

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 935

Short Title: Delete Public Educ. Dept. References.

(Public)

Sponsors: Representative Hightower.

Referred to: Education.

April 14, 1993

A BILL TO BE ENTITLED

1 AN ACT TO DELETE THE REFERENCES TO THE DEPARTMENT OF PUBLIC
2 EDUCATION.
3

4 Whereas, a Department of Public Education was created in the Executive
5 Reorganization Act of 1971; and

6 Whereas, the Department of Public Education is the only department created
7 in the Executive Reorganization Act of 1971 that never had staff positions funded by the
8 General Assembly; and

9 Whereas, the Department of Public Instruction was organized and established
10 pursuant to G.S. 115C-21(a)(1); and

11 Whereas, the functions of the Department of Public Education have been and
12 continue to be performed by the Department of Public Instruction under the supervision
13 of the Superintendent of Public Instruction, and

14 Whereas, the current references in the General Statutes to the Department of
15 Public Education and the Department of Public Instruction have resulted in confusion
16 about the respective roles of the State Board of Education and the Superintendent that
17 resulted in litigation between them; and

18 Whereas, the General Assembly is authorized under Article IX, Sections 2
19 and 5, and Article III, Section 7(1) and (2), of the Constitution to enact legislation
20 defining the respective roles of the State Board of Education and the Superintendent of
21 Public Instruction under the Constitution; Now, therefore,
22 The General Assembly of North Carolina enacts:

23 Section 1. G.S. 115C-21(b)(1a) reads as rewritten:

1 "(1a) To administer the funds appropriated to the ~~Department of Public~~
2 ~~Education~~ for the operations of the State Board of Education and for
3 aid to local school administrative units."

4 Sec. 2. G.S. 115C-146.3(b) reads as rewritten:

5 "(b) ~~The Department of Public Education~~ State Board of Education shall cause local
6 school administrative units to make available special education and related services to
7 all preschool handicapped children whose parents or guardians request these services."

8 Sec. 3. G.S. 115C-238.2(b)(1) reads as rewritten:

9 "(1) Are exempt from State requirements to submit reports and plans,
10 other than local school improvement plans, to the ~~Department of~~
11 ~~Public Education~~; they State Board of Education and the Department
12 of Public Instruction. They are not exempt from federal
13 requirements to submit reports and plans to the Department."

14 Sec. 4. G.S. 115C-318 reads as rewritten:

15 **"§ 115C-318. Liability insurance for nonteaching public school personnel.**

16 ~~The Department of Public Education and the~~ The State Board of Education shall
17 provide for liability insurance for nonteaching public school personnel to the extent that
18 such personnel's salaries are funded by the State. The insurance shall cover claims made
19 for injury liability and property damage liability on account of an act done or an
20 omission made in the course of the employee's duties. As provided by law or the rules
21 and policies of the ~~Department of Public Education~~ State Board of Education or the local
22 school administrative unit, the ~~Department and~~ State Board of Education shall comply
23 with the State's laws in securing the insurance and shall provide it at the earliest possible
24 date for the 1982-83 school year. Funds for this purpose shall be allocated from the
25 State's Contingency and Emergency Fund. Nothing in this section shall prevent ~~the~~
26 ~~Department and~~ the State Board from furnishing the same liability insurance protection
27 for nonteaching public school personnel not supported by State funds, provided that the
28 cost of the protection shall be funded from the same source that supports the salaries of
29 these employees."

30 Sec. 5. G.S. 115C-489.4(a) reads as rewritten:

31 "(a) There is created the Commission on School Facility Needs. The Commission
32 shall be located administratively in the Department of Public ~~Education~~ Instruction but
33 shall exercise all its prescribed statutory powers independently of the State Board of
34 Education and the Department of Public Instruction."

35 The Commission shall consist of five members appointed by the General Assembly
36 upon the recommendation of the President of the Senate in accordance with G.S. 120-
37 121, one of whom shall be recommended by the President of the Senate to serve as
38 cochairman, and five members appointed by the General Assembly upon the
39 recommendation of the Speaker of the House of Representatives in accordance with
40 G.S. 120-121, one of whom shall be recommended by the Speaker of the House of
41 Representatives to serve as cochairman.

