

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1039*

Short Title: NCVPS courses/Nonpublic School Students. (Public)

Sponsors: Representative Howard (Primary Sponsor).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Education, if favorable, Appropriations.

May 15, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE NORTH CAROLINA VIRTUAL PUBLIC SCHOOL
3 PROGRAM; TO PROVIDE A TUITION WAIVER FOR NONPUBLIC SCHOOL
4 STUDENTS FOR A MAXIMUM OF TWO NORTH CAROLINA VIRTUAL PUBLIC
5 SCHOOL COURSES PER SCHOOL YEAR; AND TO APPROPRIATE FUNDS TO
6 IMPLEMENT THIS ACT, AS RECOMMENDED BY THE JOINT LEGISLATIVE
7 PROGRAM EVALUATION OVERSIGHT COMMITTEE.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** Subsections (a) through (k) of Section 7.22 of S.L. 2011-145, as
10 amended by Section 7.12 of S.L. 2012-142, are repealed.

11 **SECTION 1.(b)** Section 8.9(b) of S.L. 2013-360 is repealed.

12 **SECTION 1.(c)** Article 16 of Chapter 115C of the General Statutes is amended by
13 adding a new Part to read:

14 "Part 11. North Carolina Virtual Public School Program.

15 **"§ 115C-238.74. Definitions.**

16 The following definitions apply in this Part:

- 17 (1) ADM. – Average daily membership.
18 (2) NCVPS. – The North Carolina Virtual Public School program, as established
19 by this Part.
20 (3) Nonpublic school student. – A student enrolled in a school that meets the
21 requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by
22 the Division of Nonpublic Education, Department of Administration.
23 (4) Out-of-state student. – A student who is not qualified to be assigned to a
24 public school in a local school administrative unit in North Carolina
25 pursuant to G.S. 115C-366.

26 **"§ 115C-238.75. Administration of the North Carolina Virtual Public School program.**

27 (a) NCVPS shall be administered by the Department of Public Instruction in
28 accordance with this Part.

29 (b) NCVPS shall be responsible for the following:

- 30 (1) Ensuring access to e-learning course offerings for students residing in rural
31 and low-wealth county local school administrative units, in order to expand
32 available instructional opportunities.
33 (2) Providing e-learning instructional opportunities for courses required as part
34 of the standard course of study for high school graduation and for Advanced
35 Placement (AP) offerings when not otherwise available to students.



- 1 (3) Establishing course quality standards for e-learning opportunities that meet
2 the standards set by the State Board of Education.
- 3 (4) Eliminating course duplication by consolidating e-learning opportunities
4 offered by State-funded entities to public school students under NCVPS.
5 This consolidation shall not apply to e-learning opportunities solely offered
6 to students enrolled in a single school.
- 7 (5) Aligning all courses offered through NCVPS with the North Carolina
8 Standard Course of Study.
- 9 (c) NCVPS shall use available funds to provide NCVPS courses at no cost to all
10 students in North Carolina who are enrolled in North Carolina's public schools, Department of
11 Defense schools, and schools operated by the Bureau of Indian Affairs.
- 12 (d) NCVPS shall implement a plan, approved by the State Board of Education, to
13 generate revenue from the sale of courses to out-of-state educational entities. Revenue
14 generated by NCVPS under this section shall be used to offset instructional costs to local
15 school administrative units and charter schools pursuant to G.S. 115C-238.76(d)(3).
- 16 **"§ 115C-238.76. Allotment formula; adjustments to other allotments; enrollment reserve.**
- 17 (a) The State Board of Education shall implement an allotment formula for NCVPS as
18 follows:
- 19 (1) Project NCVPS student enrollment by semester and year-long course types
20 for each local school administrative unit and charter school.
- 21 (2) Establish a per course teacher payment structure for the instructional costs of
22 NCVPS. In establishing this payment structure, the State Board shall
23 consider the following:
- 24 a. The payment structure shall be based on a total compensation
25 analysis to ensure NCVPS teacher pay has parity with similar
26 programs. The total compensation analysis shall take into account
27 salaries, benefits, and work effort to ensure valid comparisons
28 between occupations.
- 29 b. The effects any change in NCVPS teacher payments may have on the
30 attraction and retention of NCVPS teachers.
- 31 (3) Develop a per student fee structure for in-State students that is based on the
32 per course teacher pay structure. The fee structure for in-State students shall
33 ensure that the projected cost for local school administrative units and
34 charter schools equals the projected instructional cost for NCVPS courses.
35 The State Board of Education shall consider recommendations from the
36 NCVPS Advisory Board and the Office of the Governor's eLearning
37 Commission in establishing a per student fee structure.
- 38 (4) Multiply the per course fees for in-State students by the projected enrollment
39 by course type to determine the total instructional cost for each local school
40 administrative unit and charter school.
- 41 (5) Transfer a dollar amount equal to seventy-five percent (75%) of the local
42 school administrative unit's or charter school's projected instructional cost
43 from the classroom teacher allotment to NCVPS.
- 44 (6) No later than February 28 of each year, calculate the actual instructional cost
45 for each local school administrative unit and charter school based upon
46 actual NCVPS enrollment as of that date.
- 47 (7) Subtract the amount transferred pursuant to subdivision (5) of this subsection
48 from the actual instructional cost for each local school administrative unit or
49 charter school and transfer the remaining dollar amount owed, up to a
50 maximum of one hundred percent (100%) of the projected cost.

