

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 90  
Education/Higher Education Committee Substitute Adopted 3/15/23  
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Short Title: Schools for the Deaf and Blind Transition.

(Public)

Sponsors:

Referred to:

February 13, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE ADDITIONAL CHANGES TO FACILITATE THE TRANSITION OF  
3 THE SCHOOLS FOR THE DEAF AND BLIND TO GOVERNANCE BY BOARDS OF  
4 TRUSTEES.

5 The General Assembly of North Carolina enacts:

6  
7 **CLARIFY INDEPENDENCE OF SCHOOLS**

8 **SECTION 1.(a)** G.S. 115C-150.11 reads as rewritten:

9 "**§ 115C-150.11. ~~General supervision over~~ Establishment of the schools for the deaf and**  
10 **blind.**

11 (a) Establishment. – The following are created as separate State agencies governed  
12 respectively by boards of trustees:

13 (1) The Governor Morehead School for the Blind of the Department of Public  
14 Instruction, for the function, purpose, and duty of serving students who are  
15 blind or visually impaired from birth to age 22. The Governor Morehead  
16 School for the Blind shall include the Governor Morehead Preschool.

17 (2) The Eastern North Carolina School for the Deaf of the Department of Public  
18 Instruction, for the function, purpose, and duty of serving students who are  
19 deaf or hard of hearing.

20 (3) The North Carolina School for the Deaf of the Department of Public  
21 Instruction, for the function, purpose, and duty of serving students who are  
22 deaf or hard of hearing.

23 (a1) State Board of Education Supervision. – The State Board of Education shall have  
24 general supervision over the schools for the deaf and blind in accordance with G.S. 115C-12 and  
25 shall establish approximately equivalent service areas for each school for the deaf that cover the  
26 entire State. In establishing the service area for each school for the deaf, the State Board shall  
27 consider both the geographic proximity to the school for the deaf and the population of the service  
28 area. The State Board shall evaluate the effectiveness of the schools for the deaf and blind and  
29 shall, through the application of the accountability system developed under G.S. 115C-83.15 and  
30 G.S. 115C-105.35, measure the educational performance and growth of students placed in each  
31 school. If appropriate, the Board may modify this system to adapt to the specific characteristics  
32 of these schools. The boards of trustees for the schools for the deaf and blind shall be subject to



1 rules adopted by the State Board of Education in accordance with Chapter 150B of the General  
2 Statutes. Statutes for public school units.

3 (b) Independent Operation.—~~Except as otherwise provided for in this Article, the schools~~  
4 ~~for the deaf and blind shall be housed administratively within the Department of Public~~  
5 ~~Instruction for purposes of distribution of State funds, but each school for the deaf and blind shall~~  
6 ~~operate independently with a board of trustees as the governing body.~~ Department of Public  
7 Instruction Support. – The Department of Public Instruction shall include employees of the  
8 schools for the deaf and blind in coverage for professional liability policies purchased by the  
9 Department for its employees and shall enter into a memorandum of understanding with the  
10 schools to facilitate the purchase of other insurance policies for those schools. In all other matters,  
11 the Department of Public Instruction shall provide services, support, and assistance to schools  
12 for the deaf and blind in the same manner and degree as for a local school administrative unit.

13 (c) Administrative Support. – The Department of Administration shall provide support  
14 to each school in matters related to finance, human resources, and procurement, including for  
15 information technology. Each school shall enter into a memorandum of understanding with the  
16 Department of Administration with regard to this support. No civil liability shall attach to the  
17 Department of Administration, or to any of its employees, individually or collectively, for any  
18 acts or omissions of a school.

19 (d) Immunity. – In addition to all other immunities provided to them by applicable State  
20 law, a school, its board of trustees, and the school's members, employees, and agents shall be  
21 entitled to the specific immunities provided for this Chapter applying to the State Board of  
22 Education, Superintendent of Public Instruction, a local board of education, a local school  
23 administrative unit, and their members and employees. Immunity established by this subsection  
24 shall be deemed to be waived to the extent of indemnification under Article 31A and Article 31B  
25 of Chapter 143 of the General Statutes and to the extent sovereign immunity is waived under the  
26 State Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

27 **SECTION 1.(b)** G.S. 115C-150.16 reads as rewritten:

28 "**§ 115C-150.16. Applicability of Chapter.**

29 Except as otherwise provided in this Article and Article 7B of this Chapter, the requirements  
30 of this Chapter shall not apply to the schools for the deaf and blind. Schools for the deaf and  
31 blind shall ~~be considered a State agency, as defined in G.S. 143C-1-1, and shall comply with all~~  
32 requirements for State agencies in State law unless otherwise specified in this Article. Schools  
33 for the deaf and blind shall not be considered local school administrative units."