42 The initial terms of members shall expire July 1, 1991. Their successors shall serve
43 for four-year terms. A vacancy shall be filled for the remainder of the unexpired term in
44 accordance with G.S. 120-122.

1 The initial meeting of the Commission shall be called jointly by the cochairmen.

2 Members of the Commission who are not State officers or employees shall receive
3 per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.
4 Members who are State officers or employees shall be reimbursed for travel and
5 subsistence in accordance with G.S. 138-6.

6 The Department of Public Instruction shall provide requested professional and
7 clerical staff to the Commission. The Commission may also employ professional and
8 clerical staff and may hire outside consultants to assist it in its work."

9 Sec. 6. G.S. 115D-3 reads as rewritten:

10 **"§ 115D-3. Department of Community Colleges; staff.**

11 The Department of Community Colleges shall be a principal administrative
12 department of State government under the direction of the State Board of Community
13 Colleges, and shall be separate from the free public school system of the ~~State and the~~
14 ~~Department of Public Education.~~ State, the State Board of Education, and the Department
15 of Public Instruction. The State Board has authority to adopt and administer all policies,
16 regulations, and standards which it deems necessary for the operation of the
17 Department.

18 The State Board shall elect a President of the North Carolina System of Community
19 Colleges who shall serve as chief administrative officer of the Department of
20 Community Colleges. The compensation of this position shall be fixed by the State
21 Board from funds provided by the General Assembly in the Current Operations
22 Appropriations Act.

23 The President shall be assisted by such professional staff members as may be
24 deemed necessary to carry out the provisions of this Chapter, who shall be elected by
25 the State Board on nomination of the President. The compensation of the staff members
26 elected by the Board shall be fixed by the State Board of Community Colleges, upon
27 recommendation of the President of the Community College System, from funds
28 provided in the Current Operations Appropriations Act. These staff members shall
29 include such officers as may be deemed desirable by the President and State Board.
30 Provision shall be made for persons of high competence and strong professional
31 experience in such areas as academic affairs, public service programs, business and
32 financial affairs, institutional studies and long-range planning, student affairs, research,
33 legal affairs, health affairs and institutional development, and for State and federal
34 programs administered by the State Board. In addition, the President shall be assisted by
35 such other employees as may be needed to carry out the provisions of this Chapter, who
36 shall be subject to the provisions of Chapter 126 of the General Statutes. The staff
37 complement shall be established by the State Board on recommendation of the President
38 to insure that there are persons on the staff who have the professional competence and
39 experience to carry out the duties assigned and to insure that there are persons on the
40 staff who are familiar with the problems and capabilities of all of the principal types of
41 institutions represented in the system. The State Board of Community Colleges shall
42 have all other powers, duties, and responsibilities delegated to the State Board of
43 Education affecting the Department of Community Colleges not otherwise stated in this
44 Chapter."

1 Sec. 7. G.S. 120-65 reads as rewritten:

2 "**§ 120-65. Assistance of Department of Human Resources and Department of Public**
3 **Education. Resources, State Board of Education, and Department of**
4 **Public Instruction.**

5 The Department of Human Resources and the Department of Public Education
6 Resources, the State Board of Education, and the Department of Public Instruction are
7 ~~hereby declared~~ vital departments of State government to ~~especially assist said~~ especially
8 the Commission and to furnish ~~them it~~ with information, and to the extent permitted by
9 the Commission, to ~~actively participate~~ actively in the work and deliberations of the
10 Commission."

11 Sec. 8. G.S. 121-4(5) reads as rewritten:

12 "(5) With the cooperation of the ~~Department of Public Education, State~~
13 Board of Education and the Department of Public Instruction to
14 develop, conduct, and assist in the coordination of a program for
15 the better and more adequate teaching of State and local history in
16 the public schools and the institutions of the community college
17 system of North Carolina, including, as appropriate, the preparation
18 and publication of suitable histories of all counties and of other
19 appropriate materials, the distribution of such materials to the
20 public schools and community college system for a reasonable
21 charge, and the coordination of this program throughout the State."

