

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SESSION LAW 2019-51  
HOUSE BILL 57**

AN ACT TO CREATE A TERM FOR PUBLIC SCHOOLS THAT INCLUDES THE VARIOUS TYPES OF PUBLIC SCHOOLS IN THE STATE AND TO CODIFY THE NORTH CAROLINA VIRTUAL PUBLIC SCHOOL PROGRAM.

The General Assembly of North Carolina enacts:

**PART I. CREATE A TERM IN CHAPTER 115C OF THE GENERAL STATUTES TO INCLUDE ALL TYPES OF PUBLIC SCHOOLS IN THE STATE**

**SECTION 1.** G.S. 115C-5 is amended by adding a new subdivision to read:

"(11) Public school unit. – Any of the following:

- a. A local school administrative unit.
- b. A charter school.
- c. A regional school.
- d. A school providing elementary or secondary instruction operated by one of the following:
  1. The State Board of Education, including schools operated under Article 7A and Article 9C of this Chapter.
  2. The University of North Carolina, including schools operated under Articles 4, 29, and 29A of Chapter 116 of the General Statutes."

**PART II. CODIFY THE NORTH CAROLINA VIRTUAL PUBLIC SCHOOL PROGRAM**

**SECTION 2.(a)** Section 7.16 of S.L. 2006-66 is repealed.

**SECTION 2.(b)** Section 7.20 of S.L. 2007-323 is repealed.

**SECTION 2.(c)** Section 7.4 of S.L. 2008-107 is repealed.

**SECTION 2.(d)** Section 7.9 of S.L. 2009-451 is repealed.

**SECTION 2.(e)** Section 7.4 of S.L. 2010-31 is repealed.

**SECTION 2.(f)** Section 3.2A of S.L. 2010-123 is repealed.

**SECTION 2.(g)** Subsections (a) through (k) of Section 7.22 of S.L. 2011-145, as amended by Section 7.12 of S.L. 2012-142, Section 88 of S.L. 2014-115, and Section 6 of S.L. 2017-173, are repealed.

**SECTION 2.(h)** Section 8.9(b) of S.L. 2013-360 is repealed.

**SECTION 2.1.** Article 16 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 11. North Carolina Virtual Education Program.

**"§ 115C-238.74. Definitions.**

The following definitions apply in this Part:

- (1) ADM. – Average daily membership.
- (2) NCVPS. – The North Carolina Virtual Public School program, as established by this Part.



- (3) Nonpublic school student. – A student enrolled in a school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by the Division of Nonpublic Education, Department of Administration.
- (4) Out-of-state student. – A student who is not qualified to be assigned to a public school in a local school administrative unit in North Carolina pursuant to G.S. 115C-366.

**"§ 115C-238.75. Administration of the North Carolina Virtual Public School program.**

(a) NCVPS shall be administered by the Department of Public Instruction in accordance with this Part. NCVPS is not a public school unit, as defined in G.S. 115C-5(11).

(b) NCVPS shall be responsible for the following:

- (1) Ensuring access to e-learning course offerings for students residing in rural and low-wealth public school units, in order to expand available instructional opportunities.
- (2) Providing e-learning instructional opportunities for courses required as part of the standard course of study for high school graduation and for Advanced Placement (AP) offerings when not otherwise available to students.
- (3) Establishing NCVPS course quality standards that meet the standards set by the State Board of Education.
- (4) Aligning all courses offered through NCVPS with the North Carolina Standard Course of Study.

(c) Within funds available, NCVPS shall provide NCVPS courses at no cost to all students in North Carolina who are enrolled in North Carolina's public school units, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

(d) NCVPS courses shall be available to nonpublic school students and out-of-state students. The State Board of Education shall establish a separate per-student, per-course tuition for nonpublic school students and out-of-state students which shall be adjusted upward from the in-State student fee structure by an amount determined appropriate by the State Board of Education.

(e) NCVPS shall implement a plan, approved by the State Board of Education, to generate revenue from the sale of courses to out-of-state educational entities. Revenue generated by NCVPS under this subsection shall be used to offset instructional costs to public school units pursuant to G.S. 115C-238.76(d)(3).

**"§ 115C-238.76. Allotment formula; adjustments to other allotments; enrollment reserve.**

(a) The State Board of Education shall implement an allotment formula for NCVPS as follows:

- (1) Project NCVPS student enrollment by semester and year-long course types for each public school unit.
- (2) Establish a per-student, per-course teacher payment structure for the instructional costs of NCVPS. In establishing this payment structure, the State Board of Education shall consider the following:
  - a. The payment structure shall be based on a total compensation analysis to ensure NCVPS teacher pay has parity with similar programs. The total compensation analysis shall take into account salaries, benefits, and work effort to ensure valid comparisons between occupations.
  - b. The effects any change in NCVPS teacher payments may have on the attraction and retention of NCVPS teachers.
- (3) Develop a per-student, per-course fee structure that is based on the per-student, per-course teacher pay structure. The per-student, per-course fee structure shall ensure that the projected cost for public school units equals the projected instructional cost for NCVPS courses. The State Board of Education

shall consider recommendations from the NCVPS Advisory Council in establishing a per-student, per-course fee structure.