34 **SECTION 1.(c)** G.S. 115C-150.11(a), (b), and (c) apply beginning July 1, 2025.

## 35 36 **CLARIFY QUORUM REQUIREMENTS AND QUALIFICATIONS OF BOARD** 37 **MEMBERS**

38 **SECTION 2.(a)** G.S. 115C-150.12A(b) reads as rewritten:

39 "(b) Qualifications. – No employee of the school may be a member of the board of trustees  
40 of that school. A board member that becomes an employee of that school shall be deemed to  
41 resign from his or her membership on the board of trustees. Appointing entities are strongly  
42 encouraged to fill the appointments to each board of trustees with persons with expertise or  
43 experience in the areas of education for those who are deaf or hard of hearing or who are blind  
44 or visually impaired, administration and governance, finance and budgeting, or who otherwise  
45 have demonstrated concern for quality of education for those who are deaf or hard of hearing or  
46 who are blind or visually impaired."

47 **SECTION 2.(b)** G.S. 115C-150.12A(f) reads as rewritten:

48 "(f) Meetings. – A board of trustees shall meet at least four times a year and also at such  
49 other times as it may deem necessary. A majority of the voting members of the board shall  
50 constitute a quorum for the transaction of business. All meetings shall be subject to Article 33C  
51 of Chapter 143 of the General Statutes. The members shall receive per diem compensation and

1 necessary travel and subsistence expenses while engaged in the discharge of their official duties,  
2 in accordance with the provisions of G.S. 138-5."  
3

#### 4 **CLARIFY AUTHORITY OF SCHOOL LEADERS**

5 **SECTION 3.(a)** G.S. 115C-150.10(5) is repealed.

6 **SECTION 3.(b)** G.S. 115C-150.10 is amended by adding a new subdivision to read:  
7 "(10) Superintendent. – The chief administrator of a school for the deaf or the school  
8 for the blind."

9 **SECTION 3.(c)** G.S. 115C-150.12B reads as rewritten:

10 "**§ 115C-150.12B. Employees of schools for the deaf and blind.**

11 (a) ~~Director-Superintendent.~~ – Each board of trustees of a school shall appoint a ~~director~~  
12 ~~superintendent~~ for that school, ~~who school who meets the requirements of G.S. 115C-271 for~~  
13 ~~employment. The superintendent shall act as secretary to the board of trustees in accordance with~~  
14 ~~G.S. 115C-150.12A and shall manage day-to-day operations of the school G.S. 115C-150.12A.~~  
15 All acts of the boards of trustees, not in conflict with State law, shall be binding on the  
16 superintendent, and the superintendent shall carry out all rules and regulations of the board and  
17 other duties as prescribed by the board of trustees. For purposes of application to other statutes  
18 in this Chapter, the ~~director-superintendent~~ shall be the equivalent of a superintendent of ~~schools~~  
19 a local school administrative unit and shall fulfill the duties of a superintendent as provided in  
20 Article 18 of this Chapter.

21 (b) ~~Director-Superintendent Duties.~~ – The ~~director-superintendent~~ shall recommend  
22 school personnel to the board of trustees. The ~~director-superintendent~~ shall supervise the  
23 administrative staff of the school, including the principal, director of human resources, and  
24 director of business and finance.

25 ...

26 (e) Human Resources. – The board of trustees is responsible for providing human  
27 resources and employment-related services for the school. The board of trustees may delegate  
28 some or all of this responsibility to the ~~director-superintendent~~ for the school or to the director of  
29 human resources, in its discretion."

30 **SECTION 3.(d)** G.S. 115C-150.12C(14) reads as rewritten:

31 "(14) Conduct and duties of personnel. – The board of trustees, upon the  
32 recommendation of the ~~director-superintendent~~, shall have full power to make  
33 rules governing the conduct of teachers, principals, and supervisors; the kind  
34 of reports they shall make; and their duties in the care of school property. Prior  
35 to the beginning of each school year, the board of trustees shall identify all  
36 reports that are required for the school year and shall, to the maximum extent  
37 possible, eliminate any duplicate or obsolete reporting requirements and  
38 consolidate remaining reporting requirements. Prior to the beginning of each  
39 school year, the board of trustees shall also identify software protocols that  
40 could be used to minimize repetitious data entry and shall make them available  
41 to teachers and other employees."

42 **SECTION 3.(e)** G.S. 115C-150.13A(c)(2)a. reads as rewritten:

43 "a. A chair designated by the ~~director-superintendent~~ of the school."

