

2014 PENC Legislative Summary

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The Bumpy Ride of 2013 Begat a Roller-Coaster in 2014

Discord: It was the hallmark of the 2014 Session of the North Carolina General Assembly; but it shouldn't have been. With the Legislative and Executive Branches both controlled by members of the same political party, one would think the "short" session would be just that – short. The leaders would likely have met in advance of the May 14 convening date to sort out issues, identify priorities and move along a consensus agenda.

Harmony: That is exactly what did not happen.

The New Year started well. On February 10, a joint press conference with Gov. Pat McCrory, Lt. Gov. Dan Forrest, Senate Leader Phil Berger and Speaker Thom Tillis, along with other Republican House and Senate members occurred in Greensboro. The purpose was to announce a bold initiative to advance starting teacher salaries. The starting salary boost was to be the first step to address the outdated teacher salary schedule and to address the malaise among educators. "Now, it's time we start showing respect for our teachers here in North Carolina," said Gov. McCrory. Soon thereafter, House Speaker Thom Tillis predicted a quick resolution to the business of the short session.

Hope: It was the emotion felt by *some* teachers as a result of that meeting in Greensboro. Hope, however, was quickly replaced with **doubt**. Details that emerged about the educator salary schedule were fleeting and few. The immediate questions in classrooms across North Carolina were, "What about me? I taught for 15 years. Is my service not valued? I'm glad that starting salaries will be raised, but what about me?" No bold press conferences followed to explain the long term fix. In fact, the press conference in Greensboro would be the last time before or during the session that those leaders met together in public.

PENC pleaded the case for all educators, not just teachers at the start of their careers. On panels where PENC members served alongside legislators, PENC President, Tim Barnsback, and PENC Region 7 Representative, Tammy Beach, pleaded to be partners in crafting an immediate fix to the present problem. Most importantly, educators sought a new schedule that would be sustainable in the long term. PENC's ideas were incorporated in drafts of the House's budget. But Senate Republicans had other ideas.

Senate Republicans had a plan to address educators' salaries, but it wasn't vetted and was pushed out when their budget was unveiled. The plan was to compress the steps from 37 to 6 with a cap at \$50,000 by a teacher's 20th year of service. That was the good news. The bad news was there would be no further increases after the 20th year. Teachers would have had to forfeit their career status to receive the proposed raises and circumvent pending tenure-repeal lawsuits. And, longevity would be used in the calculation. After 2014, longevity would go away for teachers, but not for State Employees, who should

pay attention and remember the adage “forewarned is forearmed.” (They could be the next group to lose longevity.)

In response to sharp opposition by PENC, the House (led by Republicans) held firm on its opposition to tying raises to career status forfeiture. The Senate backed down from that position. Otherwise, the only other item that changed was the level of raises. The basic concepts, including the longevity loss, were included in the final budget.

The Senate Republicans used to its advantage in negotiations the fact that House Speaker Thom Tillis is the Republican nominee for North Carolina’s U.S. Senate Seat. The longer the General Assembly remained in session, the less was his opportunity to raise money to campaign against incumbent U.S. Senator Kay Hagan. Despite the bipartisan support for the House’s salary plan – which was based upon PENC’s ideas – controlling House Republicans acquiesced to the Senate’s position.

So the budget was not approved until August 7, 38 days after the beginning of the new fiscal year. PENC notes with interest that four House Republican lawmakers voted *against* the budget – including two of the four chairs of the powerful Finance Committee – Representatives Julia Howard (R-Davie) and Mitchell Setzer (R-Catwaba). When asked for the reason behind her “no” vote, Rep. Howard reportedly stated that she didn’t believe that the spending reflected in **\$744** was sustainable next year, given the changes to North Carolina’s tax structure that will come online in 2015. That is an ominous statement.

Relief: It was the sense that shrouded advocates when the Senate and House gavels finally dropped for the last time on August 20.