1 (8) Develop and implement a policy regarding returning funds to local school
2 administrative units and charter schools in cases where the amount
3 transferred pursuant to subdivision (5) of this subsection exceeds the actual
4 instructional costs.

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

13 (c) An NCVPS enrollment reserve fund shall be maintained in an amount of at least two
14 million dollars (\$2,000,000). For each fiscal year, the State Board of Education shall reduce
15 each local school administrative unit's or charter school's classroom teacher allotment, or other
16 allotment, as determined by the State Board of Education, on the basis of ADM in grades six
17 through 12 by an amount that is the difference between two million dollars (\$2,000,000) and
18 the balance of the NCVPS enrollment reserve. The funds in the NCVPS enrollment reserve
19 fund shall not revert and shall be used to cover the NCVPS instructional costs of students
20 enrolled in (i) traditional public schools or charter schools with enrollments exceeding
21 projected NCVPS enrollment, (ii) nonpublic schools pursuant to G.S. 115C-238.77(b), (iii)
22 Department of Defense schools, and (iv) schools operated by the Bureau of Indian Affairs.

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

24 (1) Funds provided through the NCVPS Allotment Formula, as established by
25 subsection (a) of this section.

26 (2) Funds provided through the NCVPS enrollment reserve, as set forth in
27 subsection (c) of this section.

28 (3) Funds from the sale of courses to out-of-state educational entities, pursuant
29 to G.S. 115C-238.75(d).

30 (4) Local funds, including funds from private sources.

31 (5) Federal funds.

32 (6) The Special State Reserve Funds for Children and Youth with Disabilities.

33 (7) The ADM Contingency Reserve.

34 **"§ 115C-238.77. Tuition for out-of-state and nonpublic school students.**

35 (a) The State Board of Education shall establish a separate per student tuition rate for
36 out-of-state students and nonpublic school students, which shall be adjusted upward from the
37 in-State student fee structure, as established under G.S. 115C-238.76(a)(3), by an amount
38 determined appropriate by the State Board. The State Board of Education shall consider
39 recommendations from the NCVPS Advisory Board and the Office of the Governor's eLearning
40 Commission in establishing student tuition rates.

41 (b) Tuition shall be waived for nonpublic school students for a maximum of two
42 NCVPS courses each school year. Nonpublic school students enrolling in more than two
43 NCVPS courses during the school year shall be charged tuition for those additional courses per
44 the rates for nonpublic school students established by the State Board pursuant to this section.

45 (c) The tuition waiver for a NCVPS course provided pursuant to subsection (b) of this
46 section shall not be available to a nonpublic school student who attends a nonpublic school
47 under Part 1 or Part 2 of Article 39 of this Chapter if (i) the course or a substantially similar
48 course is offered at the school attended by the student in the current or prior school year or (ii)
49 the student attends a nonpublic school that delivers instruction solely through an online format.