44 **SECTION 3.(f)** G.S. 115C-150.13A(c)(4) reads as rewritten:

45 "(4) A final admissions determination made by the ~~director-superintendent~~ of the  
46 school or the ~~director-superintendent~~ of the school's designee."

47 **SECTION 3.(g)** G.S. 115C-150.13A(e) reads as rewritten:

48 "(e) Disenrollment. – A student's continued enrollment in an educational program  
49 assignment status shall be subject to reevaluation by the admissions committee when determined  
50 necessary by the school to assess if the student continues to meet eligibility criteria. The  
51 disenrollment assessment shall follow the same procedures as the admissions process, and a final

1 determination shall be made by the ~~director~~superintendent or the ~~director's~~superintendent's  
2 designee."

3 **SECTION 3.(h)** G.S. 115C-150.15 reads as rewritten:

4 "**§ 115C-150.15. Reporting to schools on deaf and blind children.**

5 (a) Request for Consent. – ~~Local superintendents~~Superintendents of local school  
6 administrative units shall require that the following request for written consent, along with any  
7 informational materials provided by the school for the blind or the school for the deaf in the  
8 service area in which the local school administrative unit is located, be presented to parents or  
9 custodians of any children who are deaf or hard of hearing or are blind or visually impaired no  
10 later than October 1 of each school year: "North Carolina provides two public schools for the  
11 deaf serving students who are deaf or hard of hearing: the Eastern North Carolina School for the  
12 Deaf and the North Carolina School for the Deaf. North Carolina also has a public school for the  
13 blind serving students who are blind or visually impaired: the Governor Morehead School for the  
14 Blind. Do you consent to the release of your contact information and information regarding your  
15 child and his or her hearing or vision status to these schools so that you can receive more  
16 information on services offered by those campuses?"

17 (b) Annual Report to Schools for the Deaf and Blind. – ~~Local superintendents~~  
18 Superintendents of local school administrative units shall report by November 30 each year the  
19 names and addresses of parents or custodians of any deaf or hard of hearing or blind or visually  
20 impaired children who have given written consent to the ~~directors~~superintendents of the schools  
21 for the deaf and blind. The report shall include whether the hearing and visual impairments range  
22 from partial to total disability, and if the child has multiple disabilities with the visual or hearing  
23 impairment not identified as the primary disability of the student. The report shall also be made  
24 to the Department of Public Instruction.

25 (c) Confidentiality of Records. – The ~~directors~~superintendents of the schools for the deaf  
26 and blind shall treat any information reported to the schools by a ~~local~~superintendent of a local  
27 school administrative unit under subsection (b) of this section as confidential, except that a  
28 directorsuperintendent of the schools for the deaf and blind or the ~~director's~~superintendent's  
29 designee may contact the parents or custodians of any hearing impaired or visually impaired  
30 children whose information was included in the report. The information shall not be considered  
31 a public record under G.S. 132-1.

32 (d) Transfer of Information. – Upon the written request of a parent or custodian of a  
33 student who has applied to a school for the deaf or school for the blind, the ~~local~~superintendent  
34 of a local school administrative unit or, if there is no superintendent, the staff member with the  
35 highest decision-making authority in the public school unit shall share with the ~~director of the~~  
36 schoolsuperintendent of the schools for the deaf and blind a copy of all current evaluation data  
37 and a copy of the current or proposed individualized education plan for any child enrolled in that  
38 public school unit who is identified as a child with a disability who is deaf, hard of hearing, blind,  
39 or visually impaired."  
40

#### 41 **AUTHORITY TO PURCHASE LIABILITY INSURANCE**

42 **SECTION 4.(a)** G.S. 115C-150.12C(2) reads as rewritten:

43 "(2) Exercise judicial functions. – The board of trustees shall employ or contract  
44 with private counsel to provide advice and representation for the school. The  
45 board may institute all actions, suits, or proceedings against officers, persons,  
46 or corporations, or their sureties, for the recovery, preservation, and  
47 application of all money or property which may be due to or should be applied  
48 to the support and maintenance of the school. In all actions brought in any  
49 court against a board of trustees, the order or action of the board shall be  
50 presumed to be correct, and the burden of proof shall be on the complaining  
51 party to show the contrary. G.S. 114-2.3 and G.S. 147-17 shall not apply to

1 the schools for the deaf and blind. Upon the request of the board of trustees of  
 2 a school, the Attorney General shall provide representation as required by  
 3 G.S. 114-2. Each school shall be regarded as a State agency for the purposes  
 4 of the State Tort Claims Act and associated representation by the Office of the  
 5 Attorney General with regards to litigation defense."