22 Sec. 9. G.S. 122C-113(b1) reads as rewritten:

23 "(b1) The Secretary shall cooperate with the State Board of Education in
24 coordinating the responsibilities of the Department of Human Resources and of the
25 ~~Department of Public Education Resources, the State Board of Education, and the~~
26 Department of Public Instruction for adolescent substance abuse programs. The
27 Department of Human Resources, through its Division of Mental Health,
28 Developmental Disabilities, and Substance Abuse Services, shall be responsible for
29 intervention and treatment in non-school based programs. The ~~Department of Public~~
30 ~~Education State Board of Education and the Department of Public Instruction~~ shall have
31 primary responsibility for in-school education, identification, and intervention services,
32 including student assistance programs."

33 Sec. 10. G.S. 126-4(7) reads as rewritten:

34 "(7) Cooperation with the ~~Department of Public Education, State Board of~~
35 Education, the Department of Public Instruction, the University of
36 North Carolina, and the Community Colleges of the State and other
37 appropriate resources in developing programs in, including but not
38 limited to, management and supervisory skills, performance
39 evaluation, specialized employee skills, accident prevention, equal
40 employment opportunity awareness, and customer service; and to
41 maintain an accredited Certified Public Manager program."

42 Sec. 11. G.S. 130A-236 reads as rewritten:

43 "**§ 130A-236. Regulation of sanitation in schools.**

1 For the protection of the public health, the Commission shall adopt rules to establish
 2 sanitation requirements for public, private and religious schools. The rules shall address,
 3 but not be limited to, the cleanliness of floors, walls, ceilings, storage spaces and other
 4 areas; adequacy of lighting, ventilation, water supply, toilet and lavatory facilities;
 5 sewage collection, treatment and disposal facilities; and solid waste disposal. The
 6 Department shall inspect schools at least annually. The Department shall submit written
 7 inspection reports of public schools to the ~~Department of Public Education~~ State Board of
 8 Education and written inspection reports of private and religious schools to the
 9 Department of Administration."

10 Sec. 12. G.S. 143A-11 reads as rewritten:

11 **"§ 143A-11. Principal departments.**

12 Except as otherwise provided by this Chapter, or the State Constitution, all executive
 13 and administrative powers, duties and functions, not including those of the General
 14 Assembly and the judiciary, previously vested by law in the several State agencies, are
 15 vested in the following principal offices or departments:

- 16 (1) Office of the Governor.
- 17 (2) Office of the Lieutenant Governor.
- 18 (3) Department of the Secretary of State.
- 19 (4) Department of State Auditor.
- 20 (5) Department of State Treasurer.
- 21 (6) ~~Department of Public Education~~ Instruction.
- 22 (7) Department of Justice.
- 23 (8) Department of Agriculture.
- 24 (9) Department of Labor.
- 25 (10) Department of Insurance.
- 26 (11) Department of Administration.
- 27 (12) Department of Transportation.
- 28 (13) Department of Environment, Health, and Natural Resources.
- 29 (14) Repealed by Session Laws 1973, c. 476, s. 6.
- 30 (15) Department of Social Rehabilitation and Control.
- 31 (16) Department of Commerce.
- 32 (17), (18) Repealed by Session Laws 1973, c. 476, s. 6.
- 33 (19) Repealed by Session Laws 1973, c. 620, s. 9."

34 Sec. 13. The name of Article 5 of Chapter 143A of the General Statutes reads
 35 as rewritten:

36 **"ARTICLE 5.**

37 **"DEPARTMENT OF PUBLIC EDUCATION-~~INSTRUCTION~~."**

38 Sec. 14. G.S. 143A-39, 143A-40, 143A-41, 143A-42, 143A-43, 143A-44,
 39 and 143A-46 are repealed.

40 Sec. 15. G.S. 143A-48 reads as rewritten:

41 **"§ 143A-48. Textbook Commission; transfer.**

42 The Textbook Commission, as created by G.S. 115C-87 and the laws of this State, is
 43 hereby transferred by a Type I transfer to the Department of Public ~~Education~~
 44 Instruction."

