

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 292

Short Title: Math That Counts. (Public)

Sponsors: Representatives Elmore, Hardister, and Cotham (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - K-12, if favorable, Rules, Calendar, and Operations of the House

March 8, 2023

A BILL TO BE ENTITLED
AN ACT TO IMPROVE GRADE LEVEL PROFICIENCY IN MATHEMATICS.
The General Assembly of North Carolina enacts:

PART I. MATH THAT COUNTS

SECTION 1.(a) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1C. Math That Counts.

"§ 115C-83.20. State goal.

The goal of the State is to ensure that every student has mathematics skills at or above grade level by the end of fifth grade and continues to progress so that he or she can have the mathematics skills needed for secondary education and career success. The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units in reaching this goal and implementing all provisions of this Part.

"§ 115C-83.23. Purposes.

The purposes of this Part are to ensure that (i) difficulty with mathematics skill development is identified before students transition to sixth grade, (ii) students receive appropriate mathematics interventions to address difficulty with mathematics skill development and to remediate math skill deficiencies, and (iii) each student and his or her parent or guardian be informed of the student's academic needs and progress.

"§ 115C-83.26. High-quality mathematics instruction.

Local boards of education shall implement high-quality mathematics instruction that meets the following criteria:

- (1) Aligns with the North Carolina Standard Course of Study.
- (2) Is evidence-based.
- (3) Engages students and provides them with relevant challenges and pathways to deeper understanding.
- (4) Includes materials to support the teacher in facilitating and encouraging active student questioning and discussion.
- (5) Provides students at all levels of language proficiency with opportunities to use written and oral forms of communication to learn and demonstrate understanding of mathematics skills.

"§ 115C-83.29. Mathematics diagnostic assessments.



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(a) Fourth and fifth grade students shall be assessed at least three times per school year with formative and diagnostic mathematics assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a1) that meet the following criteria:

- (1) Are valid and reliable.
- (2) Align with the North Carolina Standard Course of Study.
- (3) Align with this Part.
- (4) Yield data that can be used with the Education Value-Added Assessment System (EVAAS) to analyze student data to identify root causes for difficulty with mathematics skill development and to determine actions to address them.

(b) The Department of Public Instruction shall provide for EVAAS analysis all formative and diagnostic assessment data collected pursuant to this section for fourth and fifth grade. The Department shall use a uniform template for all data collected, and the template shall be used each time data is provided. The template shall include clear designations for each data component reported.

"§ 115C-83.32. Interventions and Mathematics Success Plans (MSPs).

(a) Local boards of education shall address difficulties with mathematics skill development identified through administration of formative and diagnostic assessments with instructional supports and services. Local boards of education are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance mathematics skill development and proficiency.

(b) Students who are not grade level proficient in mathematics skills by the end of fifth grade, as demonstrated by the end-of-grade assessment required by G.S. 115C-174.11(c)(1), shall be provided with intervention and remediation services documented in a Mathematics Success Plan (MSP) that meets the requirements of this section. Students shall continue to receive an MSP through the end of eighth grade or when the student demonstrates grade level proficiency on the end-of-grade assessment, whichever is earlier.

(c) The MSP shall be regularly adjusted based on multiple data sources, indicating that the student is not progressing toward grade level standards in one or more major mathematics skills. Based on the most recently collected data, an MSP shall include the following information, specific to the identified student:

- (1) The specific mathematics skill deficiencies identified by the assessment data.
- (2) Goals and benchmarks for growth.
- (3) The means by which progress will be monitored and evaluated.
- (4) The specific additional mathematics interventions the student will receive.
- (5) Any additional services the teacher deems appropriate to accelerate the student's mathematics skill development.

(d) A student's parent or guardian shall be given notice that the student has been identified as having difficulty with mathematics skill development and that an MSP has been developed. The notice shall provide the parent or guardian the following:

- (1) Specific strategies that can be easily understood and implemented to assist the student in becoming grade level proficient in mathematics skills.
- (2) Encouragement to select one or more strategies for use at home that build on the student's interests and are most likely to engage the student and result in mathematics skills improvement.
- (3) Direction to free online or hard copy mathematics resources and tools that can be accessed via a prominently displayed area on the homepage of the primary website maintained by the Department of Public Instruction.

