



HOUSE BILL 90: In-Person Learning.

2021-2022 General Assembly

Committee:	House Education - K-12. If favorable, re-refer to Local Government. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 9, 2021
Introduced by:	Rep. McElraft	Prepared by:	Kara McCraw
Analysis of:	PCS to First Edition H90-CSTC-8		Staff Attorney

OVERVIEW: *HB 90 would allow certain county school administrative units to provide full-time in-person instruction to all students in grades kindergarten through 12 for the remainder of the 2020-2021 school year.*

CURRENT LAW: S.L. 2020-3, Sec. 2.11(b), as amended by S.L. 2020-49, Sec. 3(b), authorized up to 5 days of remote learning for the 2020-2021 school year, but allowed a governing board of a public school unit to use additional remote learning days if needed to ensure the health and safety of students, in compliance with all required COVID-19 guidance.

The Department of Health and Human Services (DHHS) has provided the StrongSchoolsNC Public Health Toolkit (K-12) (Toolkit) as guidance for public schools in reopening for the 2020-2021 school year. The Toolkit includes guidance on various issues related to school operation, including social distancing, masks, cleaning, and transportation. Plan A (Minimal Social Distancing) recommends but does not require 6 feet of social distancing be maintained, and Plan B (Six Feet Social Distancing) requires that 6 feet of social distancing be maintained. The Toolkit, as updated March 4, 2021, sets the expectations that Plan A or B be used for students in grades kindergarten through five, and Plan B be used for grades six through 12. Schools must implement remote or other learning options for students self-identified as high risk.

BILL ANALYSIS: The PCS for HB 90 authorizes certain county school administrative units to provide full-time, in-person instruction for 5 days a week to all students enrolled in grades kindergarten through 12 for the remainder of the scheduled 2020-2021 school year, notwithstanding any other provision of law. Local boards must also continue to provide remote instruction options for students to participate in, at the discretion of the parent or guardian.

HB 90 would apply to the following school systems: Beaufort County Schools, Brunswick County Schools, Carteret County Schools, Cleveland County Schools, Craven County Schools, Granville County Schools, Haywood County Schools, Jones County Schools, McDowell County Schools, Mitchell County Schools, Onslow County Schools, and Yancey County Schools.

EFFECTIVE DATE: HB 90 would become effective when it becomes law.

BACKGROUND: HB 90 may give rise to Constitutional considerations. Article II, Section 24(1)(a) of the North Carolina Constitution prohibits local acts relating to health, sanitation, and the abatement of nuisances and provides that such local acts are void. During the 2020-2021 school year, guidance has been issued by the State Board of Education and Department of Health and Human Services on how schools should address the COVID-19 health pandemic, including whether full-time, hybrid, or remote instruction should be used. If HB 90 was determined by a court to be an act related to health, then it could be subject to a constitutional challenge.

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