6 **SECTION 4.(b)** G.S. 115C-150.12C(27) reads as rewritten:

7 "(27) Group accident and health insurance for ~~students~~ students, other liability  
 8 insurance. – A board of trustees may ~~purchase group~~ purchase:

9 a. Group accident, group health, or group accident and health insurance  
 10 for students in accordance with G.S. 58-51-81.

11 b. Liability insurance as provided in G.S. 115C-42 and directors and  
 12 officers insurance. G.S. 115C-42 shall apply to a school that purchases  
 13 liability insurance consistent with that section."

## 14 **APPEALS OF ADMISSIONS ELIGIBILITY TO BOARDS OF TRUSTEES**

15 **SECTION 5.(a)** G.S. 115C-150.13A(f) reads as rewritten:

16 "(f) Free Appropriate Public Education. – The local school administrative unit or charter  
 17 school in which the student is enrolled shall have the initial responsibility of identifying and  
 18 evaluating the special education needs of the student and providing a special educational program  
 19 and related services in accordance with Article 9 of this Chapter. If a parent submits an  
 20 application to the school for enrollment of the parent's child in the school's educational program,  
 21 and if the child is determined to meet the eligibility criteria for admission to the school's  
 22 educational program, the school is responsible for the provision of a free appropriate public  
 23 ~~education.~~ education upon enrollment. However, a subsequent determination by the school that  
 24 the student no longer meets eligibility criteria immediately transfers the responsibility for the  
 25 provision of a special educational program and related services to ensure a free appropriate public  
 26 education back to the local school administrative unit or charter school in which the student was  
 27 previously enrolled."

28 **SECTION 5.(b)** G.S. 115C-150.13A(h) reads as rewritten:

29 "(h) ~~Due Process Hearing.~~ Eligibility Appeal. – A parent may seek an ~~impartial due~~  
 30 ~~process hearing~~ appeal to the board of trustees following a final determination on a student's  
 31 eligibility by the director. ~~If the parent pursues a due process hearing to challenge the school's~~  
 32 ~~ineligibility determination, the student's "stay put" placement shall not be the school but shall be~~  
 33 ~~the student's local school administrative unit or charter school superintendent. Parents may not~~  
 34 ~~seek an impartial due process hearing regarding any eligibility determination."~~  
 35 Parents may not seek an impartial due process hearing regarding any eligibility determination."

36 **SECTION 5.(c)** G.S. 150B-1(e) is amended by adding a new subdivision to read:

37 "(29) The Governor Morehead School for the Blind, Eastern North Carolina School  
 38 for the Deaf, and the North Carolina School for the Deaf, with respect to  
 39 eligibility determinations under G.S. 115C-150.13A."

## 40 **TRANSITION SUPPORT**

41 **SECTION 6.(a)** Section 5 of S.L. 2023-10 is repealed.

42 **SECTION 6.(b)** For the 2024-2025 school year, the Department of Public  
 43 Instruction shall administratively house the Governor Morehead School for the Blind, Eastern  
 44 North Carolina School for the Deaf, and North Carolina School for the Deaf (Schools). The  
 45 Department of Public Instruction and the Schools shall enter into a memorandum of  
 46 understanding with regards to the administrative support. At a minimum, the Department of  
 47 Public Instruction shall provide administrative support in matters related to finance, human  
 48 resources, and procurement, including for information technology and capital.

49 **SECTION 6.(c)** No civil liability shall attach to the State Board of Education, the  
 50 Department of Public Instruction, the Superintendent of Public Instruction, or to any of their  
 51

1 members or employees, individually or collectively, for any acts or omissions of the Governor  
2 Morehead School for the Blind, Eastern North Carolina School for the Deaf, and North Carolina  
3 School for the Deaf, the boards of trustees of those schools, or their members and employees.

4 **SECTION 6.(d)** The Department of Administration, in coordination with the  
5 Schools, the Department of Public Instruction, and the Department of Information Technology,  
6 shall study the costs and positions needed for support of the Schools and shall report this  
7 information and any recommended legislation to the Fiscal Research Division and the Joint  
8 Legislative Education Oversight Committee no later than March 1, 2025.

9 **SECTION 6.(e)** The Office of the State Controller and Office of State Budget and  
10 Management shall ensure that the Schools are established as State agencies prior to July 1, 2025.

11 **SECTION 6.(f)** The Department of Public Instruction, the Office of the State  
12 Controller, the Office of State Budget and Management, and the Department of Administration  
13 shall each designate an individual to serve as a liaison for the Schools to assist with technical and  
14 administrative questions during the 2024-2025 school year.