(e) A multitiered system of support intervention may be used to satisfy the requirements of this section if all of the components of subsection (c) of this section are incorporated in the intervention.

(f) The Department shall develop the following model documentation of compliance with the requirements of this section:

(1) An MSP checklist.

(2) An alternative document for use with a multitiered system of support intervention.

"§ 115C-83.35. Reporting requirements.

(a) Each local board of education shall report annually in writing to the State Board of Education by September 1 the following information on the prior school year:

(1) The number and percentage of fourth grade students demonstrating and not demonstrating grade level mathematics proficiency on the end-of-grade mathematics assessment.

(2) The number and percentage of fifth grade students demonstrating and not demonstrating grade level mathematics proficiency on the end-of-grade mathematics assessment.

(3) For students who received a Mathematics Success Plan pursuant to G.S. 115C-83.32:

a. A description of mathematics interventions provided to students.

b. The number and percentage of sixth grade students demonstrating and not demonstrating grade level mathematics proficiency on the end-of-grade mathematics assessment.

c. The number and percentage of seventh grade students demonstrating and not demonstrating grade level mathematics proficiency on the end-of-grade mathematics assessment.

d. The number and percentage of eighth grade students demonstrating and not demonstrating grade level mathematics proficiency on the end-of-grade mathematics assessment.

(b) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsection (a) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee annually by December 15. The State-level summary shall include, for each local school administrative unit, every component listed in subsection (a) of this section.

(c) Local boards of education shall fully complete all information required by this section in the uniform format provided by the State Board."

SECTION 1.(b) G.S. 115C-174.11 reads as rewritten:

"§ 115C-174.11. Components of the testing program.

(a) Reading Assessment Instruments for Kindergarten, First, Second, and Third Grades.
– The State Board of Education shall develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments aligned with the standard course of study and Part 1A of Article 8 of this Chapter for the kindergarten, first, second, and third grades. Local school administrative units shall use these assessment instruments provided to them by the State Board for kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and inform instruction and remediation needs. Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants.

(a1) Mathematics Assessment Instruments for Fourth and Fifth Grades. – The State Board of Education shall adopt and provide to the local school administrative units at least five developmentally appropriate individualized formative and diagnostic assessment instruments aligned with the standard course of study and Part 1C of Article 8 of this Chapter for the fourth and fifth grades. Local school administrative units shall select one of the assessment instruments made available to them by the State Board to assess progress, diagnose difficulties, and inform instruction and remediation needs for fourth and fifth grade students. Local school administrative units shall not use these formative and diagnostic assessments for summative assessment of fourth and fifth grade students except as required as a condition of receiving federal grants.

(b) Repealed by Session Laws 2009-451, s. 7.20(c), effective July 1, 2009.

(c) Annual Testing Program. –

(1) The State Board of Education shall adopt the tests for grades three through 12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies for grades nine through 12. Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade.

(2) If the State Board of Education finds that additional testing in grades three through 12 is desirable to allow comparisons with national indicators of student achievement, that testing shall be conducted with the smallest size sample of students necessary to assure valid comparisons with other states.

(3) Repealed by Session Laws 2014-78, s. 3(a), effective July 1, 2014.

(4) To the extent funds are made available, the State Board of Education shall use a competitive bid process to adopt one nationally norm-referenced college admissions test to make available to local school administrative units, regional schools, and charter schools to administer to all students in the eleventh grade unless the student has already taken a comparable test and scored at or above a level set by the State Board. The State Board of Education shall require the administration of an alternate to the nationally norm-referenced college admissions test or an alternate precursor test to the nationally norm-referenced college admissions test to a student who (i) exhibits severe and pervasive delays in all areas of conceptual, linguistic, and academic development and in adaptive behaviors, including communication, daily living skills, and self-care, (ii) is following the extended content standards of the Standard Course of Study as provided in G.S. 115C-81.5, or is following a course of study that, upon completing high school, may not lead to admission into a college-level course of study resulting in a college degree, and (iii) has a written parental request for an alternate assessment.

