

# 2015 PENC Legislative Summary

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## The Session Marked by What Did *NOT* Happen

The 2015 Session of the North Carolina General Assembly will be remembered by education advocates as much for what didn't happen as much as it is for what did happen. The "long" session lived up to its name – it ran 137 days, from Jan. 30 until Sept. 30, with a budget agreement emerging on Sept. 18 – a full 80 days after the end of the fiscal year June 30. A total of 1,666 bills were filed, but only about 13 percent of those became law. One of those bills, **HB97, 2015 Appropriations Act**, had the broadest impact of them all because it was filled with numerous policy changes, especially to North Carolina's education laws.

The prolonged session during a time when the state is governed by lawmakers of the same political party is confounding. The Legislative and Executive branches of North Carolina government clearly have different views. Most of Gov. Pat McCrory's priorities were unrecognizable once the General Assembly finished its business. His cornerstone bill, a bond bill to address long suffering state roads and infrastructure, didn't pass. Instead, lawmakers rewrote the bill to jump start building and renovations at Community Colleges, Universities and State Parks. The teacher pay plan changes drafted, in part, by Gov. McCrory's former education adviser, didn't happen. The Medicaid Reforms pushed by Senate leaders and opposed by Gov. McCrory's Secretary of Health and Human Services did pass, after the Secretary stepped aside.

All of this is not to say that the Republican-led House and Senate got along swimmingly. Factions within the House Republican caucus prevented united positions on many issues, while the Senate Republicans rarely, if ever, disagreed publicly. And Senate Republicans used their united front to advance their views.

No situation better illustrates this conundrum than the circumstances around the passage of the House-initiated budget. Because the original House budget, **HB97**, included 2 percent across-the-board pay raises for teachers and state employees and a 2 percent cost of living increase for retirees, it was supported by a majority of House Republicans, by a majority of House Democrats *and* by Gov. McCrory. The version of **HB97** that ultimately became law looked very different. Gone were the 2 percent raises for teachers and state employees. Instead, the budget included a \$750 one-time bonus for teachers and state employees with no cost of living adjustment (COLA) for retirees at all. Some teachers got more, if they were in their first five years of teaching or if they were moving from one salary band to another, but that was only 28 percent of them. The only increase most teachers received is the \$750 bonus, which will not count toward retirement. **HB97** included language that appeared to admonish the State Health Plan administration and set spending and saving targets it must meet before the General Assembly releases future contributions to support the plan for employees.

## Public Schools as Target

"In general, private schools do better as a matter of education than public schools. That doesn't mean every (private school) does. But in general, they do. And so I guess my point would be when the public schools catch up to the private schools, we can have that question about accountability to the public."

--Rep. Paul "Skip" Stam (R-Wake) House Speaker Pro Tempore

Put another way, *private schools are better because they're private*. Really? Rep. Stam's quote sums up what public education advocates faced each day during session. The sentiment among many was that privatization of education is better than investing in public schools. The burden of standards and accountability were to be imposed upon public schools rather than private schools. The rationale seemed to be all of the reforms on *public* schools are warranted and that lawmakers should loosen the regulations to allow more *private* and non-traditional public schools to use public resources to serve more students.

Those sentiments did not simply apperate. There are now about a dozen different and well-funded groups advocating *against* traditional public education that are promoting those ideas. They pay lots of money to lobbyists and raise lots of money for political campaigns. Some of the groups say they're advocating for *public* charter schools, but they represent for-profit charter school entities who can cease operations as soon as it no longer makes sense to their investors to operate. In contrast, traditional public schools, their accountability and success or failure, are tied to the community and to the state of North Carolina. Other groups are advocating for public resources to pay for private school tuition – vouchers – which the North Carolina Supreme Court said is a constitutional use of those funds. All of these factors are purposefully confusing issues around public education and eroding its support.

Rather than allowing the reforms of the prior four years to work and be evaluated, it seemed that any and every new change – reform of the moment – emerged and gained momentum, regardless of the existence of any evidence about whether they were effective. The litany of proposed changes included everything from proposals to change educator and administrator preparation and pay, school curricula, testing and incentives, virtual and online charter schools, to pushes for more tax funds to support private schools. Some of these were successful, others not so much. So public education advocates spent the session “playing defense,” or chasing down and working *against* reform after reform and while at the same time working *for* evidence – and experience-based – changes.

