**GENERAL ASSEMBLY OF NORTH CAROLINA**
**SESSION 2021**

# SESSION LAW 2021-4
# SENATE BILL 220

AN ACT TO PROVIDE ACCESS TO IN-PERSON LEARNING FOR STUDENTS IN GRADES KINDERGARTEN THROUGH TWELVE.

The General Assembly of North Carolina enacts:

**SECTION 1.** All local school administrative units shall provide in-person instruction to students in grades kindergarten through 12 enrolled in that unit in accordance with this act for the remainder of the scheduled 2020-2021 school year, beginning no later than the first instructional day scheduled in the adopted school calendar that occurs 21 days following the effective date of this act.

**SECTION 2.** In providing for in-person instruction for the remainder of the 2020-2021 school year, local school administrative units shall comply with the following:

(1) Local school administrative units shall comply with all requirements of the StrongSchoolsNC Public Health Toolkit (K-12) (Toolkit), as that guidance existed on March 4, 2021, for implementation of Plan A (Minimal Social Distancing) and Plan B (Six Feet Social Distancing) that are applicable to the Plan of reopening, as follows:

a. Grades kindergarten through five. – Local boards of education shall provide in-person instruction under Plan A (Minimal Social Distancing) to all students enrolled in grades kindergarten through five.

b. Grades six through 12. –

1. Local boards of education shall provide in-person instruction under either Plan A (Minimal Social Distancing), Plan B (Six Feet Social Distancing), or both, to all students enrolled in grades six through 12. The decision of which Plan to offer is solely within the discretion of the local board of education, except that a local board shall provide the option to participate in Plan A instruction, at the discretion of the student's parent or guardian, for the following students enrolled in that unit:

I. Any student with an individualized education program, as defined in G.S. 115C-106.3(8).

II. Any student with a section 504 (29 U.S.C. § 794) plan.

2. Local boards of education that offer Plan A to students enrolled in grades six through 12 shall, before beginning Plan A instruction, notify the Department of Health and Human Services and describe the unit's plan for moving to Plan A. A local board which operates under Plan A shall partner with the ABC Science Collaborative of the School of Medicine at Duke University (ABC Collaborative) to allow the ABC Collaborative to collect and analyze data from those units for students in Plan A in grades six through 12. A local board shall

both engage in robust contact tracing and report on requested information in the form specified by the ABC Collaborative.

c. Grades kindergarten through 12 remote option. – Local boards of education shall continue to provide remote instruction options for all students to elect to participate in, at the discretion of the parent or guardian.

d. Local boards of education may revise the existing school calendar for the 2020-2021 school year to reschedule teacher workdays to be used to prepare for a return to Plan A instruction prior to the date that in-person instruction for students is required by Section 1 of this act.

(2) Local boards of education shall have the authority to make day-to-day decisions concerning whether shifting individual schools or individual classrooms that are providing in-person instruction to remote instruction is necessary due to COVID-19 exposures that result in insufficient school personnel or required student quarantines. A local board of education shall report any shift by a school or classroom from in-person to remote instruction to the Department of Public Instruction within 72 hours of the shift.

**SECTION 3.(a)** Within federal funds available, the Department of Public Instruction shall contract with Duke University for the ABC Science Collaborative of the School of Medicine at Duke University (ABC Collaborative) to provide data collation, analysis, and interpretation of COVID-19-related metrics of student, teacher, and staff safety for local school administrative units providing in-person instruction under Plan A for middle and high school students. The contract shall allocate five hundred thousand dollars ($500,000) to Duke University for these services. The contract shall require the ABC Collaborative to engage in close monitoring of infection data through assessing within-school transmission rates based on contact tracing and confirmatory testing with partner local school administrative units to evaluate the fidelity and adherence to mitigation strategies which enable in-person instruction, as provided in the StrongSchoolsNC Public Health Toolkit (K-12). The contract shall require the ABC Collaborative to request only de-identified, aggregate data from partnering units. The contract shall require the ABC Collaborative to report on its findings to the Joint Legislative Education Oversight Committee, the Senate Education/Higher Education Committee, the House Education K-12 Committee, the Department of Public Instruction, the State Board of Education, the Department of Health and Human Services, and the Office of the Governor as follows:

(1) Interim analysis. – An interim analysis of aggregate data for all partnering units shall be submitted no later than the last calendar day of March, April, and May of 2021.

(2) Final analysis. – A final analysis of both aggregate and individual partnering local school administrative unit data shall be submitted no later than June 30, 2021.

**SECTION 3.(b)** The Department of Public Instruction shall execute the contract with Duke University required by this act no later than the fifteenth day after this act becomes law, and shall disburse the funds allocated by the contract to Duke University within five days of execution of the contract. The contract the Department of Public Instruction enters into shall terminate no later than September 15, 2021. The contract required by this act shall not be subject to Article 3 or Article 8 of Chapter 143 of the General Statutes, or any other provision of law relating to initial purchase and contract requirements in completing the contract.

**SECTION 3.(c)** If House Bill 196, 2021 Regular Session, becomes law, Section 5A of S.L. 2021-1, as amended by House Bill 196, 2021 Regular Session, is amended by adding a new subdivision to read:

"(4a) $500,000 to contract with Duke University for the ABC Collaborative of the School of Medicine at Duke University to provide for data collation, analysis,

and interpretation of COVID-19-related metrics of student, teacher, and staff safety in partnering local school administrative units providing in-person instruction under Plan A for middle and high school students."

**SECTION 4.** The Governor is authorized and empowered to order the closure of a local school administrative unit during the remainder of the 2020-2021 school year only as follows:

(1) The Governor may order, by executive order, an individual local school administrative unit to close to full-time in-person instruction and provide hybrid or remote learning options, or to otherwise close, restrict, or reduce operations within schools of that unit when necessary to protect the health and safety of students and employees in that unit.

(2) For any order issued as provided in subdivision (1) of this section, the Governor shall provide reasons specific to that local school administrative unit for requiring closure, restriction, or reduction in the operation of those schools. The Governor may require such actions for any reason deemed necessary by the Governor.

(3) The Governor shall not order a statewide closure, restriction, or reduction of the operation of schools in a single executive order.

(4) The Governor shall not use the authority granted in Article 1A of Chapter 166A of the General Statutes, or any other provision of law other than the authority granted by this section, to direct the statewide closure, restriction, or reduction of the operation of schools during the 2020-2021 school year.

**SECTION 5.** For the purposes of this act, in-person instruction includes all of the following components:

(1) Is offered to the student in person by a teacher of record on a local school administrative unit campus. Continued enrollment in a North Carolina Virtual Public School course or other e-learning course offering or use of prerecorded learning materials integrated in instruction that occurs on a local school administrative unit campus shall be considered to meet this requirement.

(2) Meal service.

(3) Transportation services to the campus where the student is assigned.

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of March, 2021.

s/ Mark Robinson
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:22 p.m. this 11th day of March, 2021