### 15 16 **TYPE I-LIKE TRANSFER**

17 **SECTION 7.** Effective July 1, 2024, the powers, duties, and functions, records,  
18 personnel, contracts, property, unexpended balances of appropriations, allocations or other funds,  
19 including the functions of budgeting and purchasing, are transferred from the Department of  
20 Public Instruction and State Board of Education to the Governor Morehead School for the Blind  
21 and Governor Morehead Preschool, Eastern North Carolina School for the Deaf, and North  
22 Carolina School for the Deaf, respectively. The respective boards of trustees of the Governor  
23 Morehead School for the Blind, Eastern North Carolina School for the Deaf, and North Carolina  
24 School for the Deaf shall exercise all prescribed statutory powers, including the management  
25 functions of planning, organizing, staffing, directing, coordinating, reporting, and budgeting.

### 26 27 **REPORTING**

28 **SECTION 8.** Subsection (b) of Section 7 of S.L. 2023-10 reads as rewritten:

29 "**SECTION 7.(b)** Each board of trustees of the schools for the deaf and blind shall provide  
30 interim reports to the Joint Legislative Education Oversight Committee by December 15, 2023,  
31 and March 15, 2024, and a final report by ~~July 1, 2024,~~ September 1, 2024, on the plans and  
32 progress in transitioning to assumption of administration of the schools for the deaf and blind,  
33 with the support of and consultation with staff of the school for that board. The Department of  
34 Public Instruction shall provide information as requested to each board of trustees. The reports  
35 shall include the following:

36 ...."  
37

### 38 **GOVERNOR MOREHEAD SCHOOL FACILITIES**

39 **SECTION 9.(a)** The Department of Administration shall reassign all assets in  
40 Complex 1-92-9 to the Governor Morehead School.

41 **SECTION 9.(b)** The Governor Morehead School and Department of Health and  
42 Human Services shall enter into a memorandum of understanding related to use of assets in  
43 Complex 1-92-9 for shared services.

### 44 45 **TECHNICAL CORRECTIONS**

46 **SECTION 10.(a)** G.S. 14-458.2(a) reads as rewritten:

47 "(a) The following definitions apply in this section:

48 (1) School employee. – The term means any of the following:

- 49 a. An employee of a ~~local board of education, a charter school authorized~~  
50 ~~under G.S. 115C-218.5, a regional school created under~~  
51 ~~G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7,~~

1                    public school unit or a nonpublic school which has filed intent to  
 2                    operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the  
 3                    General Statutes.

- 4                    b.     An independent contractor or an employee of ~~an independent~~  
 5                    ~~contractor of a local board of education, a charter school authorized~~  
 6                    ~~under G.S. 115C-218.5, a regional school created under~~  
 7                    ~~G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7,~~  
 8                    a public school unit or a nonpublic school which has filed intent to  
 9                    operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the  
 10                    General Statutes, if the independent contractor carries out duties  
 11                    customarily performed by employees of the school.

- 12                    (2)     Student. – A person who has been assigned to ~~a school by a local board of~~  
 13                    ~~education as provided in G.S. 115C-366~~ or has enrolled in a ~~charter school~~  
 14                    ~~authorized under G.S. 115C-218.5, a regional school created under~~  
 15                    ~~G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7,~~ public  
 16                    school unit or a nonpublic school which has filed intent to operate under Part  
 17                    1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, or a person  
 18                    who has been suspended or expelled from any of those schools within the last  
 19                    year."

20                    **SECTION 10.(b)** G.S. 115C-102.9(b) reads as rewritten:

21                    "(b)     Each public school unit shall annually submit all categories of information included  
 22                    in the digital learning dashboard no later than November 15. For subdivisions (2) and (3) of  
 23                    subsection (a) of this section, ~~residential~~ schools for the deaf and blind shall report on access and  
 24                    connectivity separately for the dormitories and the student's home."  
 25

## 26     **FUNDING**

27                    **SECTION 11.** It is the intent of the General Assembly to appropriate funds on a  
 28                    recurring basis to provide for costs of the Department of Administration in providing  
 29                    administrative support for the Governor Morehead School for the Blind, Eastern North Carolina  
 30                    School for the Deaf, and North Carolina School for the Deaf. It is also the intent of the General  
 31                    Assembly to appropriate funds on a recurring basis to provide for insurance, legal, and  
 32                    information technology expenses.  
 33

## 34     **EFFECTIVE DATE**

35                    **SECTION 12.** Sections 1, 2, 3, 4, and 5 of this act are effective July 1, 2024. The  
 36                    remainder of this act is effective when it becomes law.