

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 1386**

Short Title: Neighborhood Schools & Teacher Merit Pay. (Public)

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Sponsors: Senators Hunt; Allran, Apodaca, Brock, Brown, East, Forrester, Goodall, Pittenger, and Tillman.

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Referred to: Appropriations/Base Budget.

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March 26, 2007

A BILL TO BE ENTITLED  
AN ACT DIRECTING LOCAL BOARDS OF EDUCATION TO PROVIDE  
VOUCHERS TO STUDENTS NOT PERMITTED TO ATTEND  
NEIGHBORHOOD SCHOOLS AND TO ESTABLISH A MERIT PAY SYSTEM  
FOR TEACHERS AND INSTRUCTIONAL SUPPORT PERSONNEL.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-366 is amended by adding a new subsection to read:

"(a1) If a student lives within a radius of one and one-half miles of a school that is age-appropriate for the student, the local board shall either assign the student to that school or provide a voucher to the student to attend a nonpublic school. The amount of the voucher shall be equal to the average per student allocation in State and local funds for the local school administrative unit."

**SECTION 2.** G.S. 115C-302.1 reads as rewritten:

**"§ 115C-302.1. Salary.**

(a) Prompt Payment. – Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

(a1) Merit Pay. – The State Board of Education shall establish the entry-level salary of teachers and instructional support personnel who hold "A" certificates, "Masters" certificates, NBPTS certification, certification based on advanced degrees, and other levels of certification. The principal of a school may pay an employee more than the entry-level salary if the principal determines that the employee's qualifications or experience makes it appropriate to do so or if the principal determines that it is necessary to do so to recruit and retain teachers in certain areas of certification such as mathematics, science, and special education.

1        The General Assembly shall appropriate in the Current Operations Appropriations  
2 Act each year funds for a cost-of-living increase for these employees and funds for  
3 merit pay. Each employee shall receive a cost-of-living increase as provided by the  
4 General Assembly but shall receive no additional across-the-board increment or  
5 increment for years of experience.

6        The principal of each school shall determine the amount of merit pay each employee  
7 shall receive each year in accordance with the policy of the local board of education.

8        (b) Salary Payments. – State-allotted teachers shall be paid for a term of 10  
9 months. State-allotted months of employment for vocational education to local boards  
10 shall be used for the employment of teachers of vocational and technical education for a  
11 term of employment to be determined by the local boards of education. However, local  
12 boards shall not reduce the term of employment for any vocational agriculture teacher  
13 personnel position that was 12 calendar months for the 1982-83 school year for any  
14 school year thereafter. In addition, local boards shall not reduce the term of employment  
15 for any vocational agriculture teacher personnel position that was 12 calendar months  
16 for the 2003-2004 school year for any school year thereafter.

17        Each local board of education shall establish a set date on which monthly salary  
18 payments to State-allotted teachers shall be made. This set pay date may differ from the  
19 end of the month of service. The daily rate of pay for teachers shall equal midway  
20 between one twenty-first and one twenty-second of the monthly rate of pay. Except for  
21 teachers employed in a year-round school or paid in accordance with a year-round  
22 calendar, or both, the initial pay date for teachers shall be no later than August 31 and  
23 shall include a full monthly payment. Subsequent pay dates shall be spaced no more  
24 than one month apart and shall include a full monthly payment.

25        Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher  
26 who fails to attend scheduled workdays or who has not worked the number of days for  
27 which the teacher has been paid and who resigns, is dismissed, or whose contract is not  
28 renewed shall repay to the local board any salary payments received for days not yet  
29 worked. A teacher who has been prepaid and continues to be employed by a local board  
30 but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325  
31 or other appropriate discipline.

32        Any individual teacher who is not employed in a year-round school may be paid in  
33 12 monthly installments if the teacher so requests on or before the first day of the school  
34 year. The request shall be filed in the local school administrative unit which employs  
35 the teacher. The payment of the annual salary in 12 installments instead of 10 shall not  
36 increase or decrease the teacher's annual salary nor in any other way alter the contract  
37 made between the teacher and the local school administrative unit. Teachers employed  
38 for a period of less than 10 months shall not receive their salaries in 12 installments.

39        Notwithstanding this subsection, the term "daily rate of pay" for the purpose of  
40 G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the  
41 teacher salary schedule shall not exceed one twenty-second of a teacher's monthly rate  
42 of pay.

