

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 868
RATIFIED BILL

A BILL TO BE ENTITLED
AN ACT TO REPEAL UNNECESSARY STATUTES, MAKE CONFORMING CHANGES
TO THE GENERAL STATUTES, AND CLARIFY OPERATION AND OVERSIGHT OF
CERTAIN RESIDENTIAL SCHOOLS FORMERLY GOVERNED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S.115C-383 is repealed.

SECTION 1.(b) Part 9A of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 1.(c) Part 30 of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 9C.

"Schools for Students with Visual and Hearing Impairments.

"§ 115C-150.11. State Board of Education as governing agency.

The State Board of Education shall be the sole governing agency for the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf. The Department of Public Instruction shall be responsible for the administration and oversight of a school governed by this Article.

"§ 115C-150.12. Applicability of Chapter.

Except as otherwise provided, the requirements of this Chapter shall apply to the schools governed by this Article.

"§ 115C-150.13. Rule making.

(a) The State Board of Education shall adopt rules necessary for the Department of Public Instruction to implement this Article, including, at a minimum, rules to address eligibility for admission criteria. In determining rules for admission criteria, the State Board of Education shall take into account the following factors:

- (1) State and federal laws.
- (2) Optimal academic and communicative outcomes for the child.
- (3) Parental input and choice.
- (4) Recommendations in a child's Individualized Education Program (IEP).

(b) Rules shall be adopted in accordance with Chapter 150B of the General Statutes.

"§ 115C-150.14. Tuition and room and board.

Only children who are residents of North Carolina are entitled to free tuition and room and board at a school governed by this Article."

SECTION 3. G.S. 143B-138.1(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

- (1) Respite Care Program.
- (2) Governor's Advisory Council on Aging.
- (3) Commission for the Blind.
- (4) Professional Advisory Committee.



- (5) Consumer and Advocacy Advisory Committee for the Blind.
- (6) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (7) Social Services Commission.
- (8) Child Day Care Commission.
- (9) Medical Care Commission.
- (10) Emergency Medical Services Advisory Council.
- ~~(11) Board of Directors of the Governor Morehead School.~~
- ~~(12) Board of Directors for the North Carolina Schools for the Deaf.~~
- (13) North Carolina Council for the Hearing Impaired.
- (14) Repealed by Session Laws 2002, ch. 126, s. 10.10D(c), effective October 1, 2002.
- (15) Council on Developmental Disabilities."

SECTION 4. G.S. 143B-146.1(b) reads as rewritten:

"(b) The following definitions apply in this Part:

- (1) ABC's Program or Program. – The School-Based Management and Accountability Program developed by the State Board.
- (2) Department. – The Department of Health and Human Services.
- (3) Instructional personnel. – Assistant principals, teachers, instructional personnel, instructional support personnel, and teacher assistants employed in a residential school.
- (4) Participating school. – A residential school that is required to participate in the ABC's Program.
- (4a) Residential school. – A school operated by the Department of Health and Human Services that provides residential services to students. For the purposes of this Part, "residential school" does not include a school operated pursuant to Article 9C of Chapter 115C.
- (5) Residential school personnel. – The individuals included in G.S. 143B-146.16(a)(2).
- (6) Schools. – The residential schools under the control of the Secretary.
- (7) Secretary. – The Secretary of Health and Human Services.
- (8) State Board. – The State Board of Education.
- ~~(9) Superintendent. – The Superintendent of the Office of Education Services of the Department of Health and Human Services."~~

SECTION 5. G.S. 143B-146.2(a) reads as rewritten:

"(a) ~~The Governor Morehead School and the schools for the deaf shall participate in the ABC's Program.~~ The Secretary, in consultation with the General Assembly and the State Board, may designate ~~other~~ residential schools that must participate in the ABC's Program. The primary goal of the ABC's Program is to improve student performance. The Program is based upon an accountability, recognition, assistance, and intervention process in order to hold each participating school, its principal, and the instructional personnel accountable for improved student performance in that school."

SECTION 6. G.S. 143B-146.8(f) reads as rewritten:

"(f) Evaluation of Principals. – Each year the Secretary ~~or the Superintendent~~ shall evaluate the principals."

