that they have been so designated and to describe what steps they are taking to improve student performance.

G.S. 115C-105.31 allows the State Board to assign assistance teams to low-performing schools or to any school that asks for an assistance team and that the Board believes would benefit; however, the Board is directed to give priority to low-performing schools in which the students' educational performance is declining. The assistance teams will work with the schools, central offices, and local boards in order to help these schools improve student performance. If the school fails to improve student performance after assistance is provided, the team may recommend that the assistance continue or that the State Board take further action. If the team determines a school's school improvement plan is impeding student performance at that school, the team may recommend to the local board that it vacate the relevant portions of the plan and that it direct the school to revise those portions.

G.S. 115C-105.32 directs the State Board to annually review the progress made in identified low-performing schools. Subsection (b) allows the State Board to dismiss personnel assigned to that school and to terminate school administrator contracts entered into on or after July 1, 1996, when the Board identifies that school as low-performing and determines it has failed to make satisfactory improvement after the Board assigned an assistance team, and the assistance team recommends dismissal or termination of the contract for one or more grounds established for dismissal or demotion of a career teacher. The Board is directed to adopt procedures to ensure due process rights are afforded to these people.

Furthermore, the State Board may appoint an interim superintendent (and terminate the current superintendent's contract) in a local school administrative unit when more than half the schools in that unit are identified as low-performing and an assistance team assigned to one of those schools recommends this action based upon a finding that the superintendent has failed to cooperate with the assistance team or has otherwise hindered that school's ability to improve.

Finally, if the State Board appoints an interim superintendent and the State Board determines that the local board of education has failed to cooperate with the interim superintendent or has otherwise hindered the ability to improve student performance in that local school administrative unit or in a school in that unit, the State Board may suspend and take upon itself any of the powers and duties of the local board of education that the State Board considers are necessary or appropriate to improve student performance in the local school administrative unit. If the State Board does suspend any of the local board's powers and duties and subsequently determines it is necessary to change the governance of the local school administrative unit in order to improve student performance, the State Board may recommend this change to the General Assembly for its consideration at the next session. (Under current law, which is repealed in Section 4 of this act, the State Board may appoint a caretaker administrator, a caretaker board, or both, and may terminate the contract of the local superintendent when the SYSTEM has been identified as low-performing.)

Section 4 repeals Article 6A of Chapter 115C, "State Assistance & Intervention in Low Performing School Units".

Section 5 amends G.S. 115C-39, "Removal of board members", to substitute the State Board for the Superintendent and to add that the State Board may suspend the powers and duties of the board and act on its behalf

if the Board determines the local board has failed to cooperate with the interim superintendent appointed by the State Board.

Section 6 amends G.S. 115C-274 to authorize the State Board to appoint an interim superintendent, revoke the superintendent's certificate, and dismiss the superintendent when more than half the schools in a school unit are identified as low-performing.

Section 7 amends G.S. 115C-325, which establishes the procedures governing the dismissal of teachers. This amendment provides that the findings and recommendations of an assistance team are substantial evidence of the teacher's inadequate performance.

LOCAL FLEXIBILITY

Section 8 removes the current restriction that limits to 60 minutes the duration of classes in basic academic courses for grades seven through nine.

Section 9 amends G.S. 115C-302(a)(1) to allow more flexibility in scheduling teacher work days.

1. Local boards may schedule make-up dates after the 10th calendar month, if teacher work-days were missed due to hazardous weather, the teacher and the supervisor agree to that make-up date after the 10th calendar month.

2. Local boards may approve school improvement plans that include work-days that occur after the 10th calendar month.

3. Teachers and supervisors can agree to schedule work days after the 10th calendar month.

4. Teachers may receive their last paycheck on a pay date that occurs before the scheduled work day if that day falls after the 10th calendar month.

In all cases, the work day must occur before the end of the fiscal year. A teacher who does not continue to be employed and who fails to make up a scheduled work day must repay any salary received but not earned. A teacher who continues to be employed, but fails to make up a scheduled work day may be dismissed under the tenure law provisions.

Section 10 amends G.S. 115C-47(28) to allow local boards to enter into installment purchase as well as lease purchase contracts. Local boards may currently enter into lease purchase contracts, but only for automobiles. Much of the language regarding lease purchase contracts is moved to a new section, G.S. 115C-528. **Section 11** amends G.S. 115C-522(a) to make conforming changes regarding lease purchase and installment purchase contracts. **Section 12** creates a new G.S. 115C-528 to allow local boards to enter into lease purchase and installment purchase contracts. Both types of contracts allow the purchaser to make payments over time. Much of G.S. 115C-528 tracks the language in G.S. 160A-20, which allows units of local government to enter into installment purchase contracts.