Public school groups had issues they sought to advance. PENC advocated in favor of efforts to address issues that are important to PENC members – like restoring Masters' pay, implementing cost of living increases to correct the current salary schedule, granting educators duty-free lunch time and eliminating antiquated Personalized Education Plans. We also worked to try to get meaningful resolution of school calendar problems. More than 80 bills were filed to address school calendar issues. Sadly, because of opposition by two powerful Senators, Sen. Phil Berger (R-Rockingham) and Sen. Tom Apodaca (R-Henderson), resolution on this important matter did not happen this year.

## Significant Victories

PENC is thankful for the salary increases that were ultimately approved. We do hope that lawmakers honor their commitment to provide more meaningful salary increases in 2016. PENC is very grateful that lawmakers agreed to repeal the Personalized Education Plans.

PENC is also thankful for what did *not* happen. PENC teamed up with other education groups, like the NC School Boards Association and the NC School Administrators Association, to defeat or delay issues that could harm children and public schools. Together, we derailed last minute efforts to expand private school vouchers (see **SB456**) and to create an Achievement School District that would pave the way for out of state, for profit charter school companies to take over failing schools (see **SB95**). And, PENC members pitched in to help when asked. When PENC sought members' help in communicating concerns about well-intentioned but poorly considered plans to change how educators are paid, (see **HB660**), the overwhelming response derailed the bill and sent it back to the drawing board.

PENC advocates for educators. We advocate for educators to have the freedom to teach, the resources to succeed, and the spirit and encouragement to serve children and families. Your partnership in our

advocacy efforts created the wins. Thank you for your response to our calls for action. Most importantly, thank you for what you do every day in the classroom for all of North Carolina's children!

### [HB97, 2015 APPROPRIATIONS ACT](#)

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

Status: 09/18/2015 – Signed by Governor – Session Law 2015-241.

#### *Discussion*

After a stalemate that lasted about 76 days, House and Senate Budget writers reached an agreement on [HB97, 2015 Appropriations Act](#), during the weekend of Sept. 12. Votes followed soon after. During interviews with media representatives on Sept. 17, Gov. Pat McCrory indicated that he would sign [HB97, 2015 Appropriations Act](#), on Sept. 18.

The \$21.7 billion budget provided all teachers and state employees who are on the payroll by Nov. 1, 2015 with a \$750 bonus payable in Dec. 2015. The bonus will not count toward retirement calculations. **The budget provides no cost of living adjustment for state retirees.** While the budget provides funding to support the employer's contributions to the State Health Plan, **a vote by the State Health Plan (SHP) Board of Trustees approved an average 2.83 percent increase in employee premiums.** While individuals must calculate how the SHP changes will affect them based upon their personal circumstances, **it is clear that the \$750 bonus will be quickly eaten away by SHP increases.** Furthermore, language that begins in Section 30.26 makes clear that the General Assembly expects the SHP management to curb growth and makes future General Fund contributions contingent upon the SHP management meeting those expectations. **This could mean increases in premiums for teachers and state employees in the future.** Additionally, tax changes, including the extension of the sales tax to repairs and service contracts as well as the raising of DMV fees will disproportionately affect lower and middle income earners. Corporate income taxes were reduced and, in a bit of good news, the medical deduction was restored for all filers. Additionally, the standard deduction was raised by \$500.

#### **Education Funding**

The education budget provides basic, or as Rep. Tricia Cotham (D-Mecklenburg) put it, "just adequate funding" as she explained her no vote on the budget. She bemoaned **the lack of a real raise** and said, ". . . It's just not good enough." She also noted the lack of restoration of Master's pay – an item for which PENC fought hard and continues to fight.