Significant Victories

PENC is thankful that legislators finally acknowledged educators’ pleas. PENC notes that all educators will – finally – receive a salary increase. The salary increase is not tied to forfeiting career status. Furthermore, legislators found the funding to honor the commitment to provide a 10 percent Master’s Degree Supplement to educators upon completion of their degree, if they were enrolled in a Master’s program as of August 1, 2013. PENC is grateful to lawmakers for hearing us – especially to Rep. Bryan Holloway (R-Stokes) who advocated PENC’s approach.

With that said, PENC has concerns about the budget. PENC is concerned that good raises this year might not be sustainable in the future. A good bump that makes teachers’ salaries more competitive regionally and nationally will do no good if raises are not provided next year and beyond. And, while teachers suffered many years without meaningful salary increases, at least senior teachers who were in the classroom 10 years or longer were receiving longevity. That won’t happen in the future. PENC also asked lawmakers repeatedly not only to honor the commitment for Masters’ supplements to educators who enrolled in programs prior to the elimination last year; but to reinstate the supplement moving forward, at the very least for subject-specific degrees. PENC will continue to raise the Masters’ Degree Supplement issue – one with which Gov. McCrory’s agrees – and other issues with legislators before and during the upcoming long session, set to begin in January.

Several policy items remained unaddressed; among them, fixes to Read to Achieve and School Grades. Those items are important issues that matter to families and to businesses that are looking at how well North Carolina schools are doing. PENC believes that School Grades must accurately reflect all of the factors that affect schools, their teachers and the communities they serve.

PENC's Continued Commitment to Advocate for Education

Recently, my husband and I discussed the events of the day. We talked about how education was targeted during the past three years. We paused to reflect on our experience with K-12 education. Both of our children graduated from public high schools in Wake County. They both performed well academically and were in universities. They made the Dean's List, among other achievements. At one point, I said, "If I were to believe the rhetoric I'm hearing in Raleigh; it is nothing short of a miracle that our children can read and do arithmetic, much less attend college."

Schools are a reflection of the hard work that educators put in each and every day. They are about the communities within which they reside and serve – with all of their challenges. PENC advocates for policies to allow teachers to simply do their job and focus on their students. But the reform rhetoric continued and the changes kept coming. Rep. Craig Horn (R-Union) put it best during a committee meeting in 2014. He said that teachers are suffering from "policy whiplash." Rep. Horn is right.

The best advocates for education are you – PENC members. Good teachers who focus on their students. The successes teachers have in schools across the state – sung and unsung – are the best lobbying anyone can do. But, it's not enough. Educators must speak up for themselves.

PENC invested in technology in 2013 to help you connect with your legislators. Several calls to action were sent to members and stakeholders throughout session using the VoterVoice tool. We know that it worked because we received feedback from legislators. The messages were getting through, and changes happened. Thank you for your response and engagement.

The next and best opportunity for you to personally affect change is to exercise your duty to vote. All 170 General Assembly seats are subject to the upcoming November 4 election. Most of the changes that educators have suffered through are a consequence of state legislative action, so the most direct way to raise your voice is to cast your vote.

Most importantly, thank you for what you do every day in the classroom for all of North Carolina's children.

Gratitude: It is what I feel for educators, especially the teachers at Leesville Road High School; for all that you did for Christopher and Rebecca.

Bills of Interest

HB230, CLARIFY READ TO ACHIEVE/SCH. PERFORM. GRADES (Session Law 2014-5)

Summary: An Act to Clarify Provisions of the Read to Achieve Act and School Performance Grades and to Expand the Testing Window for One Year.

Discussion

The bill was used as a vehicle to address some of the numerous complaints parents, teachers and school boards raised about implementation of the Read to Achieve program and the School Performance Grades which were both approved in 2013.

