

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**HOUSE BILL 82
Committee Substitute Favorable 2/23/21
Committee Substitute #2 Favorable 2/23/21**

Short Title: Summer Learning Choice for NC Families. (Public)

Sponsors:

Referred to:

February 16, 2021

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH SCHOOL EXTENSION LEARNING RECOVERY AND
ENRICHMENT PROGRAMS IN EACH LOCAL SCHOOL ADMINISTRATIVE UNIT
TO MITIGATE THE IMPACTS OF COVID-19 ON AT-RISK STUDENTS AND TO
REQUIRE THE IMPLEMENTATION OF INNOVATIVE BENCHMARK
ASSESSMENTS.

The General Assembly of North Carolina enacts:

**PART I. SCHOOL EXTENSION LEARNING RECOVERY AND ENRICHMENT
PROGRAMS**

SECTION 1.1. Program Established; Purpose. – Notwithstanding Part 3 of Article 16 of Chapter 115C of the General Statutes or any other provision of law, following the end of the 2020-2021 school year, within funds available, including federal funds received by a local school administrative unit for the purpose of responding to the impacts of the coronavirus disease 2019 (COVID-19), each local school administrative unit shall offer a school extension learning recovery and enrichment program (program) outside of the instructional school calendar. The purpose of the program shall be to provide in-person instruction on specific subjects, as well as offer additional enrichment activities, to students in kindergarten through grade 12 to address learning losses and negative impacts students have experienced due to COVID-19 during the 2020-2021 school year. Each local school administrative unit shall identify and prioritize at-risk students, consistent with G.S. 115C-105.41(a), for participation in the program. Students who are not identified as at-risk under G.S. 115C-105.41(a) may also participate in a program within space available.

SECTION 1.2. Program Plan; Requirements. – Each local school administrative unit shall develop and submit a plan for its program that meets the requirements of this act to the Department of Public Instruction no later than 30 days prior to the final instructional day of the 2020-2021 school year. The Department shall notify the local school administrative unit of any necessary changes and approve the program plan with those changes within 21 days of receiving the plan from a local school administrative unit. A charter school is also encouraged to submit a plan that meets the requirements of this section depending on the grade levels served by the school to offer a program consistent with this act. The program shall be separate and apart from the 2020-2021 school year and shall not be an extension of the 2020-2021 school year. The plan shall include at least the following as components of the program:

- (1) Instruction shall be delivered for at least 150 hours or 30 days over the course of the program as follows:



- a. The instructional time shall not include the time for lunch service, transition periods, and the physical activity period as required by this section.
- b. Instruction shall not be delivered on Saturdays.
- (2) Meal service for each instructional day.
- (3) A period of physical activity during the instructional day.
- (4) Grade level course offerings and activities in the following:
 - a. For students in kindergarten through third grade, in-person instruction in the following:
 1. Reading and math, in addition to science instruction for third grade students.
 2. Integration of the local school administrative unit's reading camp, as defined in G.S. 115C-83.3(4a), into the program.
 3. At least one enrichment activity. The local school administrative unit shall have discretion in the type of enrichment activity offered, such as a sports, music, or arts program.
 - b. For students in fourth through eighth grade, in-person instruction in the following:
 1. Reading, math, and science.
 2. At least one enrichment activity. The local school administrative unit shall have discretion in the type of enrichment activity offered, such as a sports, music, or arts program.
 - c. For high school students:
 1. In-person instruction in end-of-course subjects.
 2. Access to modules and teacher support for credit recovery courses necessary to meet graduation requirements.
 3. In-person instruction for an elective course.
- (5) Transportation services to the school facility housing the program, provided in accordance with the Plan A requirements for transportation established in the StrongSchoolsNC Public Health Toolkit (K-12) issued on February 2, 2021.
- (5a) Time built into the instructional day for teachers to provide individual or small group instruction to at-risk students.
- (5b) In-person social-emotional learning supports for all students in the program.
- (6) Voluntary participation by at-risk students in the program. Each local school administrative unit shall notify parents of students identified as at-risk, pursuant to G.S. 115C-105.41(a), and the student's eligibility for participation in the program. Parents of students who qualify for the program shall make the final decision regarding student attendance at the program. However, for students who do attend the program, the following shall apply:
 - a. Kindergarten students who participate in the program shall be exempt from retention for the 2021-2022 school year. At the end of the program, if necessary, a supplemental support plan shall be developed for the student for promotion to the first grade.
 - b. For all other students who are at-risk of grade retention for the 2021-2022 school year, the student's principal shall reassess the student's promotion eligibility upon completion of the program.
- (7) Opportunity for additional students to participate, within the space available, after students are prioritized for attendance in the program under subdivision

(6) of this section. The local school administrative unit shall establish any criteria for prioritizing additional students participating in the program.

- (8) Outreach to families and students to increase participation in the program by not only addressing learning losses, but by offering a fun, positive environment with enrichment activities to counteract the negative impacts from COVID-19 on student social interactions and development.

SECTION 1.3.(a) Employment of School Personnel. – For each local school administrative unit operating the program, the following shall apply:

- (1) Notwithstanding Articles 19, 20, 21, and Part 3 of Article 22 of Chapter 115C of the General Statutes, a local board of education shall employ teachers and other school personnel as temporary employees on a contract basis for the period of the program. School personnel employed as temporary employees by a local board of education pursuant to this act shall not be considered an "employee" as defined in G.S. 135-1(10) or a "teacher" as defined in G.S. 135-1(25), nor shall it cause school personnel to be considered an "employee or State employee" under G.S. 135-48.1(10). In addition, school personnel shall not be deemed as earning "compensation" as defined in G.S. 135-1(7a) and shall not be eligible to accrue paid leave during their temporary employment.