SECTION 7. G.S. 143B-146.15 reads as rewritten:

"§ 143B-146.15. **Duty to report certain acts to law enforcement.**

When the principal has personal knowledge or actual notice from residential school personnel or other reliable source that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency. Failure to report under this section is a Class 3 misdemeanor. For purposes of this section, "school property" shall include any building, bus, campus, grounds, recreational area, or athletic field, in the charge of the principal or while the student is under the supervision of school personnel. It is the intent of the General Assembly that the principal notify the Secretary ~~or the Superintendent~~ of any report made to law enforcement under this section."

SECTION 8. G.S. 143B-146.21 reads as rewritten:

"§ 143B-146.21. Policies, reports, and other miscellaneous provisions.

(a) The Secretary of Health and Human Services shall consult with the State Board of Education in its implementation of this act as it pertains to improving the educational programs at the residential schools. The Secretary also shall fully inform and consult with the chairs of the Appropriations Subcommittees on Education and Health and Human Services of the Senate and the House of Representatives on a regular basis as the Secretary carries out his duties under this act.

~~(b) The Secretary of Health and Human Services shall adopt policies and offer training opportunities to ensure that personnel who provide direct services to children in the State schools for the deaf become proficient in sign language within two years of their initial date of employment or within two years of the effective date of this act, whichever occurs later. This subsection shall not apply to preschool personnel in any oral, auditory, or cued speech preschool.~~

(c) The Department of Public Instruction, the Board of Governors of The University of North Carolina, and the State Board of Community Colleges shall offer and communicate the availability of professional development opportunities, ~~including those to improve sign language skills, opportunities~~ to the personnel assigned to the State's residential schools, ~~particularly the Governor Morehead School and the schools for the deaf schools.~~

(d) The Secretary of Health and Human Services shall adopt policies to ensure that students of the residential schools are given priority to residing in the independent living facilities on each school's campus.

(e) The Secretary of Health and Human Services, in consultation with the Office of State Personnel, shall set the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed in the programs operated by the Department of Health and Human Services and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subsection shall be construed to include "merit pay" under the term "salary supplement".

SECTION 9. Unless inconsistent with the provisions of Article 9C of Chapter 115C of the General Statutes, as enacted by Section 2 of this act, the rules adopted pursuant to former Part 9A or Part 30 of Article 3, or any other statutory provisions of Chapter 143B of the General Statutes, prior to amendment by this act, governing the Governor Morehead School, the North Carolina School for the Deaf, and the Eastern North Carolina School for the Deaf shall remain in effect until superseded by rules adopted under Article 9C of Chapter 115C of the General Statutes, as enacted by Section 2 of this act.

SECTION 10. Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize, if necessary, staffing of the Governor Morehead School, the North Carolina School for the Deaf, and the Eastern North Carolina School for the Deaf to meet needed functions.

SECTION 11.(a) Notwithstanding Section 10.21A of S.L. 2010-31 and G.S. 115C-150.11, as enacted by this act, the Department of Health and Human Services shall continue to be responsible for the maintenance and repair of all buildings, grounds, and facilities of the Governor Morehead School and for providing utilities for the Governor Morehead School, provided that the Department of Health and Human Services may enter into a memorandum of understanding with the Department of Public Instruction for the Department of Public Instruction to assume any of those responsibilities.

SECTION 11.(b) Notwithstanding Section 10.21A of S.L. 2010-31 and G.S. 115C-150.11, as enacted by this act, the Department of Health and Human Services shall continue to be responsible for information technology support for Eastern North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead School, provided the Department of Health and Human Services may enter into a memorandum of understanding with the Department of Public Instruction for the Department of Public Instruction to assume any of those responsibilities.

SECTION 12.(a) The Department of Public Instruction shall study and develop recommendations on educational options, including residential services, for students with visual and hearing impairments. The Department of Public Instruction shall report its findings

and recommendations from the study to the Joint Legislative Education Oversight Committee on or before January 1, 2014.

SECTION 12.(b) Prior to the initial adoption of rules required by Section 2 of this act, the Department of Public Instruction and the State Board of Education shall present a draft of the proposed rules to the Joint Legislative Education Oversight Committee on or before January 1, 2014.

SECTION 13. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____m. this _____ day of _____, 2013