Subsection (a) specifies 5 types of equipment that may be purchased this way: automobiles, school buses, mobile classroom units, photocopiers, and computers. Previous law had allowed for installment purchase contracts for automobiles. Computers purchased by either type of contract must meet the technical standards of the North Carolina Instructional Technology Plan.

Subsection (b) defines a lease purchase contract as a rental arrangement with an option or obligation to purchase. It allows options to upgrade which are common for computers, and allows boards to exercise that option without having to rebid the contract.

Subsection (c) defines an installment purchase as a purchase where title to the property passes to the buyer, but the seller retains a security interest to ensure payment.

Subsection (d) prohibits either type of contract from extending beyond the useful life of the item purchased.

Subsection (e) provides that the Board of County Commissions must specifically approve all contracts entered into under this section.

Subsection (f) provides that lease purchase and installment purchase contracts over \$500,000 must be approved by the Local Government Commission.

Subsection (g) prohibits contracts that do not allow schools to substitute equipment.

Subsection (h) limits the vendor to recovery of the purchased equipment in the event of default.

Section 13 directs the IRMC, the Department of Administration, and the Local Government Commission to develop guidelines for determining the "useful life" of an item purchased under an installment or lease purchase contract. The guidelines must include a calculation for upgrades if appropriate. The agencies must provide the guidelines to the State Board of Education by November 1, 1996 and the State Board must provide them for schools by January 1, 1996.

Section 14 directs the State Board to develop (in collaboration with the Department of Administration) and implement a 2-year pilot program to allow six school units to purchase equipment off the State term contract. The following conditions apply to those purchases:

1. The purchase price of the item, including delivery, is less than the cost under the State term contract.
2. The cost does not exceed \$10,000.
3. The school documents in writing the cost savings (not applicable to current term contracts that allow schools to purchase from non-certified vendors if the purchase amount falls below a certain threshold).
4. The school provides an annual, itemized report of the cost savings to the State Board of Education.

The State Board is directed to report annually to the Department of Administration. Also, the Board is to evaluate the information received from the participating school units and to report to the Joint Legislative Education Oversight Committee by September 1, 1997, and by September 1, 1998. This section becomes effective July 1, 1996, and applies to State term contracts for which bids or offers are solicited on or after that date. Most State term contracts are for 1 year and many have an option to renew for 1 year.

Section 15 amends G.S. 115C-521(d) to allow school boards to enter into contracts for the repair or renovation of school buildings not owned in fee simple. (There is some uncertainty whether school boards may lease property for school buildings. To clarify this, the Committee may want to

consider amendments to G.S. 115C-517 to clarify what is meant by the term "acquire".)

Section 16 amends G.S. 115C-158.1(d) to reflect the changes in 115C-521(d) that allow school boards to contract for the repair and renovation of buildings not owned by the board in fee simple.

Section 17 amends G.S. 115C-326 to allow local boards flexibility in developing their own teacher evaluation tools, provided the tools are properly validated. It also allows local boards to adopt rules for evaluating certain specified categories of career teachers on a less than annual basis.

Section 18 amends G.S. 115C-47 by adding a new subsection (33a) to allow local boards to use textbooks that have not been adopted by the State Board of Education. **Section 19** amends G.S. 115C-85 to allow the use of non-adopted textbooks. **Section 20** amends G.S. 115C-98 to allow local boards to select and purchase non-adopted textbooks for use in specified grade levels and for specified courses. It also allows local boards to adopt school improvement plans that include using non-adopted textbooks for selected grade levels and courses. Contracts for the purchase of non-adopted textbooks must include a license to reproduce the text in Braille, large print, or audio-cassette form.

Section 21 repeals G.S. 115C-112, which establishes procedures for suspending and expelling students with special needs. This statute, in several places, conflicts with federal law, which is controlling. **Section 22** amends G.S. 115C-391, which is the general law governing discipline, suspension, and expulsion of students, by adding a new subsection (g) to make it clear that the policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

CONFORMING CHANGES

Sections 23-28 make technical changes.

STREAMLINE APA FOR ABC PLAN

Section 29 allows the State Board to use a streamlined procedure for adopting rules directly related to the implementation of the ABC Plan. **Subsection (a)** allows the State Board to publish the text of the proposed rule as the first step in the rule making procedure. **Subsection (b)** allows a rule to become effective without having to wait until the 31st legislative day of the next Regular Session of the General Assembly that is convened at least 25 days after the Rules Review Commission approves a rule. **Subsection (c)** removes the requirement for a fiscal note if the rule has an aggregate financial impact on all persons affected of at least five million dollars in a 12-month period. **Subsection (d)** requires the State Board to make a determination as to whether a proposed rule is directly related to the implementation of the ABC Plan. To be directly related, a rule must have a rational relationship to a specific provision in this Act. The State Board must also indicate on its notice that the rule is directly related to the implementation of this Act. **Subsection (e)** requires the Board to provide to county commissioners and local boards of education written notice that states whether a fiscal note has been prepared and that

a copy of the note may be obtained from the Board. **Subsection (f)** provides that this section does not apply to sections 10-16, which would allow lease-purchase of equipment, purchasing off State contract, and repairs of buildings not owned in fee simple by local boards of education.