Information obtained by the Department of Public Instruction reveals that 72 percent of educators are receiving *only* the \$750 one-time bonus. The rest of the educators are also receiving a step increase or are beginning teachers, whose salaries were raised to \$35,000. PENC spent a lot of time and effort reminding lawmakers that the new salary schedule means that educators will only receive an increase when they move from one band to another – meaning once every 4 years or so (provided that the General Assembly funds the salary schedule), **unless lawmakers provide a cost of living increase that will compensate for the multi-year freeze on the salary schedule.** Educators at the top of the pay scale who exceeded the top rate set in 2014 of \$50,000 will also receive funds to hold them harmless from making less than what they made before the change. **The salary schedule can be seen [here](#).**

While the cross-chamber negotiations – fights, really – over **Teacher Assistant funds garnered "full funding" for TAs; the devil is in the details.** The **lack of flexibility** will cause staffing conundrums across North Carolina. The flexibility was primarily used by school systems to hire teachers. Funding flexibility with the TA line item is not allowed in this budget, so systems are scrambling to figure out how to move money around to prevent layoffs. Lawmakers also curtailed the number and type of waivers for which LEAs could apply to carry out duties (Section 8A.6(a)), in part, it would appear, to further restrict use of funds issued by the General Assembly.

**Drivers' Education** is fully funded for one year. Future funding support will come from Civil Fines and Forfeitures. A study will determine how well the program is working and recommend changes.

The floodgates **for private school vouchers** were opened when the NC State Supreme Court found "Opportunity Scholarships" to be a constitutional use of public tax dollars. Predictably, the line item for vouchers was increased by 129 percent in 2016-2017.

The **only hopeful item in the budget is that additional funds were put toward textbooks and digital resources**, which were woefully underfunded for many years. The addition is welcome. While it is not enough to make up for the lack of funding over the years, it is definitely a good start.

Other compensation and working conditions concerns of educators were addressed:

- A provision that addresses health benefits for retired educators who return to work clarifies that school districts must cover the employer health care premiums (see Section 30.25. (a) on p. 396 of [HB97](#)). This issue addresses matters raised in **SB6** and in **HB56**.
- Other provisions repeal the exemption from extracurricular duties restrictions for teachers with 27 or more years of service and add continuing education requirements for retired teachers who serve as substitute teachers and have at least 30 years of service (see Section 8.45 and 8.46.(a) and 8.46.(b), beginning on p. 94 of [HB97](#)). PENC worked to amend these provisions at the end of the legislative session. With the sponsorship of Rep. Bryan Holloway (R-Stokes) and Rep. Jeffrey Elmore (R-Wilkes), the House adopted two amendments to [HB15, Education Software](#), that address these issues, which can be seen [here](#) and [here](#). While the House approved the amendments on Sept. 29, the Senate failed to act upon the provisions in the waning hours of the legislative session. The bill was instead sent to the Senate Rules Committee.
- Other provisions included additional school safety measures recommended by the Department of Public Safety (see discussion of **HB380**).
- Changes in purchase of service policies for members of the teachers' and state employees' retirement system for educational leave (see Section 30.30).

[HERE](#) is a list of the funding items taken directly from the document referred to as "The Money Report," which accompanies the bill's text. We thought you should see them first-hand.

Other Enacted Budget Bills

#### [SB534, 2015 CONTINUING BUDGET AUTHORITY](#)

An Act Authorizing the Director of the Budget to Continue Expenditures for the Operation of Government at the Level in Effect on June 30, 2015.

Status: 06/30/2015 – Signed by Governor – Session Law 2015-133.

#### [HB18, CONTINUING BUDGET AUTHORITY](#)

An Act Authorizing the Director of the Budget to Continue Expenditures for the Operation of Government at the Level in Effect on June 30, 2015, Until September 18, 2015.

Status: 08/27/2015 – Signed by Governor – Session Law 2015-233.

#### *Discussion – SB534 and HB18*

Typically, the General Assembly adopts a biennial – two year – budget during the odd numbered year of the two year session. The end of the North Carolina fiscal year is June 30. A new budget must be adopted by that date during the odd-numbered year or the funding for the operation of state

government expires. The government shut down threat is not pressing during an even numbered year because the General Assembly adopts a two-year budget.

This year, the General Assembly did not complete its budget until Sept. 18. To keep state government running, lawmakers adopted two temporary budget – “Continuing Resolutions.” **SB534** is significant because that bill was the vehicle to raise starting teachers’ salaries (from 0-5) to \$35,000 per year. That issue was not in controversy during the rest of the budget negotiations in 2015.

