

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2013**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 361 (Second Edition)

**SHORT TITLE:** Excellent Public Schools Act of 2013.

**SPONSOR(S):** Senators Berger, Tillman, and Soucek

**FISCAL IMPACT**

(\$ in millions)

Yes                       No                       No Estimate Available

<b>State Impact</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
General Fund Revenues:	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0
General Fund Expenditures:	0.0 to 0.0	0.0 to 10.2	0.0 to 20.5	0.0 to 30.7	0.0 to 40.9
State Positions:	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0	0.0 to 0.0
<b>NET STATE IMPACT</b>	<b>\$0.0 to \$0.0</b>	<b>\$0.0 to (\$10.2)</b>	<b>\$0.0 to (\$20.5)</b>	<b>\$0.0 to (\$30.7)</b>	<b>\$0.0 to (\$40.9)</b>

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:** State Board of Education, Local Education Agencies, and teacher education programs.

**EFFECTIVE DATE:** Varies - See Bill Summary Section

**TECHNICAL CONSIDERATIONS:**

None

**BILL SUMMARY:**

**Part I. State Employee Volunteer Leave Time**

Under current law, the Community Service Leave Policy established by the Office of State Personnel, employees may use one hour of community service leave each week for tutoring or mentoring in a school, up to a maximum of 36 hours for the weeks that schools are in session.

Part I of this bill directs the State Personnel Commission to establish a leave program that allows employees to volunteer in a literacy program in a public school for up to 5 hours each month.

This section would become effective when it becomes law.

**Part II. Maximize Instructional Time**

Currently, there are limitations on how much time that schools can devote to practice tests as well as limitations on when field tests and national tests can be administered. Schools cannot

participate in more than two field tests in any one grade level during a school year unless that school volunteers through a vote of the school improvement team to participate in an expanded number of field tests.

Part II of this bill prohibits schools from participating in more than two field tests. Annual tests adopted by the State Board of Education (SBE) and all final exams for courses would have to be administered within the final ten instructional days of the school year for year-long courses and within the final five instructional days of the school year for semester courses. Exceptions would be allowed for individualized education plans and section 504 plans.

This section would become effective when it becomes law and applies beginning with the 2013-2014 school year.

### **Part III. Strengthen Teacher Licensure**

The SBE sets the licensure requirements for applicants for teaching positions and may require a minimum score on a standard exam. The SBE, in consultation with the Board of Governors of The University of North Carolina, must develop requirements for continuing licensure and align them with quality professional development programs. For teacher preparation programs, the SBE, in coordination with the Board of Governors of The University of North Carolina and the State Board of Community Colleges, sets the standards for approval and must include competencies in the education of children with disabilities and positive behavior management.

Part III of this bill makes clarifying changes to the statute governing licensure requirements for initial and continuing licensure for teaching positions. The Part also:

- Provides that elementary education and special education general curriculum teachers would be required to achieve a prescribed minimum score on subtests or standard exams specific to reading and mathematics (applies with the 2013-14 school year);
- Increases the number of required credits for continuing licensure from 7.5 to 8 (applies with the 2013-14 school year);
- Specifies that at least three credits must be in a teacher's academic subject area (applies with the 2013-14 school year), and at least three credits related to literacy must be earned by elementary and middle school teachers (applies with the 2014-15 school year);
- Clarifies the requirements of the existing teacher education program performance reports, requiring these reports would have to include information on teacher contributions to the academic success of students, and the SBE would be directed to create an Educator Preparation Program Report Card that summarizes information in the teacher education program performance report (applies with the 2013-14 school year);
- Modify the standards for approval of teacher preparation programs to require elementary and special education general curriculum programs to show competencies in the teaching of reading, assessment and diagnosis of areas of reading difficulty, and appropriate application of instructional supports and services (applies with the 2014-15 school year);
- For teacher licensure candidates, this Part allows the ACT to be used in addition to the SAT as a proxy for Praxis I, if the minimum score on the ACT is 24 or the minimum score on the SAT is 1100 (applies with the 2013-14 school year);

- Requires the SBE to develop a plan to require schools of education to measure performance and report as a component of the educator preparation program report card on their students' competencies in assessing and teaching reading. The SBE would report on this plan to the Joint Legislative Education Oversight Committee by March 15, 2014.

#### **Part IV. School Performance Grades**

Section 7A.3 of S.L. 2012-142 required the SBE to award an overall school performance score, grade of A, B, C, D, or F to each public school as a part of the annual report card for public schools. The school performance grade must reflect student performance on annual subject specific assessments, college and workplace readiness measures, and graduation rates.