APPROPRIATION

Section 30 makes an appropriation to the State Board of \$24,532,550 for the 1996-97 fiscal year to make the recognition awards. The Board is directed to distribute the funds on a per capita basis of no less than \$500 and no more than \$1000 to certified personnel, and on a per capita basis of one-half that amount to teacher assistants.

EFFECTIVE DATES

Section 31 provides that the act is effective upon ratification, except for Section 30 and for G.S. 115C-528 created in Section 14 of the act, which become effective July 1, 1996. The School-based Accountability of the Board's program (Part 3 of Article 8B) applies to any school that has any of grades kindergarten through eighth grade beginning with the 1996-97 school year and to high schools beginning with the 1997-98 school year.

FUND AFFECTED: General Fund (x) Highway Fund () Local Fund (x)

Other Fund ()

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: State Board of Education, Department of Public Instruction, Local Boards of Education, Local County Commissioners, Department of Administration, Division of Purchase and Contracts.

FISCAL IMPACT

Estimates in Millions

| | <u>FY</u> | <u>FY</u> | <u>FY</u> | <u>FY</u> | <u>FY</u> |
|---------------------------|-----------------------|-------------|-----------|-------------|-------------|
| | 1996-97 | 1997-98 | 1998-99 | 1999-00 | 2000-01 |
| EXPENDITURES | | | | | |
| TOTAL EXPENDITURES | | | | | |
| STATE FUNDS | | | | | |
| Incentive Payments | \$20.6-27.8M | \$27.2-36.3 | \$28-37.3 | \$28.9-38.4 | \$29.8-30.6 |
| Technical Assistance | \$1.0 | \$3.0 | 3.1 | 3.2 | 3.3 |
| Total State | \$21.6-28.8M | \$30.2-39.3 | \$31-40.4 | \$32.1-41.7 | \$33.1-33.9 |
| FEDERAL FUNDS | No estimate available | | | | |
| LOCAL FUNDS | | | | | |
| OTHER FUNDS | | | | | |
| RECEIPTS/FEES | | | | | |

POSITIONS: 50 teaching positions by year two to assist low performing schools.

ASSUMPTIONS AND METHODOLOGY:

Assume that schools will have to achieve at least 110% of the State Board's expected growth rate. While the bill says schools that exceed a growth rate of 100%, the State Board has indicated that it will use its authority to set the qualifying level at 110%.

30%-40% of K-8 schools will qualify for the incentive bonus in FY1996-97.
30%-40% of the high schools will qualify in FY1997-98.

Assume that the state will fund the bonus for both state and locally paid teachers and teacher assistants. The bonus for federally funded teachers will be paid from that source of funds.

State costs for training and operating assistance teams to low performing schools will occur in all five years.

Assume 3% annual increase in costs for inflation and growth in the number of schools.

School systems will incur undetermined cost to notify parents in low performing schools of that school's status and of the steps taken to improve student performance.

Legal cost may be incurred by the state if the State Board seeks to dismiss or remove local personnel in low performing school systems. These costs cannot be projected.

No cost will be incurred by the Department of Administration for the two year pilot project on local purchasing changes.

The State Board of Education and local boards of education will incur some cost associated with the record keeping in the purchasing pilot project. These costs cannot be projected.

Methodology

Currently there are 1,676 k-8 schools that will participate in the ABC program in 1996-97. Based upon the FY1995-96 pilot project of the ABC program, the State Board of Education estimates that 30% to 40% of the schools will perform at 110% of standard. While 110% is not used in the bill the board is applying this as the cutoff in FY1996-97. In 1997-98 305 high schools will begin to participate in the ABC Program.

Inflation estimates are based on long term forecast available to the Fiscal Research Division.

SOURCES OF DATA: State Board of Education, Department of Public Instruction, Department of Administration, Division of Purchasing and Contract, General Research Division, N.C. General Assembly.

TECHNICAL CONSIDERATIONS: Fiscal note based on the committee substitute passed by The Senate Education Committee May 21, 1996.

FISCAL RESEARCH DIVISION

733-4910

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DATE: May 22, 1996



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