### **SB721, ADJOURNMENT RESOLUTION**

A Joint Resolution Adjourning the 2015 Regular Session of the General Assembly to a Date Certain and Limiting the Matters that May be Considered Upon Reconvening.

Status: 09/30/2015 – Chaptered Resolutions 2015-14.

## **Salary and Benefits**

### **HB190, STATE HEALTH PLAN MODIFICATIONS.-AB**

An Act to Make Modifications to the State Health Plan for Public Employees.

Status: 06/19/2015 – Signed by Governor – Session Law 2015-100.

#### *Discussion*

**HB190** makes a number of changes to the State Health Plan:

- Retirees and surviving spouses to dis-enroll from the Plan during the Plan year without a qualifying event. It also allows retirees and surviving spouses to dis-enroll their dependents from the Plan without a qualifying event.
- The bill specifies that coverage will cease on the earliest of either the last day of the month, or as soon thereafter as administratively feasible, in which the Plan approves cancellation of coverage for an employee or retired employee. This section clarifies that coverage will be terminated for failure to pay premiums. Termination for failure to pay will take place on the last day of the month for which a premium is paid.
- The bill adds a provision to clarify that employees laid off due to Reduction in Force (RIF) are eligible for coverage on a noncontributory basis.
- The bill clarifies that surviving spouses of Disability Income Plan beneficiaries are eligible for coverage under the Plan on a fully contributory basis. It also makes changes to preexisting conditions and waiting periods.
- The bill adds "other contributory basis" to enrollment language pertaining to new employees that must be given the opportunity to enroll or decline enrollment for themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a partially contributory or other contributory basis.

The provisions became effective July 1, 2015.

### **HB274, RETIREMENT TECHNICAL CORRECTIONS ACT OF 2015.-AB**

An Act to Enact the Retirement Technical Corrections Act of 2015.

Status: 06/11/2015 – Signed by Governor – Session Law 2015-67.

#### *Discussion*

**H274** makes technical changes pertaining to the following: Teachers and State Employees Retirement System (TSERS), Local Governmental Employees Retirement System (LGERS), Disability Income Plan (DIP), Qualified Excess Benefit Arrangement (QEBA) plans, and funds from a settlement or other final

order or judgment of the court received by the Escheat fund and benefit plans administered by the Department of State Treasurer. The provisions became effective July 1, 2015.

## **Education Policy and Reforms**

### **HB13, AMEND SCHOOL HEALTH ASSESSMENT REQUIREMENT**

An Act to Require Each Child Presented for Admission into the Public Schools for the First Time to Submit Proof of a Health Assessment; to Require that Absences Due to the Failure to Present the Health Assessment Transmittal Form not Result in Suspensions and to Allow Students to Make Up the Work Missed; to Specify What Information Shall be Included on the Health Assessment Transmittal Form and Who is Authorized to Have Access to the Form; and to Require the Department of Health and Human Services and the Department of Public Instruction to Amend the Health Assessment Transmittal Form and to Report to the Joint Legislative Oversight Committee on Health and Human Services and to the Joint Legislative Education Oversight Committee.

Status: 08/18/2015 – Signed by Governor – Session Law 2015-222.

#### *Discussion*

**HB13** requires each child entering North Carolina public schools for the first time to submit proof of a health assessment to the school principal within 30 calendar days of the child's first day of attendance. This requirement includes children who enter schools at grades other than kindergarten. The health assessment results must be submitted on a statewide standardized health assessment transmittal form developed by DHHS and DPI and the form must only include those items specifically listed in the act. If the health assessment transmittal form is not presented on or before the child's first day of attendance, the principal will issue a deficiency notice indicating that the form must be submitted within the specified timeframe or the child will not be permitted to attend school. Local board of education policies must state that absences due to failure to submit the health assessment are not suspensions and a student absent due to the lack of a health assessment form must have the opportunity to: take a textbook and school-furnished digital device home, receive missed assignments upon request, and take missed exams. The DHHS and DPI must develop a health assessment transmittal form for the 2016-17 school year and report on or before December 1, 2015, to the Joint Legislative Oversight Committee on Health and Human Services and Joint Legislative Oversight Committee on Education. The act became effective August 18, 2015 and applies to children enrolling in the public schools for the first time beginning with the 2016-2017 school year.

