

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 778  
SENATE BILL 2

AN ACT TO APPROPRIATE FUNDS FOR THE IMPLEMENTATION OF THE  
SCHOOL IMPROVEMENT AND ACCOUNTABILITY ACT OF 1989.

The General Assembly of North Carolina enacts:

Section 1. Title of Act. – This act may be referred to as the "School Improvement and Accountability Act of 1989."

Sec. 2. Legislative Intent. – It is the intent of the General Assembly that this act be implemented with a minimum of regulations.

Sec. 3. Performance-based Accountability Program. – Article 16 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 4. Performance-based Accountability Program.

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

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

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

**"§ 115C-238.2. Local participation in the Program voluntary; the benefits of local participation.**

(a) Local school administrative units may, but are not required to, participate in the Performance-based Accountability Program.

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

- (1) Are exempt from State requirements to submit reports and plans, other than local school improvement plans, to the Department of Public Education; they are not exempt from federal requirements to submit reports and plans to the Department.

- (2) Are subject to the performance standards but not the opportunity standards or the staffing ratios of the State Accreditation Program. The performance standards in the State Accreditation Program, modified to reflect the results of end-of-course and end-of-grade tests, may serve as the basis for developing the student performance indicators adopted by the State Board of Education pursuant to G.S. 115C-238.1.
- (3) May receive funds for differentiated pay for teachers and administrators, in accordance with G.S. 115C-238.4, if they elect to participate in a differentiated pay plan.
- (4) May be allowed increased flexibility in the expenditure of State funds, in accordance with G.S. 115C-238.5.
- (5) May be granted waivers of certain State laws, regulations, and policies that inhibit their ability to reach local accountability goals, in accordance with G.S. 115C-238.6(a).
- (6) Shall continue to use the Teacher Performance Appraisal Instrument (TPAI) for evaluating beginning teachers during the first three years of their employment; they may, however, develop other evaluation approaches for teachers who have attained career status.

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

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

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

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

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

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

(d) The local plan may include a request for a waiver of State laws, regulations, or policies. The request for a waiver shall identify the State laws, regulations, or policies that inhibit the local unit's ability to reach its local accountability goals and

shall explain how a waiver of those laws, regulations, or policies will permit the local unit to reach its local goals.

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

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

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

(b) Support among affected staff members is essential to successful implementation of a differentiated pay plan; therefore, a local board of education that decides that a differentiated pay plan should be included in its local school improvement plan shall present a proposed differentiated pay plan to affected staff members for their review and vote. The vote shall be by secret ballot. The local board of education shall include the proposed differentiated pay plan in its local school improvement plan only if the proposed plan has the approval of a majority of the affected paid certificated instructional and instructional support staff and a majority of the affected certificated administrators.

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

(c) Local school administrative units electing to participate in a differentiated pay plan shall receive State funds according to the terms of the plan but not to exceed:

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

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

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

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

**"§ 115C-238.5. Flexible funding.**

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

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

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

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

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

- (1) State laws pertaining to class size, teacher certification, assignment of teacher assistants, the use of State-adopted textbooks, and the purposes for which State funds for the public schools may be used, and
- (2) All State regulations and policies, except those pertaining to State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-325, health and safety codes,

compulsory school attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System.

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

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

Sec. 4. End-of-course and End-of-grade Tests. – G.S. 115C-174.11(c) reads as rewritten:

~~"(e) Competency Based Curriculum Testing. — In order to provide achievement information and educational accountability as part of the Basic Education Program, the State Board of Education may acquire, in the most cost efficient manner, achievement tests and test information to evaluate achievement in those grades and courses as specified in the Basic Education Program. Information from these tests may be used as one criterion by teachers and local school personnel in arriving at student grades and in making administrative decisions.~~

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

Sec. 5. Testing for Comparisons of Student Achievement. – Effective July 1, 1992, G.S. 115C-174.11(a) reads as rewritten:

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

~~Education shall select annually the type or types of tests to be used in the testing program.~~

The State Board of Education shall ~~also~~ 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. The State Board of Education shall report to the Joint Legislative Commission on Governmental Operations prior to May 1, 1988, and to the Senate and House Appropriations Committees on Education prior to March 1, 1989, on the assessment instruments it develops.

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

Sec. 6. Annual Report Cards for Schools. – G.S. 115C-12(9) reads as rewritten:

- "(9) Miscellaneous Powers and Duties. – All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:
- a. To certify and regulate the grade and salary of teachers and other school employees.
  - b. To adopt and supply textbooks.
  - c. To adopt rules requiring all local boards of education to implement the Basic Education Program on an incremental basis within funds appropriated for that purpose by the General Assembly and by units of local government.

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

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

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

- d. To formulate rules and regulations for the enforcement of the compulsory attendance law.
- e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

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

Sec. 7. Existing Career Development and Lead Teacher Pilot Programs.

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

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

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

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

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

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

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

Sec. 8. The Department of Public Education shall report prior to May 1, 1990, and annually thereafter, on the implementation of the School Improvement and Accountability Act of 1989, to the chairmen of the Senate and House of Representatives committees on education, appropriations, and appropriations on education.

Sec. 9. Nothing in this act shall be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1989.