43        (c) Vacation. – Included within the 10-month term shall be annual vacation leave  
44 at the same rate provided for State employees, computed at one-twelfth of the annual

1 rate for State employees for each month of employment. Local boards shall provide at  
2 least 10 days of annual vacation leave at a time when students are not scheduled to be in  
3 regular attendance. However, instructional personnel who do not require a substitute  
4 may use annual vacation leave on days that students are in attendance. Vocational and  
5 technical education teachers who are employed for 11 or 12 months may, with prior  
6 approval of the principal, work on annual vacation leave days designated in the school  
7 calendar and may use those annual vacation leave days during the eleventh or twelfth  
8 month of employment.

9 On a day that pupils are not required to attend school due to inclement weather, but  
10 employees are required to report for a workday, a teacher may elect not to report due to  
11 hazardous travel conditions and to take an annual vacation day or to make up the day at  
12 a time agreed upon by the teacher and the teacher's immediate supervisor or principal.  
13 On a day that school is closed to employees and pupils due to inclement weather, a  
14 teacher shall work on the scheduled makeup day.

15 All vacation leave taken by the teacher will be upon the authorization of the teacher's  
16 immediate supervisor and under policies established by the local board of education.  
17 Annual vacation leave shall not be used to extend the term of employment.

18 Notwithstanding any provisions of this subsection to the contrary, no person shall be  
19 entitled to pay for any vacation day not earned by that person.

20 (c1), (c2) Repealed by Session Laws 2002-126, s. 7.11(a), effective July 1, 2002,  
21 and applicable only to leave days accruing after September 30, 2002.

22 (c3) Teachers may accumulate annual vacation leave days without any applicable  
23 maximum until June 30 of each year. In order that only 30 days of annual vacation leave  
24 carry forward to July 1, on June 30 of each year any teacher or ~~other personnel paid on~~  
25 ~~the teacher salary schedule~~ instructional support personnel who has accumulated more  
26 than 30 days of annual vacation leave shall convert to sick leave the remaining excess  
27 accumulation.

28 Upon separation from service due to service retirement, resignation, dismissal,  
29 reduction in force, or death, an employee shall be paid in a lump sum for accumulated  
30 annual leave not to exceed a maximum of 30 days. In addition to the maximum of 30  
31 days pay for accumulated annual leave, upon separation from service due to service  
32 retirement, any teacher or ~~other personnel paid on the teacher salary~~  
33 ~~schedule~~ instructional support personnel with more than 30 days of accumulated annual  
34 vacation leave may convert some or all of the excess accumulation to sick leave for  
35 creditable service towards retirement. Employees going onto term disability may  
36 exhaust annual leave rather than be paid in a lump sum.

37 (d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for  
38 each full month of employment not to exceed two days per year. Personal leave may be  
39 accumulated to a maximum of five days. Personal leave may be used only upon the  
40 authorization of the teacher's immediate supervisor, but if the request is made at least  
41 five days in advance, the teacher cannot be required to provide a reason for the request.  
42 Unless approved by the principal, a teacher shall not take personal leave on the first day  
43 the teacher is required to report for the school year, on required teacher workdays, or on  
44 the day before or the day after holidays or scheduled vacation days. Teachers may

1 transfer personal leave days between local school administrative units. The local school  
2 administrative unit shall credit a teacher who has separated from service and is  
3 reemployed within 60 months from the date of separation with all personal leave  
4 accumulated at the time of separation. Local school administrative units shall not  
5 advance personal leave. Teachers using personal leave receive full salary less the  
6 required substitute deduction.

7 (e) Teachers in Year-Round Schools. – Compensation for teachers employed in  
8 year-round schools shall be the same as teachers paid for a 10-month term, but those  
9 days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays,  
10 holidays, ~~salary, and longevity~~ and salary for teachers who are employed at year-round  
11 schools shall be equivalent to those of other teachers employed for the same number of  
12 months, respectively. Teachers paid for a term of 10 months in year-round schools shall  
13 receive their salary in 12 equal installments.

14 (f) Overpayment. – Each local board of education shall sustain any loss by  
15 reason of an overpayment to any teacher paid from State funds.