This Part would codify the school performance grade requirements and revise the calculation method of school performance grades by using a composite of required performance elements proportionally weighted based on the number of students measured by any given performance element. The scale must also be adjusted for schools not having a measure of one of the performance elements. An indicator reflecting a measure of student growth would be added to the school report card for LEAs, charter schools, and regional schools. Using EVAAS results, the SBE would designate that a school has met, exceeded, or has not met expected growth, but the growth indicator would not affect the overall school performance grade.

This section would become effective when it becomes law and would apply beginning with the 2012-2013 school year.

#### **Part V. Pay for Excellence**

This Part states that the intent of the General Assembly is to use the teacher evaluation instrument and process in the implementation of a plan for performance pay, once the evaluation instrument and process is robust, especially in the area of student growth.

#### **Part VI. Teacher Contracts**

##### Teachers

Under current law, North Carolina teachers are eligible for career status when they have been employed by a local board of education for four consecutive years. Obtaining career status provides that the career employee may not be dismissed or demoted except if one or more statutory grounds are found. Certain procedures must be followed to dismiss or demote a career status teacher, including a right to a hearing in front of the local board of education with a further right of appeal to superior court. The procedure for the dismissal of career status teachers in schools that have been identified as low-performing by the SBE and that have been assigned assistance teams varies in that the SBE has the authority to dismiss career status teachers due to inadequate performance. Hearings must still be granted by the SBE in these cases and there are further rights to judicial review under Chapter 150B of the General Statutes.

Part VI eliminates career status in North Carolina over a five year period and requires that all teachers be employed on contract. (Sections 6.(a) and 6.(b))

Teachers employed less than 3 years by a local board could be employed on one-year contracts. Contracts or contract renewals between a local board and teachers employed by that board for three or more years could be for 1, 2, 3, or 4 school years.

Under this Part, teachers would be employed upon recommendation of the superintendent to the local board. Superintendents would also recommend contract length. Only teachers showing effectiveness as demonstrated by proficiency on the teacher evaluation instrument could be recommended for a contract of more than one year. Local boards of education could approve or not approve the recommendation, or decide on a different contract term. If the superintendent did not recommend contract renewal, a teacher could petition the local board of education for a hearing but granting the hearing would be in the local board's discretion. Decisions not to renew could not be for arbitrary, capricious, discriminatory, for personal or political reasons, or on any basis prohibited by State or federal law. Hearings before the board regarding contracts would not have a right of appeal to superior court.

Teachers could not be dismissed or demoted during the term of the contract except for one of 15 statutorily listed grounds, substantially the same as under current law. Teachers must be provided notice of the dismissal or demotion, and the teacher may request a hearing before the local board within 14 days.

Teachers could be suspended with or without pay under this bill. Teachers suspended without pay may request a hearing before the local board.

Hearings for dismissal, demotion, disciplinary reductions to part-time employment or disciplinary suspension without pay would follow the following procedures: The hearing must be private and conducted according to reasonable rules adopted by the SBE. Both the teacher and superintendent have the right to be present and represented by counsel and to present witnesses. The rules of evidence do not apply. Five days before the hearing, the superintendent must give the teacher a list of witnesses, a brief statement of the nature of each witness' testimony, and a copy of any documentary evidence that will be presented. The teacher must provide this same information to the superintendent three days before the hearing. New evidence may not be presented at the hearing unless the board finds that it is critical and could not have been found earlier.

A teacher dismissed, demoted, reduced to part-time employment for disciplinary reasons or disciplinary suspended without pay who requested a hearing and received a final ruling before the board could appeal the decision to superior court on certain grounds. The appeal must be filed within 30 days of the local board's final decision, and decided on the administrative record. The superior court may affirm or reverse the board, or remand to the local board. The superior court may not award monetary damages to direct the local board to enter into any employment contract on more than one year.

If a teacher has been recommended for dismissal and chooses to resign without the superintendent's written consent then: (i) the superintendent must report the matter to the SBE; (ii) the teacher is deemed to have consented to the placement in his or her personnel file of the written notice of the superintendent's intention to recommend dismissal and the release of this fact that the

teacher has been reported to the SBE to prospective employers upon request; and (iii) the teacher is deemed to have voluntarily surrendered his or her license pending an investigation by the SBE in determination of whether to seek action against the teacher's license.

If a teacher who has not been recommended for dismissal decides to resign during the contract term without the superintendent's consent, the teacher must give at least 30 days' notice. If the teacher does resign without giving this notice, the board may request that the SBE revoke the teacher's license for the remainder of the school year.