1 Sec. 16. G.S. 143B-181 reads as rewritten:

2 "**§ 143B-181. Governor's Advisory Council on Aging – members; selection;**
3 **quorum; compensation.**

4 The Governor's Advisory Council on Aging of the Department of Human Resources
5 shall consist of 33 members, 29 members to be appointed by the Governor, two
6 members to be appointed by the Lieutenant Governor, and two members to be appointed
7 by the Speaker of the House of Representatives. The composition of the Council shall
8 be as follows: one representative of the Department of Administration; one
9 representative of the Department of Cultural Resources; one representative of the
10 Employment Security Commission; one representative of the Teachers' and State
11 Employees' Retirement System; one representative of the Commissioner of Labor; one
12 representative of the Department of Public ~~Education~~; Instruction; one representative of
13 the Department of Environment, Health, and Natural Resources; one representative of
14 the Department of Insurance; one representative of the Department of Crime Control
15 and Public Safety; one representative of the Department of Community Colleges; one
16 representative of the School of Public Health of The University of North Carolina; one
17 representative of the School of Social Work of The University of North Carolina; one
18 representative of the Agricultural Extension Service of North Carolina State University;
19 one representative of the collective body of the Medical Society of North Carolina; and
20 19 members at large. The at large members shall be citizens who are knowledgeable
21 about services supported through the Older Americans Act of 1965, as amended, and
22 shall include persons with greatest economic or social need, minority older persons, and
23 participants in programs under the Older Americans Act of 1965, as amended. The
24 Governor shall appoint 15 members at large who meet these qualifications and are 60
25 years of age or older. The four remaining members at large, two of whom shall be
26 appointed by the Lieutenant Governor and two of whom shall be appointed by the
27 Speaker of the House of Representatives, shall be broadly representative of the major
28 private agencies and organizations in the State who are experienced in or have
29 demonstrated particular interest in the special concerns of older persons. At least one of
30 each of the at-large appointments of the Lieutenant Governor and the Speaker of the
31 House of Representatives shall be persons 60 years of age or older. The Council shall
32 meet at least quarterly.

33 Members at large shall be appointed for four-year terms and until their successors
34 are appointed and qualify. **Ad interim** appointments shall be for the balance of the
35 unexpired term.

36 The Governor shall have the power to remove any member of the Council from
37 office in accordance with the provisions of G.S. 143B-16 of the Executive Organization
38 Act of 1973.

39 The Governor shall designate one member of the Council as chairman to serve in
40 such capacity at his pleasure.

41 Members of the Council shall receive per diem and necessary travel and subsistence
42 expenses in accordance with the provisions of G.S. 138-5.

43 A majority of the Council shall constitute a quorum for the transaction of business.

1 All clerical and other services required by the Council shall be supplied by the
2 Secretary of Human Resources."

3 Sec. 17. G.S. 143B-417(1) reads as rewritten:

4 "(1) To determine the number of student interns to be allocated to each
5 of the following offices or departments:

- 6 a. Office of the Governor
- 7 b. Department of Administration
- 8 c. Department of Correction
- 9 d. Department of Cultural Resources
- 10 e. Department of Revenue
- 11 f. Department of Transportation
- 12 g. Department of Environment, Health, and Natural Resources
- 13 h. Department of Commerce
- 14 i. Department of Crime Control and Public Safety
- 15 j. Department of Human Resources
- 16 k. Office of the Lieutenant Governor
- 17 l. Office of the Secretary of State
- 18 m. Office of the State Auditor
- 19 n. Office of the State Treasurer
- 20 o. Department of Public ~~Education~~-Instruction
- 21 p. Repealed by Session Laws 1985, c. 757, s. 162, effective July 1,
22 1985
- 23 q. Department of Agriculture
- 24 r. Department of Labor
- 25 s. Department of Insurance
- 26 t. Office of the Speaker of the House of Representatives
- 27 u. Justices of the Supreme Court and Judges of the Court of
28 Appeals
- 29 v. Department of Community Colleges
- 30 w. Office of State Personnel
- 31 x. Office of the Senate President Pro Tempore;".