50 (d) The Department of Public Instruction shall require the parent of the nonpublic
51 school student at the time of enrollment to demonstrate that if the parent is requesting a tuition

1 waiver of a NCVPS course pursuant to subsection (b) of this section that the course is eligible
2 for the waiver under this section.

3 **"§ 115C-238.78. NCVPS Advisory Board.**

4 The State Board of Education shall establish the NCVPS Advisory Board to review NCVPS
5 strategic planning, operational initiatives, and readiness for 21st century online learning. The
6 membership of the Advisory Board, as appointed by the State Board, shall consist of key
7 stakeholders across the State with expertise in online learning from a variety of fields,
8 including elementary and secondary education, business, universities and colleges, and the
9 community at large.

10 **"§ 115C-238.79. Reporting requirements.**

11 The Department of Public Instruction shall submit an annual report on the operation of
12 NCVPS to the State Board of Education no later than December 1 of each year. The report shall
13 use data from the previous fiscal year and shall include statistics on actual versus projected
14 costs to local school administrative units and charter schools, student enrollment, including
15 enrollment of nonpublic school students and out-of-state students, measures of academic
16 achievement, virtual teacher salaries, and the sale of courses to out-of-state educational
17 entities."

18 **SECTION 2.(a)** G.S. 115C-551 reads as rewritten:

19 **"§ 115C-551. Voluntary participation in the State programs.**

20 (a) Any such school may, on a voluntary basis, participate in any State operated or
21 sponsored program which would otherwise be available to such school, including but not
22 limited to the high school competency testing and statewide testing programs.

23 (b) Any student enrolled in a school under this Part shall be eligible for a tuition waiver
24 for a maximum of two courses offered by the North Carolina Virtual Public School program
25 each school year pursuant to G.S. 115C-238.77(b)."

26 **SECTION 2.(b)** G.S. 115C-559 reads as rewritten:

27 **"§ 115C-559. Voluntary participation in the State programs.**

28 (a) Any such school may, on a voluntary basis, participate in any State operated or
29 sponsored program which would otherwise be available to such school, including but not
30 limited to the high school competency testing and statewide testing programs.

31 (b) Any student enrolled in a school under this Part shall be eligible for a tuition waiver
32 for a maximum of two courses offered by the North Carolina Virtual Public School program
33 each school year pursuant to G.S. 115C-238.77(b)."

34 **SECTION 2.(c)** Part 3 of Article 39 of Chapter 115C of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 115C-565.1. Enrollment in North Carolina Virtual Public School courses.**

37 A student receiving academic instruction by a homeschool pursuant to this Part shall be
38 eligible for a tuition waiver for a maximum of two courses offered by the North Carolina
39 Virtual Public School program each school year pursuant to G.S. 115C-238.77(b)."

40 **SECTION 3.** There is appropriated from the General Fund to the Department of
41 Public Instruction the sum of two million six hundred fifty-five thousand dollars (\$2,655,000)
42 for the 2014-2015 fiscal year in recurring funds to provide for increased enrollment in the
43 North Carolina Virtual Public School program (NCVPS) by nonpublic school students and to
44 cover the instructional costs for up to two NCVPS courses per nonpublic school student for the
45 school year as provided for in this act.

46 **SECTION 4.** The allotment reduction to support the State-level operations and
47 administration of the NCVPS required by G.S. 115C-238.76(b), as enacted by this act, shall be
48 in the amount of at least two million eight hundred sixty-six thousand nine hundred
49 twenty-three dollars (\$2,866,923), as was effective for the 2011-2012 fiscal year. In accordance
50 with G.S. 115C-238.76(b), this allotment reduction amount shall be adjusted annually based

1 upon the percentage growth in NCVPS enrollment to ensure the expansion of services due to
2 increased student enrollment in NCVPS courses.

3 **SECTION 5.** This act becomes effective July 1, 2014, and applies beginning with
4 the 2014-2015 school year.