### **HB334, CHARTER SCHOOL & OTHER EDUCATION LAWS CHANGES**

An Act to Make Changes to Various Charter School Statutes and Other Education Statutes.

Status: 09/23/2015 – Signed by Governor – Session Law 2015-248.

#### *Discussion*

**HB334** makes a number of changes to laws governing Charter Schools, starting by subjecting the North Carolina Office of Charter Schools to supervision, direction and control of SBE, but leaving it under DPI for administrative purposes. The SBE will have the authority to appoint the Office of Charter Schools' Executive Director, who will serve at the pleasure of SBE. It also makes membership changes to the Advisory Board of Charter Schools. Changes to the application process for new charter schools and about the renewal conditions for existing charters are also made. The minimum number of students served by a charter school is raised from 65 to 90 and clarifications about growing charters' enrollment are addressed. The bill also addresses financial reserves that must be maintained by charter schools and the procedures about closing charter schools. The bill addresses students with disabilities who receive voucher funds. It requires such students to be reevaluated every three years to assess whether they still require special education services provided through the vouchers. The provisions became law upon the Governor's signature and applied beginning with the 2015-2016 school year.

### **SB315, SCHOOL PLAYGROUNDS AVAILABLE TO PUBLIC**

An Act Authorizing Local Boards of Education to Make Outdoor School Property Available to the Public for Recreational Purposes and to Make Other Conforming Changes.

Status: 06/11/2015 – Signed by Governor – Session Law 2015-64.

### *Discussion*

**SB315** authorizes local boards of education to make outdoor school property available to the public for recreational purposes, subject to terms and conditions each board deems appropriate, when the property is not otherwise being used for school purposes and so long as such use is consistent with the proper preservation and care of the school property. The act provides that liability does not attach to any board of education or any individual board member for personal injury suffered by reason of the use of school property. The provisions became effective June 11, 2015.

### **SB597, REPEAL REFERENCES TO ABCS**

An Act to Repeal References to the ABCs Program in the General Statutes.

Status: 06/11/2015 – Signed by Governor – Session Law 2015-65.

### *Discussion*

As the title indicates, the provisions of **SB597** repeal references to the ABCs of Public Education plan, which are no longer being used. The provisions became effective June 11, 2015.

### **HB237, REPEAL PERSONAL ED PLANS/MODIFY TRANS PLANS**

An Act to Repeal Personal Education Plans and Modify Transition Plans.

Status: 06/02/2015 – Signed by Governor – Session Law 2015-46.

### *Discussion*

This PENC-requested bill repealed the requirement that educators prepare personal education plans (PEPs). Responding to PENC member feedback, PENC advocated for the repeal because of their redundancy and obsolescence, given other reforms, interventions and data collection methods. They became a paperwork burden that did not change or enhance educators' plans or strategies to help struggling students. Additionally, PEPs have no accountability – principals do not review PEPs with teachers, nor are PEPs linked to the teacher evaluation in any way. There is no evidence that shows that they are making any statistically significant difference. Finally, The State Board of Education no longer receives reports on PEPs (SL 2013-226), raising further questions about their merit. The bill provides that local boards of education must adopt policies that direct school improvement teams to develop plans to include successful transition between elementary and middle school and between middle school and high school for students at risk. The provisions became effective at the start of the 2015-2016 school year.

### **HB358, SCHOOL PERFORMANCE GRADE SCALE**

An Act to Extend the Use of the Fifteen-Point Scale for Assignment of School Performance Grades for the 2014-2015 and 2015-2016 School Years Only.

Status: 05/14/2015 – Signed by Governor – Session Law 2015-17.

### *Discussion*

As the title indicates, the bill continues the 15 point School Performance Grade to apply to the 2014-15 and 2015-16 school years. The proponents argue that this will give school leaders three full years of data to review when considering further adjustments to School Performance Grades.

### **SB20, IRC UPDATE/MOTOR FUEL TAX CHANGES**

An Act to Update the Reference to the Internal Revenue Code, to Decouple from Certain Provisions of the Federal Tax Increase Prevention Act of 2014, to Modify the Motor Fuels Tax Rate, and to Make Certain Reductions Within the Department of Transportation for the 2014-2015 Fiscal Year.