- (4) Multiply the per-student, per-course fees by the projected enrollment by course type to determine the total instructional cost for each public school unit.
- (5) Transfer a dollar amount equal to seventy-five percent (75%) of the public school unit's projected instructional cost from the classroom teacher allotment to NCVPS.
- (6) No later than February 28 of each year, calculate the actual instructional cost for each public school unit based upon actual NCVPS enrollment as of that date.
- (7) Subtract the amount transferred pursuant to subdivision (5) of this subsection from the actual instructional cost for each public school unit and transfer the remaining dollar amount owed, up to a maximum of one hundred percent (100%) of the projected cost.
- (8) Develop and implement a policy regarding returning funds to public school units in cases where the amount transferred pursuant to subdivision (5) of this subsection exceeds the actual instructional cost.

(b) The State Board of Education shall reduce each public school unit's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades six through 12 to support the State-level operations and administration of NCVPS. The allotment reduction to support the State-level operations and administration of NCVPS shall be based on the reduction taken from the prior fiscal year but shall be adjusted annually based upon the percentage growth in NCVPS enrollment to ensure the expansion of services due to increased student enrollment in NCVPS courses.

(c) An NCVPS enrollment reserve fund shall be maintained in an amount of at least two million dollars (\$2,000,000). For each fiscal year, the State Board of Education shall reduce each public school unit's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades six through 12 by an amount that is the difference between two million dollars (\$2,000,000) and the balance of the NCVPS enrollment reserve. The funds in the NCVPS enrollment reserve fund shall not revert and shall be used to cover the NCVPS instructional cost of students enrolled in (i) public school units with enrollments exceeding projected NCVPS enrollment, (ii) Department of Defense schools, and (iii) schools operated by the Bureau of Indian Affairs.

(d) Only the following funds shall be used to cover the instructional costs of NCVPS:

- (1) Funds provided through the NCVPS allotment formula, as established by subsection (a) of this section.
- (2) Funds provided through the NCVPS enrollment reserve, as set forth in subsection (c) of this section.
- (3) Funds from the sale of courses to out-of-state educational entities, pursuant to G.S. 115C-238.75(d).
- (4) Local funds, including funds from private sources.
- (5) Federal funds.
- (6) The Special State Reserve Funds for Children and Youth with Disabilities.
- (7) The ADM Contingency Reserve.

**"§ 115C-238.77. NCVPS Advisory Council.**

The State Board of Education shall establish the NCVPS Advisory Council to review NCVPS strategic planning, operational initiatives, and readiness for twenty-first century online learning. The membership of the Advisory Council, as appointed by the State Board of Education, shall consist of key stakeholders across the State with expertise in online learning from a variety of

fields, including elementary and secondary education, business, universities and colleges, and the community at large.

**"§ 115C-238.78. NCVPS reporting requirements.**

The Department of Public Instruction shall submit an annual report on the operation of NCVPS to the State Board of Education no later than December 15 of each year. The report shall use data from the previous fiscal year and shall include statistics on actual versus projected costs to public school units, student enrollment, virtual teacher salaries, and measures of academic achievement.

**"§ 115C-238.79. Other virtual education providers.**

Local school administrative units may partner with eligible providers other than NCVPS for e-learning opportunities. Eligible providers shall meet all of the following:

- (1) Be accredited by a regional accrediting agency such as, but not limited to, AdvancEd or the Southern Association of Colleges and Schools (SACS).
- (2) Employ teachers who hold teaching licenses from states that participate in the NASDTEC Educator Identification Clearinghouse.
- (3) Ensure that courses offered to North Carolina students are aligned to the North Carolina Standard Course of Study."

**SECTION 2.2.** The allotment reduction to support the State-level operations and administration of the NCVPS required by G.S. 115C-238.76(b), as enacted by this act, shall be in the amount of at least three million seven hundred sixty thousand eight hundred sixteen dollars (\$3,760,816), as was effective for the 2018-2019 fiscal year. In accordance with G.S. 115C-238.76(b), this allotment reduction amount shall be adjusted annually based upon the percentage growth in NCVPS enrollment to ensure the expansion of services due to increased student enrollment in NCVPS courses.

**SECTION 2.3.** This act becomes effective July 1, 2019, and applies beginning with the 2019-2020 school year.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of June, 2019.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 1:34 p.m. this 26<sup>th</sup> day of June, 2019