Read to Achieve/Testing Amendments

- *Alternative assessment* definition is changed to add that the State Board of Education (State Board) must

- (1) provide several valid and reliable alternative assessments to local school administrative units upon request,
- (2) approve valid and reliable alternative assessments submitted by local units, and
- (3) establish achievement level ranges for each approved alternative assessment. Requires the State Board to annually review all alternative assessments.
- *Student reading portfolio* definition is clarified to allow a compilation of independently produced student work selected by the teacher, beginning during the first half of the school year, and signed by the teacher and principal. A single piece of evidence may show mastery of up to two standards. Reading camps must offer at least 72 hours of reading instruction; be taught by compensated, licensed teachers; and allow volunteer mentors to read with students at times other than the 72 hours of instruction. Requires that the 72 hours of instruction be provided over no less than three weeks for students in schools that are not year-round. Parents of students who demonstrate reading proficiency may participate in reading camps for a fee not more than \$825.
- The *kindergarten entry assessment* is required to yield both qualitative and quantitative data.
 - Data obtained from the assessment are to be used for specified databases and specified assessments.
 - The State Board is directed to implement developmental screening tools on a timeline to allow LEAs to comply with the original Read to Achieve law by the 2016 school year.
- Clarification of *mandatory retention exemptions* -- students exempt from mandatory retention in third grade for good cause are still eligible to participate in reading camps.
- Good cause exemptions from the mandatory retention in third grade are:
 - For *Limited English Proficient students* with less than two school years of instruction in an English as a Second Language program.
 - For *students with disabilities*, including those whose individualized education program indicates (1) use of the NCEXTEND1 alternate assessment, (2) at least a two-school-year delay in educational performance, or (3) receipt of intensive reading interventions for at least two school years.
 - For *students demonstrating reading proficiency appropriate for third grade* on an alternative assessment, regardless of when the alternative assessment was administered, or when the portfolio was submitted. The portfolio and review process used by the local school administrative unit are to be approved by the State Board.
- LEAs must provide at least one opportunity for students not participating in reading camps to demonstrate appropriate reading proficiency. Principals are required to grade and classify students demonstrating reading proficiency after the November 1 midyear promotion deadline. Teachers and principals must discuss with parents that a student may be retained, including in information sessions.

School Performance Grades/ Career and College Readiness

The State Board is responsible for calculating a school's overall school achievement score. That calculation is required to (1) use a composite approach to weigh the achievement elements based on the number of students measured and (2) proportionally adjust the scale to account for the absence of a school achievement element for award of scores to a school that does not have a measure of one of the school achievement elements annually assessed for the grades taught at that school.

The State Board is required to use EVAAS to calculate the school performance score by adding the school achievement score and the school growth score. The school achievement score will account for 80 percent and the school growth score account for 20 percent of the total. If a school has met expected

growth and inclusion of the school's growth score reduces the school's performance score and grades, it may choose to use the school achievement score solely to calculate the performance score and grade.

The bill provides that, for the 2013-14 school year only, the total school performance score must be converted to a 100-point scale and used to determine a school performance grade based on the specified 15 point scale as follows:

- an overall score of at least 85 points = A
- an overall score of at least 70 points = B
- an overall score of at least 55 points = C
- an overall score of at least 40 points = D
- an overall score lower than 40 points = F

Note – Section 8.30. in **SB744**, The 2014 Appropriations Act further modifies the first reporting of School Performance Grades to occur January 15, 2015 rather than August 1, 2014.

Finally, local boards of education may apply for waivers from limitation of the administration of final exams for year-long courses to the final 10 instructional days of the school year and for the final 5 instructional days of the semester for semester courses. This provision applies only for the 2014-2015 school year. The waiver application must be made by September 1, 2014, with notification decisions made by October 1, 2014.

[HB884](#), DROPOUT PREV./RECOVERY PILOT CHARTER SCHOOL (Session Law 2014-104)

Summary: An Act to Provide for a Dropout Prevention and Recovery Pilot Program with a Charter School and to Require the State Board of Education to Report on Utilization of Personnel Contracts.

[HB1193](#), RETIREMENT TECHNICAL CORRECTIONS ACT OF 2014 (Session Law 2014-97)

Summary: An Act to Make Technical Changes to the Statutes Affecting the State Retirement Systems.