Status: 03/31/2015 – Signed by Governor – Session Law 2015-2.

### *Discussion*

PENC took interest in a bill that addressed road funding by changing North Carolina's gas tax – [S B20, IRC Update/Motor Fuels Tax Changes](#). Other than affecting what PENC members pay at the gas pump; the bill is relevant to PENC members because the measure contains a provision to restore the \$250 tax deduction for teachers' out of pocket expenses on classroom supplies.

The tax exemption was eliminated when state lawmakers revised North Carolina's *state* tax code, but was effectively retained as a part of federal tax policy. With this change, teachers may use the deduction during the 2014 tax year because **SB20** will tie North Carolina's policy for the deduction with the federal tax policy, maintaining the deduction for teachers' out of pocket expenses for classroom supplies. Moving forward, however; unless the federal tax deduction is maintained by an act of Congress, it will expire in the future. The provision regarding the tax credit became effective for this calendar year.

### [HB259, GENERAL GOVERNMENT TECHNICAL CORRECTIONS.-AB](#)

An Act Making Technical, Conforming, and Other Modifications to the Current Operations and Capital Improvements Appropriations Act of 2015.

Status: 10/01/2015 – Signed by Governor – Session Law 2015-268.

### *Discussion*

This bill addressed technical corrections in several areas of law. For public schools, two provisions are of interest but are, as the bill's title indicates, fairly technical in nature.

One provision addressed permanent full-time and part-time noncertified public school employees. If such employees are supported from the General Fund, they cannot be legislatively-increased for the 2015-17 fiscal biennium, but they be increased otherwise under the law.

Another section clarified the new budget provision that states assistant principals who become principals will make no less than they would have earned as an assistant principal employed by an LEA. The clarification states that this provision applies to persons initially employed as assistant principals prior to July 1, 2009 for work performed prior to July 1, 2015.

### [SB119, GSC TECHNICAL CORRECTIONS 2015](#)

An Act to Make Technical Corrections to the General Statutes and Session Laws, as Recommended by the General Statutes Commission, and to Make Additional Technical and Other Amendments to the Statutes and Session Laws.

Status: 10/01/2015 – Signed by Governor – Session Law 2015-264.

### *Discussion*

**SB119** began technical corrections recommended by the General Statutes Commission. It morphed into a bill that contained many of the most controversial, substantive changes adopted during entire session.

Specifically, several provisions in this bill became a wholesale rewrite of campaign fundraising law – in what was nearly the last bill acted upon by either chamber and the one given arguably the least scrutiny.

In the education area, one of the changes allows local boards of education to establish, control, and operate a nonprofit corporation to further their authorized purposes. If a nonprofit is established, the LEA must report it annually to the Joint Legislative Education Oversight Committee.

Another provision deleted Section 62 in the bill's prior version, which addressed how educators are observed and evaluated. The amendment means that the current practices are to be maintained.

### [HB495, OSHR MODERNIZATION/TECHNICAL CHANGES](#)

An Act Enhancing the Effectiveness and Efficiency of State Government by Modernizing the State's System of Human Resources Management.

Status: 09/30/2015 – Signed by Governor – Session Law 2015-260.

### *Discussion*

As the title indicates, **HB495** makes changes to North Carolina's system of human resources management. Most of the provisions became effective Sept. 30, 2015.

### **SB524, GRAD REQUIREMENTS/SPORTS PILOT**

An Act to Enhance the Rigor of Instruction of the Founding Principles and to Authorize the Department of Public Instruction to Use Funds to Conduct a Pilot Program on Integrated Community-Based Adapted Sports Programs for Students with Disabilities.

Status: 10/29/2015 – Signed by Governor – Session Law 2015-291

### *Discussion*

The bill began as a vehicle to revisit school curriculum requirement for graduation. The bill amended the curriculum to ensure that the American History courses addressing the Founding Principles of the United States also includes the Founding Principles of the State of North Carolina. The bill also directs that Department of Public Instruction may use up to \$300,000 each fiscal year to develop and implement a pilot program for an integrated community-based adapted sports program for students with disabilities in grades K-12.

### ***Bills of Interest that are Eligible for Consideration in 2016***

### ***Other Filed Bills Tracked in 2015***