The procedure would remain substantially the same as it is under current law for dismissal of school administrators and teachers employed in low-performing residential schools, but would make the following changes:

- Clarify that it is the SBE (rather than the Secretary of Health and Human Services) that has the authority to dismiss school administrators and teachers in residential schools that have been identified as low-performing by the SBE and have been assigned assistance teams by the SBE.
- Eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

The procedure would remain substantially the same as it is under current law for dismissal of school administrators and teachers employed in low-performing schools, but the bill would eliminate the provision that allowed the teacher or school administrator to seek judicial review under Chapter 150B of the General Statutes of a final decision of the SBE.

#### School Administrators

Under current law, most school administrators are employed through contracts with local boards of education. Some school administrators who had or were eligible to receive career status in 1995 are employed pursuant to the teacher career status law. For those employed by contract, school administrators cannot be dismissed or demoted during the term of the contract except for cause for one of the statutorily listed grounds. Superintendents recommend new, renewed, or extended contracts for school administrators to their local boards of education which may approve the recommendations or not. If a superintendent decides against recommending that the local board of education offer a new, renewed, or extended contract to a school administrator, then written notice of this decision and the reasons for it must be given to the school administrator. The reasons may not be arbitrary, capricious, discriminatory, personal, or political. The school administrator may file a written request for a hearing before the local board and failure to file a timely request results in a waiver of the right of appeal of the superintendent's decision. If a timely request is filed, the local board of education must conduct a hearing on the matter and its decision is subject to judicial review under Chapter 150B of the General Statutes.

This Part would eliminate career status for all school administrators and the right to judicial review of contract decisions of the local board of education.

#### Non-Licensed Employees

Under current law, non-licensed employees may appeal a decision of the local board of education to superior court regarding decisions concerning dismissal, demotion or suspension without pay.

The non-licensed employee may request and be entitled to receive written notice as to the reasons for the employee's dismissal, demotion or suspension without pay and it must be provided to the employee prior to any local board of education hearing on the issue.

This Part would eliminate this right of appeal to superior court and would eliminate the right to written notice for the reasons for the non-licensed employee's dismissal, demotion or suspension without pay.

### *Implementation Timeline*

**May 1, 2013** – Authority to award career status is repealed. Career status may not be awarded to any teacher who was not granted that status prior to the 2012-2013 school year.

**May 1, 2013 – June 30, 2018** – Teachers without career status must be given one-year contracts.

**July 1, 2013 – June 30, 2014** – Superintendents must review all teachers employed by the LEA for at least three consecutive years. The superintendent must recommend 25% of these teachers to the local board for four-year contracts starting in 2014-2015. The local board must review the recommendations and accept them or select other teachers as part of the 25% to offer four-year contracts. However the local board may only offer four-year contracts to teachers who are effective as demonstrated by proficiency on the teacher evaluation instrument. All contract offers must be made and accepted by June 30, 2014. Teachers employed on these four-year contracts will receive a \$500 annual pay raise for each year of the contract.

**July 1, 2014** - New teacher employment law (no career status) becomes effective and applies to all teachers on one- and four-year contracts. Current teacher employment law (career status) remains effective for those teachers with career status.

**June 30, 2018** - Current teacher employment law (career status) is repealed.

**July 1, 2018** – New teacher employment law (no career status) applies to all teachers employed by local boards or the State.

### **Part VII – Teacher Contract Conforming Changes**

Section 7 makes conforming changes to statutory references and creates a cross-reference to existing law to clarify that exchange teachers are not eligible to participate in the State retirement system. Sections 7.(a) through 7.(n) make conforming changes to the implementation of the new teacher employment law (no career status) in Section 6, and are effective July 1, 2014. Sections 7.(o) through 7.(x) make conforming changes related to the repeal of the current teacher employment law (career status) in Section 6, and are effective June 30, 2018.

### **ASSUMPTIONS AND METHODOLOGY:**

#### **Part I. State Employee Volunteer Leave Time**

There is no estimate for the fiscal impact of creating an additional leave program allowing State employees to volunteer in literacy programs in public schools for up to five hours each month.

The fiscal impact would be the foregone work product of employees utilizing the additional availability of leave time. Unfortunately, no data exists regarding potential usage rates that would provide a useful indication of the fiscal impact of this requirement.

## **Part II. Maximize Instructional Time**

There is no fiscal impact related to this Part of the Act. This Part requires that annual tests adopted by the SBE and all final exams for courses would have to be administered within the final ten instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. This Part does not create any additional requirements for LEAs, and there is no fiscal impact related to which day of the school year a test is administered.

## **Part III. Strengthen Teacher Licensure**

There is no fiscal impact related to this Part of the Act.

The SBE already requires that teachers achieve a prescribed minimum score on a standard examination in order to receive a license. This Part simply requires the SBE to establish minimum subset scores for reading and language arts and mathematics for teachers in grades K-6.