[HB1194](#), RETIREMENT ADMIN. CHANGES ACT OF 2014 (Session Law 2014-112)

Summary: An Act to Make Changes to Administration of the State Retirement Systems.

[HB1195](#), FISCAL INTEGRITY/PENSION-SPIKING PREVENTION (Session Law-88)

Summary: An Act to Enact Anti-Pension-Spiking Legislation by Establishing a Contribution-Based Benefit Cap, to Allow Members of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System Who Leave Employment Within Five Years to Receive a Return of Their Contributions with Accumulated Interest, and to Return to a Five-Year Vesting Period for Members of the Teachers' and State Employees' Retirement System and the Consolidated Judicial Retirement System Who Became Members on or After August 1, 2011, and Make a Conforming Change to the Special Separation Allowance for Law Enforcement Officers.

Discussion

HB1195 addresses the perceived issue of educators and state employees taking high paying jobs for a short period of time to increase their pension. Referred to as "pension-spiking," the bill institutes an anti-pension-spiking contribution-based benefit-cap. This provision requires the Boards of Trustees of state and local retirement systems to establish a contribution-based benefit cap which will be established for employees hired on or after January 1, 2015, with average final compensation of more than \$100,000. The bill sets out the procedures for setting and adjusting the cap and provides a

procedure for purchasing the benefit cap and other technical changes to implement the changes. The bill further changes the vesting period from 10 years back to 5 years. Most provisions become effective January 1, 2015, but the vesting changes became effective upon enactment of the legislation.

[SB370](#), RESPECT FOR STUDENT PRAYER/RELIGIOUS ACTIVITY (Session Law 2014-13)

Summary: An Act to Clarify Student Rights to Engage in Prayer and Religious Activity in School, to Create an Administrative Process for Remedying Complaints Regarding Exercise of Those Student Rights, and to Clarify Religious Activity for School Personnel.

[SB734](#), REGULATORY REFORM ACT OF 2014 (Session Law 2014-120)

Summary: An Act to Provide Further Regulatory Relief to the Citizens of North Carolina by Providing for Various Administrative Reforms, by Eliminating Certain Unnecessary or Outdated Statutes and Regulations and Modernizing or Simplifying Cumbersome or Outdated Regulations, and by Making Various Other Statutory Changes.

[SB744](#), APPROPRIATIONS ACT OF 2014 (Session Law 2014-100)

Summary: An Act to Make Base Budget Appropriations for Current Operations of State Departments, Institutions, and Agencies, and for Other Purposes.

Discussion

S744 passed the Senate in separate votes on July 30 and 31 and passed the House on August 1 and 2. Gov. Pat McCrory signed the bill August 7. The documents that comprise the budget as enacted by the General Assembly can be seen [here](#) and [here](#).

The more than \$21 billion budget provides educators with an average 5.5 percent salary increase when calculated without longevity. With longevity funds for the 2014-2015 school year added in, the average is about 7.2 percent. Gov. McCrory said earlier in the session that he would veto a budget that included a raise exceeding 6 percent because he didn't believe that rate would be sustainable. The scenario presented in the budget met his criteria.

The budget includes a new, compressed 6 step salary schedule pushed by the Senate and agreed to by the House. See the [new salary charts](#).

Longevity payments due to educators on their anniversary date for the remainder of this school year are to be paid on a pro-rata basis with June 30, 2014 as the last date of the calculation.

The budget includes many compensation related provisions. They include the items listed below.

Salary and Compensation Issues

- **Educator compensation:** *average* 5.5 percent raise plus inclusion of longevity in calculation to equal an *average* 7.2 percent raise total. For those in Steps 0-30, the salary increase ranges from 0.29% to 18.51%, with the greatest increases seen in Steps 5-11. Salary increases for Educators who have worked 30 years and beyond get what they would have received under the old pay plan, plus longevity, plus a \$1000 bonus to be paid incrementally throughout the year. Please refer to the [salary chart](#) for specific details.
- **Masters' supplements** will be honored for anyone who was enrolled in a program as of Aug. 1, 2013.
- **National Board supplements** will remain in place.

