

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 762**

Short Title: Ensure Fairness in School Testing Program. (Public)

Sponsors: Senators Lucas; Ballance, Dannelly, Gulley, Jordan, Kinnaird, Martin of Guilford, Purcell, Shaw of Cumberland, and Warren.

Referred to: Education/Higher Education.

April 2, 2001

A BILL TO BE ENTITLED  
AN ACT TO ENSURE FAIRNESS IN THE NORTH CAROLINA STATEWIDE  
TESTING PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils except a pupils~~. In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the quality of the instruction the pupil has received in the public schools, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

**SECTION 2.** G.S. 115C-47 is amended by adding a new subdivision to read:

**"§ 115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(39) To Provide a Right to Appeal the Decision to Retain a Child. -- If local board policy requires that a child be retained at a grade level or that a child attend summer school, based on the child's standardized test scores, that local policy shall also provide the child's parent or guardian the right to appeal the decision. The right to appeal shall provide, at a minimum, for clear notice of the parent's rights, the right

1 to have an advocate present at the hearing, the right to ask questions of  
2 school officials, the right to obtain records and information from the  
3 school including a child's test questions and answers, and the right to  
4 present information and evidence on behalf of the child."

5 **SECTION 3.** Chapter 115C of the General Statutes is amended by adding a  
6 new section to read:

7 **"§ 115C-174.13A. Parental right to receive test results.**

8 A school shall provide a student's parent or guardian a copy of any test administered  
9 to the student pursuant to this Article and a copy of the student's actual graded or  
10 evaluated test."

11 **SECTION 4.** Part 3 of Article 8B of Chapter 115C of the General Statutes is  
12 amended by adding the following new section to read:

13 **"§ 115C-105.41. Students who have been placed at risk of academic failure;**  
14 **personal education plans.**

15 Local school administrative units shall identify students in all grades who have been  
16 placed at risk for academic failure and implement a personal education plan for  
17 academic improvement with focused intervention and performance benchmarks.  
18 Identification shall occur as early as can reasonably be done and can be based on grades,  
19 observations, and other factors that teachers and administrators consider appropriate,  
20 without having to await the results of end-of-grade or end-of-course tests. At the  
21 beginning of the school year a personal education plan shall be developed for any  
22 student not performing at least at grade level, as identified by the State end-of-grade  
23 test; if, however, a student's performance appears to be falling below State proficiency  
24 standards at any time during the school year, a personal education plan shall be  
25 developed. Focused intervention and acceleration activities may include, among other  
26 things, summer school, Saturday school, and extended days. Local school administrative  
27 units shall provide these activities and transportation free of charge to students."

28 **SECTION 5.** G.S. 115C-174.12(a) reads as rewritten:

29 ~~"(a) The State Board of Education shall review the tests being administered~~  
30 ~~through State and local testing programs and shall select the tests that it believes are~~  
31 ~~necessary to provide the best measures of the levels of academic achievement attained~~  
32 ~~by students in various subject areas. The State Board of Education shall also establish~~  
33 ~~policies and guidelines necessary for minimizing the time students spend taking tests~~  
34 ~~administered through State and local testing programs and for otherwise carrying out the~~  
35 ~~provisions of this Article. The State Board of Education shall also establish policies and~~  
36 ~~guidelines regarding the testing of children with disabilities. These policies shall, at a~~  
37 ~~minimum, (i) provide broad accommodations and alternative methods of assessment~~  
38 ~~that are consistent with a child's individual education and Section 504 plans, (ii) prohibit~~  
39 ~~the use of statewide tests to determine whether a child with disabilities graduates or is~~  
40 ~~promoted, and (iii) provide parents with extensive training and information about the~~  
41 ~~statewide testing program and options for students with disabilities. The State Board~~  
42 ~~shall report its proposed policies and proposed changes in policies to the Joint~~  
43 ~~Legislative Education Oversight Committee prior to adoption."~~

1           **SECTION 6.** The State Board of Education shall develop testing  
2 instruments, strategies, policies, and guidelines that allow students with limited English  
3 proficiency to take State-mandated mathematics tests in the students' native languages.  
4 The State Board shall report to the Joint Legislative Education Oversight Committee on  
5 proposed policies and guidelines prior to adoption.

6           **SECTION 7.** The Joint Legislative Education Oversight Committee shall  
7 contract with an outside consultant to independently assess the statewide testing  
8 program. The consultant shall consider and report to the State Board prior to January 1,  
9 2002, on the reliability, validity, and fairness of State tests that are or will be used for  
10 grade promotion, retention, remedial placement, and graduation purposes.

11           **SECTION 8.(a)** There is appropriated from the General Fund to the General  
12 Assembly the sum of two hundred fifty thousand dollars (\$250,000) for the 2001-2002  
13 fiscal year to implement the provisions of Section 6 of this act.

14           **SECTION 8.(b)** There is appropriated from the General Fund to the State  
15 Board of Education the sum of two hundred fifty thousand dollars (\$250,000) for the  
16 2001-2002 fiscal year to implement the remainder of this act.

17           **SECTION 9.** Sections 1 through 5 of this act become effective July 1, 2001.  
18 The remainder of this act is effective when it becomes law.