32 Sec. 18. G.S. 147-45 reads as rewritten:

33 **"§ 147-45. Distribution of copies of State publications.**

34 The Secretary of State shall, at the State's expense, as soon as possible after
35 publication, provide such number of copies of the Session Laws and Senate and House
36 Journals to federal, State, and local governmental officials, departments and agencies,
37 and to educational institutions of instruction and exchange use, as is set out in the table
38 below:

		Session	Assembly
41	<u>Agency or Institution</u>	<u>Laws</u>	<u>Journals</u>
42	Governor, Office of the	3	2
43	Lieutenant Governor, Office of the	1	1
44	Secretary of State, Department of the	3	3

1	Auditor, Department of the State	3	1
2	Treasurer, Department of the State	3	1
3	Local Government Commission	2	0
4	Public Education, Department of	4	0
5	Superintendent of Public Instruction	3	1
6	Controller	4	0
7	Division of Community Colleges	3	1
8	Regional Service Centers	1 ea.	0
9	<u>State Board of Education</u>	<u>1</u>	<u>0</u>
10	<u>Department of Public Instruction</u>	<u>3</u>	<u>1</u>
11	<u>Controller</u>	<u>1</u>	<u>0</u>
12	<u>Technical Assistance Centers</u>	<u>1 ea.</u>	<u>0</u>
13	<u>Department of Community Colleges</u>	<u>3</u>	<u>1</u>
14	Justice, Department of		
15	Office of the Attorney General	25	3
16	Budget Bureau (Administration)	1	0
17	Property Control (Administration)	1	1
18	State Bureau of Investigation	1	0
19	Agriculture, Department of	3	1
20	Labor, Department of	5	1
21	Insurance, Department of	5	1
22	Administration, Department of	1	1
23	Budget Bureau	2	1
24	Controller	1	0
25	Property Control	1	0
26	Purchase and Contract	2	0
27	Policy and Development	1	0
28	Veterans Affairs Commission	1	0
29	Environment, Health, and Natural		
30	Resources, Department of	1	0
31	Division of Environmental Management	2	0
32	Board of Environment, Health, and		
33	Natural Resources	1	0
34	Soil and Water Conservation Commission	1	0
35	Wildlife Resources Commission	2	0
36	Revenue, Department of	5	1
37	Human Resources, Department of	3	0
38	Board of Human Resources	1	0
39	Health Services, Division of	3	0
40	Mental Health, Developmental		
41	Disabilities, and Substance Abuse Services,		
42	Division of	1	0
43	Social Services, Division of	3	0
44	Facilities Services, Division of	1	0

1	Youth Services, Division of	1	0	
2	Hospitals and Institutions	1 ea.	0	
3	Transportation, Department of	1	0	
4	Board of Transportation	3	0	
5	Motor Vehicles, Division of	1	0	
6	Commerce, Department of	1	0	
7	Economic Development, Division of	2	0	
8	State Ports Authority	1	0	
9	Alcoholic Beverage Control Commission,			
10	North Carolina	2	0	
11	Banking Commission	2	0	
12	Utilities Commission	8	1	
13	Industrial Commission	7	0	
14	Labor Force Development Council	1	0	
15	Milk Commission	5	0	
16	Employment Security Commission	1	1	
17	Correction, Department of	1	0	
18	Department of Correction	2	0	
19	Parole Commission	2	0	
20	State Prison	1	0	
21	Correctional Institutions	1 ea.	0	
22	Cultural Resources, Department of	1	0	
23	Archives and History, Division of	5	1	
24	State Library	5	5	
25	Publications Division	1	1	
26	Crime Control and Public Safety, Department of		2	1
27	North Carolina Crime Commission	1	0	
28	Adjutant General	2	0	
29	Elections, State Board of	2	0	
30	Office of Administrative Hearings	2	0	
31	Legislative Branch			
32	State Senators	1 ea.	1 ea.	
33	State Representatives	1 ea.	1 ea.	
34	Principal Clerk – Senate	1	1	
35	Principal Clerk – House	1	1	
36	Reading Clerk – Senate	1	1	
37	Reading Clerk – House	1	1	
38	Sergeant at Arms – House	1	1	
39	Sergeant at Arms – Senate	1	1	
40	Enrolling Clerk	1	0	
41	Engrossing Clerk	1	0	
42	Indexer of the Laws	1	0	
43	Legislative Building Library	35	15	
44	Judicial System			