16 ~~(g) Service in Armed Forces. – The State Board of Education, in fixing the State  
17 standard salary schedule of teachers as authorized by law, shall provide that teachers  
18 who entered the armed or auxiliary forces of the United States after September 16,  
19 1940, and who left their positions for such service shall be allowed experience  
20 increments for the period of such service as though the same had not been interrupted  
21 thereby, in the event such persons return to the position of teachers, principals, and  
22 superintendents in the public schools of the State after having been honorably  
23 discharged from the armed or auxiliary forces of the United States.~~

24 (g1) Payment During Military Duty. – The State Board of Education shall adopt  
25 rules relating to leaves of absence, without loss of pay or time, for periods of military  
26 training and for State or federal military duty or for special emergency management  
27 service. The rules shall apply to all public school employees, including, but not limited  
28 to, school teachers, administrators, guidance counselors, speech language pathologists,  
29 nurses, and custodians employed by local boards of education or by charter schools. The  
30 rules shall provide that (i) the State pays any salary differential to all public school  
31 employees in State-funded positions, (ii) the employing local board of education pays  
32 any pay differential to all public school employees in locally funded positions, (iii) the  
33 employing charter school pays any pay differential to all public school employees in the  
34 charter school, and (iv) the employing local board of education pays the local  
35 supplement.

36 ~~(h) Teachers Paid From Other Funds. – Every local board of education may  
37 adopt, as to teachers not paid out of State funds, a salary schedule similar to the State  
38 salary schedule, but it likewise shall recognize a difference in salaries based on different  
39 duties, training, experience, professional fitness, and continued service in the same  
40 school system. If a local board of education does not adopt a local salary schedule, the  
41 State salary schedule shall apply. No teacher shall receive a salary higher than that  
42 provided in the salary schedule, unless by action of the board of education a higher  
43 salary is allowed for special fitness, special duties, or under extraordinary  
44 circumstances.~~

1 ~~When a higher salary is allowed, the minutes of the board shall show what salary is~~  
2 ~~allowed and the reason. A board of education may authorize the superintendent to~~  
3 ~~supplement the salaries of all teachers from local funds, and the minutes of the board~~  
4 ~~shall show what increase is allowed each teacher. Teachers and instructional support~~  
5 ~~personnel who are not paid out of State funds shall receive a cost-of-living increment~~  
6 ~~and merit pay in the same manner as such employees who are paid from State funds.~~

7 (i) ~~Longevity Pay. — Longevity pay shall be based on the annual salary on the~~  
8 ~~employee's anniversary date.~~

9 (j) Parental Leave. — A teacher may use annual leave, personal leave, or leave  
10 without pay to care for a newborn child or for a child placed with the teacher for  
11 adoption or foster care. A teacher may also use up to 30 days of sick leave to care for a  
12 child placed with the teacher for adoption. The leave may be for consecutive workdays  
13 during the first 12 months after the date of birth or placement of the child, unless the  
14 teacher and local board of education agree otherwise."

15 **SECTION 3.** G.S. 20-88.1(b) reads as rewritten:

16 "(b) The State Board of Education shall adopt a salary range for driver education  
17 instructors who are public school employees and who do not hold teacher certificates.

18 Driver education instructors who are public school employees and who hold teacher  
19 certificates shall be paid under the same terms and conditions as other teachers. A day  
20 of employment for driver education instructors who hold teacher certificates shall be the  
21 same number of hours required of all regular classroom teachers as established by the  
22 local board of education."

23 **SECTION 4.** G.S. 115C-296.2(b)(2)c reads as rewritten:

24 "(b) Definitions. — As used in this subsection:

25 ...

26 (2) A "teacher" is a person who:

27 ...

28 c. ~~Is paid on the teacher salary schedule; classified as a teacher or~~  
29 ~~instructional support personnel by the State Board of Education;~~  
30 and"

31 **SECTION 5.** G.S. 116-143.5 reads as rewritten:

32 "**§ 116-143.5. Tuition of certain teachers.**

33 Notwithstanding G.S. 116-143.1, any ~~teacher or other personnel paid on the teacher~~  
34 ~~salary schedule~~ person classified as a teacher or instructional support personnel by the  
35 State Board of Education who (i) has established a legal residence (domicile) in North  
36 Carolina and (ii) is employed full-time by a North Carolina public school, shall be  
37 eligible to be charged the in-State tuition rate for courses relevant to teacher  
38 certification or to professional development as a teacher."

39 **SECTION 6.** This act is effective when it becomes law and applies  
40 beginning with the 2007-2008 school year.