- (2) For individuals who retired under the Teachers' and State Employees' Retirement System (TSERS) on or after December 1, 2020, but on or before March 1, 2021, the six-month separation from service from an employer that is required under G.S. 135-1(20) in order for a retirement to become effective shall not apply and instead a one-month separation shall be required, provided that the position to which the individual returns is as a teacher or other school personnel employed as a temporary employee on a contract basis for the program as required in subdivision (1) of this section. Upon the expiration of this section, all of the following shall apply:

- a. The six-month separation from an employer required under G.S. 135-1(20) shall again be applicable to individuals who retired under TSERS on or after December 1, 2020, but on or before March 1, 2021.
- b. In order for a member's retirement under TSERS on or after December 1, 2020, but on or before March 1, 2021, to become effective in any month, the member must perform no work for an employer, including part-time, temporary, substitute, or contractor work, at any time between the expiration of this section and the end of the six months immediately following the effective date of retirement, provided the expiration of the six-month period of separation did not occur while this section was in effect.
- c. For individuals who retired under TSERS on or after December 1, 2020, but before March 1, 2021, any time worked in the program and the time this section expires shall not be considered work for the purposes of the six-month separation required under G.S. 135-1(20).
- d. For purposes of this subdivision, local school administrative units shall certify to the Retirement System that a retirement system beneficiary is employed by the local board of education.

SECTION 1.3.(b) This section is effective when it becomes law and expires August 1, 2021.

SECTION 1.4. K-3 Class Size. – Notwithstanding G.S. 115C-301(c) or any other provision of law, limitations on teacher-to-student class size ratios for kindergarten through third grade shall not apply to classes offered through the local school administrative unit's program.

SECTION 1.5. Use of Reading Camp Funds. – Notwithstanding G.S. 115C-105.25(b)(10) and any other provision of law, local school administrative units may use funds allocated to the units for reading camps for the 2020-2021 fiscal year to also support the operation of a school extension learning recovery and enrichment program pursuant to this act.

SECTION 1.5A. Funds from ESSER II. – The General Assembly finds that one billion four hundred forty-two million three hundred thirty-one thousand eight hundred eighty-eight dollars (\$1,442,331,888) from the Elementary and Secondary School Emergency Relief II (ESSER II) Fund was appropriated in S.L. 2021-1 to be allocated to public school units, pursuant to subsection (c) of Section 313 of P.L. 116-260, for the purposes of responding to COVID-19, including addressing learning loss and returning to in-person instruction.

It is the intent of the General Assembly to also direct the State Board of Education to reserve a certain portion of remaining funds made available in the ESSER II Fund to meet the emergency needs of the elementary and secondary schools of the State, pursuant to subsection (e) of Section 313 of P.L. 116-260, to be held in reserve by the Department of Public Instruction to be allocated to local school administrative units and charter schools to support in-person instruction programs to address learning loss and provide enrichment activities in the summer pursuant to this act. The allocation of these grants shall be prioritized to local school administrative units and charter schools based on need as demonstrated by the expenditure of existing federal funding received for COVID-19 related impacts.

SECTION 1.6. Participation by Students Not Enrolled in the Local School Administrative Unit. – If there is space available in the program after all of the students who were enrolled in the local school administrative unit for the 2020-2021 school year have had the opportunity to register to participate in the program as required in subdivisions (6) and (7) of Section 1.2 of this act, the local school administrative unit may allow students who were not enrolled in that unit for the 2020-2021 school year to register to participate in the program on a first-come, first-serve basis.

SECTION 1.7. Reporting Requirements. – By September 1, 2021, local school administrative units shall report all of the following to the Department of Public Instruction:

- (1) Results of competency-based assessments given to students in grades K-8 at the beginning of the program.
- (2) Results of competency-based assessments given to students in grades K-8 at the conclusion of the program.
- (3) The number of students who progressed to the next grade level after participating in the program.
- (4) The number of students who were retained in the same grade level after participating in the program.
- (5) The number of students who received credit recovery in high school.

By January 15, 2022, the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee on the implementation of this act and all of the information required in this section. The Department shall submit with its report a copy of each program plan submitted to the Department, an explanation of the program outcomes completed by the Department, and any other data deemed by the Department to be useful to the Joint Legislative Education Oversight Committee in evaluating the delivery of programs.

PART II. INNOVATIVE BENCHMARK ASSESSMENTS

SECTION 2. Benchmark Assessments. – Part 4 of Article 10A of Chapter 115C of the General Statutes is amended by adding a new section to read:

1 **"§ 115C-174.23. Benchmark assessments.**

2 The State Board of Education shall determine which grade and core subject areas shall have
3 innovative benchmark assessments in order to allow teachers to more frequently measure student
4 learning and address student learning loss throughout the school year. An innovative benchmark
5 assessment shall provide for educator flexibility, assessments aligned with the standard course
6 of study, and actionable data for teachers, schools, and local school administrative units.

7 Within funds available, the State Board of Education shall develop innovative benchmark
8 assessments for use by local school administrative units. Local school administrative units shall
9 either use these innovative benchmark assessments or they shall develop and use their own
10 innovative benchmark assessments."

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12 **PART III. EFFECTIVE DATE**

13 **SECTION 3.** Effective Date. – This act is effective when it becomes law. Section 2
14 of this act applies beginning with the 2021-2022 school year.