- **Masters' supplement calculation and NBCT supplement calculation** will be based off the "A" schedule, which can be found in this [salary chart](#). Teachers eligible for Masters' supplements will earn an additional 10% of their salary and NBCT Teachers will receive an additional 12% of their salary.
- **Instructional Coaches who work in Title I schools with NBCT** certification will be eligible to receive the supplement.
- **Teachers who earned longevity during the 2013-2014 fiscal year** will be paid prorated longevity for annual longevity earned prior to July 1, 2014.
- **No longevity will be provided after the 2014-2015 school year**, unless the General Assembly acts to change that.
- **Differentiated pay for highly effective teachers** – a pot of \$10 million is set aside to fund proposals by school districts to provide compensation for highly effective teachers.
- **Principals and Assistant Principals will receive a salary increase** between 1.8-2%. For those at the top of the schedule who do not receive a salary increase on the new schedule, they will receive a nonrecurring bonus of \$809 (See Pages 51-54 of the [budget document](#) for specific details).
- **Non-certified personnel** who are not on a pay schedule will receive a \$500 raise. They will continue to receive longevity payments, if they've worked 10 years or longer.
- **Central Office Employees** will receive salary increases according to the provisions on Page 54 of the [budget document](#).
- **Other state employees**, including DPI employees, will receive a \$1000 increase.
- **Other state employees keep longevity.**
- **Retirees** will receive 1 percent COLA.
- Other state employees will also receive **5 bonus annual leave days**.
- **No employee-paid premium increases** for the State Health Plan.

Provisions of Note

- Other state employees will receive five additional days of annual leave.
- The budget clarifies that re-hired state retirees will be offered state health plan coverage as active employees rather than as retirees.
- DPI budget is reduced 10 percent.
- The budget creates the NC Education Endowment Fund, as recommended by Lt. Gov. Dan Forrest. Plan includes "I Support Teachers" license plate.
- The budget clarifies how military personnel who become educators will be credited for their service.
- The budget creates a Virtual Charter School Pilot Program.
- Directs the Joint Legislative Education Oversight Committee to study the diagnostic reading assessments for Read to Achieve.
- Addresses the education of children in private psychiatric residential treatment facilities.

[SB761](#), CREDIT FOR MILITARY TRAINING (Session Law 2014-67)

Summary: An Act to Enhance the Effectiveness of the Occupational Licensing of Military Service Members and Veterans and to Direct the Board of Governors of the University of North Carolina and the State Board of Community Colleges to Submit a Plan that will Ensure that College Credits are Uniformly Granted to Students with Military Training.

[SB793](#), CHARTER SCHOOL MODIFICATIONS (Session Law 2014-101)

Summary: An Act to Make Various Changes to the Charter School Laws and to Make a Technical Correction to House Bill 712.

Discussion

SB793 raised controversy with a number of attempts to change charter schools' law that appeared to exempt their boards from public records' laws and to allow them to employ discriminatory admission policies. In the end, the changes allowed charter schools more flexibility, but rejected the policies that raised criticism from supporters of traditional public schools.

The bill made the following changes to current charter schools laws:

- Allows a teacher employed by the charter school to serve on the governing board as a nonvoting member.
- Requires the SBE to make final decisions on charter schools' applications by August 15 of a calendar year for applications that the Charter Schools Board receives in a given application cycle.
- Sets conditions under which the SBE may allow renewal for a period of less than 10 years; including
 - A charter school has not provided financially sound audits for the 3 prior years
 - A charter school's academic outcomes for the 3 prior years have not been comparable to LEA in which the charter is located
 - A charter school does not comply with state law, federal law the school's bylaws or the provisions of its charter.
- Sets out circumstances by which schools may expand the number of grades of instruction offered without requiring prior approval of the SBE
- Ban charter schools from discriminating against any student on the basis of ethnicity, national origin, gender or disability. In the case of a charter school whose mission is to provide a single-sex education, the school may limit admission to just that sex.
- Clarifies that charter schools' boards are subject to North Carolina's open meetings and public records laws.
- Directs that LEAs provide, to provide within 30 days additional information that a charter school requests related to their per pupil share, so that the charter school can audit and verify the calculation and transfer of the per pupil share of the local current expense fund.
- Clarifies the mediation process such that orders regarding delinquent funds, costs, fees and interest are to be paid in full no later than one year from the entry of any judgment.
- Amends the competitive bid process for schools that show inadequate performance, providing that interested entities must have operated another charter school in North Carolina for at least three years
- Directs the SBE to adopt processes and rules for fast tracking replication of high-quality charter schools operating in North Carolina.
- Requires the SBE to ensure that the rules for the replication process to require decisions to be completed in less than 120 days.
- Requires the SBE to adopt rules and procedures for the process by December 15, 2014 and to report to Joint Legislative Education Oversight Committee by February 15, 2015.
- The provisions became law upon enactment and were applicable to the 2014-15 school year.

SB812, REPLACE CCSS W/NC'S HIGHER ACADEM. STANDARDS (Session Law 2014-78)

Summary: An Act to Exercise North Carolina's Constitutional Authority Over All Academic Standards; to Replace Common Core; and to Ensure that Standards are Robust and Appropriate and Enable Students to Succeed Academically and Professionally.

Discussion

SB812, Maintain State Authority over Education Standards, directs the SBE to adopt education standards to replace the Common Core Standards. The successor standards would be adopted by an independent

commission and could be an amalgamation of those used in other states -- including elements of Common Core. The State Board of Education would ultimately have to approve news standards.

SB812 directs the SBE to adopt standards for public schools. The SBE is to conduct a comprehensive review of the English, Language Arts and Mathematics standards previously adopted and propose changes to increase students' achievement and competitiveness among the highest standards in the nation. SB812 prohibits the SBE from entering into any agreement, understanding, or contract that cedes control of the Standard Course of Study and related assessments. It further states that the use of national or international curricula is acceptable and singles out the AP and IB programs among those that are acceptable. The SBE must also maintain and reinforce the independence of the NC Standard Course of Study and related student assessments, rejecting usurpation and intrusion from federally mandated national or standardized controls.

The bill establishes the Academic Standards Review Commission that will review the English Language Arts and Mathematics standards adopted by the SBE and propose modifications to them. The ASRC is an independent commission housed outside of SBE and DPI. Among its duties are the consideration of assessments and the reduction of the number of high-stakes tests, as well as the impact upon educators and the need for professional development to implement the recommendations.

The provisions direct the SBE to report to the Joint Legislative Education Oversight Committee by July 15, 2015 on the acquisition and implementation of a new assessment instrument to assess student achievement. The SBE is prohibited from implementing assessment instruments without prior Legislative approval. The legislation cites as appropriate assessment models to include the Iowa Test of Basic Skills, the SAT, ACT Aspire and the National Assessment of Educational Progress.

The provisions reiterate LEAs' responsibility to provide sound instruction required by the Standard Course of Study and specifically states that it shall remain in effect until official notice is given of any changes to the Standard Course of Study.

The provisions became effective July 1, 2014.

Common Core Standards have been an issue of national controversy. More than 45 states initially approved the standards for English Language Arts and Mathematics, which grew out of a bipartisan effort to better prepare students for the global economy. The standards, which were supported by the business community, including the NC Chamber of Commerce, were vigorously opposed in North Carolina and elsewhere by some parents and groups such as Americans for Prosperity. Some states have pushed for their repeal. North Carolina's debate attracted national attention, most recently in the Washington Post.

PENC members expressed the desire to maintain standard stability. Much time, energy and resources were invested in North Carolina to implement Common Core. The standards should remain in place long enough to see if they're working. Regardless, the changes were approved. The provisions of SB82 became effective July 1, 2014.

SB815, ENSURING PRIVACY OF STUDENT RECORDS (Session Law 2014-50)

Summary: An Act to Ensure the Privacy and Security of Student Educational Records.