While this Part increases the number of required credits for continuing licensure from 7.5 to 8, it is estimated that this could be achieved within existing funds. Section 7.13A of S.L. 2011-145 reduced the number of required credits from 15 to 7.5. As there was no budget reduction associated with this change in 2011, the increase in required credits proposed by this bill could likely be achieved within existing funds.

Specification that at least three credits must be in a teacher's academic subject area does not create a fiscal impact as it only mandates that at least three of the credits are related to literacy for elementary and middle school teachers. Continuing education credits related to literacy do not have a materially differing cost from other types of continuing education credits.

This Part also requires that the standards for approval of teacher preparation programs must also require elementary education programs to show competencies in the teaching of reading, assessment and diagnosis of areas of difficulty, and appropriate application of instructional supports and services. The SBE already has authority to establish standards for approval of institutions of teacher education. The institutions of higher education providing these teacher education programs have the option of whether or not to meet such standards.

Finally, this Part requires the SBE to develop a plan to require schools of education to measure performance and report as a component of the educator preparation program report card on their students' competencies in assessing and teaching reading. Such data is already available and would not require additional resources for reporting purposes.

## **Part IV. School Performance Grades**

There is no fiscal impact related to this Part of the Act. School performance grades are an existing requirement. This Part simply changes the way in which the school performance grades are

calculated. This Part does not require the collection of any data that is not currently collected. As a result, there is no fiscal impact associated with these changes.

**Part V. Pay for Excellence**

There is no fiscal impact related to this Part of the Act. This Part simply states General Assembly intent to use the teacher evaluation instrument and process in the implementation of a plan for performance pay, once the evaluation instrument and process is robust, especially in the area of student growth. Declarations of intent are non-binding and do not have the force of law.

**Part VI. Teacher Contracts**

Four-year contracts

There is a likely fiscal impact associated with this Part of the Act, with increased General Fund expenditures ranging from \$0 to \$10.2 million in FY 2014-15 to \$0 to \$40.9 million in FY 2017-18. Potential costs stem from the requirement that teachers employed by the LEA for at least three consecutive years must be offered a four-year contract, and that teachers employed on these four-year contracts will receive a \$500 annual pay raise for each year of the contract.

Estimating the impact of the four-year contracts requires values for the following variables:

- Number of teachers employed by the LEA for at least three consecutive years: This is not data that is specifically tracked. As a proxy, this analysis uses the number of teachers with career status for FY 2011-12, 66,229. This number is increased by 1.3% to account for the increased in the number of teachers between FY 2011-12 and FY 2012-13, giving us a pool of 67,133 total teachers meeting this criterion.
- Percent of teachers employed by the LEA for at least three consecutive years who will accept the four-year contract: There is no data to indicate what percentage of teachers will accept the four-year contracts. While teachers accepting a four-year contract are guaranteed annual pay raises of \$500 per year, they must also forego certain contractual rights. As a result, this analysis presents a range of possible results.

The table below summarizes the *maximum* potential fiscal impact created by this Part. It is assumed that the minimum impact would be \$0, which would occur if no teachers opted to receive a four-year contract:

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Total Qualified Teachers	N/A	67,133	67,133	67,133	67,133
Maximum Uptake	N/A	25%	25%	25%	25%
Teachers Receiving 4-Year Contracts	N/A	16,783	16,783	16,783	16,783
Salary Increase	N/A	\$500	\$1,000	\$1,500	\$2,000
Retirement & Social Security	N/A	\$109	\$219	\$328	\$438
<b>Maximum Potential Cost</b>	<b>N/A</b>	<b>\$10,227,713</b>	<b>\$20,455,425</b>	<b>\$30,683,138</b>	<b>\$40,910,850</b>

Other changes to educator contracts

There would be an indeterminate fiscal impact, if any, with regards to the remainder of this Part. From the State perspective, it is unclear what impact, if any, the proposed changes to educator contracts will have on the composition of North Carolina’s population of teachers (or other certified personnel). It is possible that this Part will – on average – result in dismissal of more

experienced (higher-paid) teachers who would then be replaced with less experienced (lower-paid) teachers. It is also possible that this Part will result in teachers with lower experience or credentials suffering a higher rate of dismissal (due to lower average performance compared to more experienced teachers), shifting North Carolina's teacher population towards teachers with greater experience and credentials.

From a local perspective, the changes in this Part could increase or decrease LEA costs related to hearings. While certified personnel might have additional rights to hearings upon dismissal under existing law, it is possible that the changes proposed in this Part could result in additional dismissals compared to current practice.

**Part VII – Teacher Contract Conforming Changes**

There is no fiscal impact related to this Part of the Act as it is simply making conforming changes.

**SOURCES OF DATA:** Department of Public Instruction

**TECHNICAL CONSIDERATIONS:** None

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**Signed Copy Located in the NCGA Principal Clerk's Offices**