1	Justices of the Supreme Court		1 ea.	1 ea.
2	Judges of the Court of Appeals		1 ea.	1 ea.
3	Judges of the Superior Court		1 ea.	0
4	Emergency and Special Judges of the			
5	Superior Court		1 ea.	0
6	District Court Judges		1 ea.	0
7	District Attorneys		1 ea.	0
8	Clerk of the Supreme Court		1	1
9	Clerk of the Court of Appeals		1	1
10	Administrative Office of the Courts		4	1
11	Supreme Court Library		AS MANY AS REQUESTED	
12	Colleges and Universities			
13	The University North Carolina System			
14	Administrative Offices	3	0	
15	University of North Carolina, Chapel Hill	65	25	
16	University of North Carolina, Charlotte	3	1	
17	University of North Carolina, Greensboro	3	1	
18	University of North Carolina, Asheville	2	1	
19	University of North Carolina, Wilmington	2	1	
20	North Carolina State University, Raleigh	5	3	
21	Appalachian State University	2	1	
22	East Carolina University	3	2	
23	Elizabeth City State University	2	1	
24	Fayetteville State University	2	1	
25	North Carolina Agricultural and			
26	Technical University	2	1	
27	North Carolina Central University	5	5	
28	Western Carolina University	2	1	
29	Pembroke State University	2	1	
30	Winston-Salem State University	2	1	
31	North Carolina School of the Arts	1	1	
32	Private Institutions			
33	Duke University	6	6	
34	Davidson College	3	2	
35	Wake Forest University	5	5	
36	Lenoir Rhyne College	1	1	
37	Elon College		1	1
38	Guilford College		1	1
39	Campbell College		5	5
40	Wingate College		1	1
41	Pfeiffer College		1	1
42	Barber Scotia College		1	1
43	Atlantic Christian College		1	1
44	Shaw University		1	1

1	St. Augustine's College	1	1	
2	J.C. Smith University	1	1	
3	Belmont Abbey College	1	1	
4	Bennett College	1	1	
5	Catawba College	1	1	
6	Gardner-Webb College	1	1	
7	Greensboro College	1	1	
8	High Point College	1	1	
9	Livingstone College	1	1	
10	Mars Hill College	1	1	
11	Meredith College	1	1	
12	Methodist College	1	1	
13	North Carolina Wesleyan College	1	1	
14	Queens College	1	1	
15	Sacred Heart College	1	1	
16	St. Andrews Presbyterian College	1	1	
17	Salem College	1	1	
18	Warren Wilson College	1	1	
19	County and Local Officials			
20	Clerks of the Superior Court	1 ea.	1 ea.	
21	Register of Deeds	1 ea.	1 ea.	
22	Federal, Out-of-State and Foreign			
23	Secretary to the President	1	0	
24	Secretary of State	1	1	
25	Secretary of Defense	1	0	
26	Secretary of Agriculture	1	0	
27	Secretary of the Interior	1	0	
28	Secretary of Labor	1	1	
29	Secretary of Commerce	1	1	
30	Secretary of the Treasury	1	0	
31	Secretary of Health, Education and Welfare		1	0
32	Secretary of Housing and Urban Development		1	0
33	Secretary of Transportation	1	0	
34	Attorney General	1	0	
35	Postmaster General	1	0	
36	Bureau of Census	1	0	
37	Bureau of Public Roads	1	0	
38	Department of Justice	1	0	
39	Department of Internal Revenue	1	0	
40	Veterans' Administration	1	0	
41	Farm Credit Administration	1	0	
42	Securities and Exchange Commission	1	0	
43	Social Security Board	1	0	
44	Environmental Protection Agency	1	0	

1	Library of Congress	8	2	
2	Federal Judges resident in North Carolina	1 ea.	0	
3	Federal District Attorneys resident in			
4	North Carolina	1 ea.	0	
5	Marshal of the United States Supreme Court		1	0
6	Federal Clerks of Court resident in North Carolina		1 ea.	0
7	Supreme Court Library exchange list	1 ea.	0	
8	One copy of the Session Laws shall be furnished the head of any department of State			
9	government created in the future.			
10	State agencies, institutions, etc., not found in or covered by this list may, upon			
11	written request from their respective department head to the Secretary of State, and			
12	upon the discretion of the Secretary of State as to need, be issued copies of the Session			
13	Laws on a permanent loan basis with the understanding that should said copies be			
14	needed they will be recalled."			
15	Sec. 19. This act is effective upon ratification.			