The State Board of Education shall ensure that parents of students enrolled in all public schools, including charter and regional schools, have the necessary information to make informed decisions regarding participation in the nationally norm-referenced college admissions test and precursor test.

Alternate assessment and nationally norm-referenced college admissions test assessment results of students with disabilities shall be included in school accountability reports, including charter and regional schools, provided by the State Board of Education.

(d) Except as provided in subsection (c) of this section, the State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant."

1 **SECTION 1.(c)** Section 6(d)(5) of S.L. 2018-32 reads as rewritten:

2 "(5) Part 1A, North Carolina Read to Achieve Program, ~~and Part 1B of Article 8,~~
3 Part 1B, School Performance-Performance, and Part 1C of Article 8,
4 Mathematics Success Initiative."

5 **SECTION 1.(d)** This section is effective when it becomes law. The reporting
6 requirements established in G.S. 115C-83.35 shall apply beginning with reports based on data
7 from the 2023-2024 school year. The remainder of the section applies beginning with the
8 2023-2024 school year.

9
10 **PART II. CLASS SIZE REQUIREMENTS FOR FOURTH AND FIFTH GRADE**

11 **SECTION 2.(a)** G.S. 115C-301 reads as rewritten:

12 **"§ 115C-301. Allocation of teachers; class size.**

13 ...

14 (c) Maximum Class Size for Kindergarten Through ~~Third-Fifth~~ Grade. – The average
15 class size for kindergarten through ~~third-fifth~~ grade in a local school administrative unit shall at
16 no time exceed the funded allotment ratio of teachers to students in kindergarten through ~~third~~
17 fifth grade. At the end of the second school month and for the remainder of the school year, the
18 size of an individual class in kindergarten through ~~third-fifth~~ grade shall not exceed the allotment
19 ratio by more than three students. The funded class size allotment ratio for kindergarten through
20 ~~third-fifth~~ grade shall be as follows:

- 21 (1) For kindergarten, one teacher per 18 students.
22 (2) For first grade, one teacher per 16 students.
23 (3) For second grade, one teacher per 17 students.
24 (4) For third grade, one teacher per 17 students.
25 (5) For fourth grade, one teacher per 24 students.
26 (6) For fifth grade, one teacher per 24 students.

27 In grades ~~four-six~~ through 12, local school administrative units shall have the maximum
28 flexibility to use allotted teacher positions to maximize student achievement.

29 (c1) Class Size Exceptions for Kindergarten Through ~~Third-Fifth~~ Grade. – Class size
30 requirements for kindergarten through ~~third-fifth~~ grade provided in subsection (c) of this section
31 shall not apply to the following classes:

- 32 (1) Dual language immersion classes. For the purposes of this subsection, dual
33 language immersion classes are classes in which (i) at least one-third of the
34 students' dominant language is English and (ii) instruction involves both
35 English and a target foreign language with a minimum of fifty percent (50%)
36 of core content taught in the target foreign language in order to promote dual
37 language proficiency for all students.
38 (2) Program enhancement classes.

39 ...

40 (f) Biannual Reports. – At the end of October and end of February of each school year,
41 each local board of education, through the superintendent, shall file a report, based on
42 information provided by the principal, for each school within the local school administrative unit
43 with the Superintendent of Public Instruction. The report shall be filed in a format prescribed by
44 the Superintendent of Public Instruction and shall include the organization for each school in the
45 local school administrative unit, including the following information:

- 46 (1) For each class in each grade level at each school, the following:
47 a. The duties of the teacher.
48 b. The source of funds used to pay for the teacher.
49 c. The number of students assigned to the class, including all exceptions
50 to individual class size maximums in kindergarten through ~~third-fifth~~
51 grade that exist at that time.

- 1 (2) For each school, the following:
- 2 a. The number of program enhancement teachers.
- 3 b. The source of funds used to pay each program enhancement teacher.
- 4 (3) The average class size for each grade from kindergarten through ~~third~~fifth
- 5 grade in the local school administrative unit.
- 6 (4) Any other information the Superintendent of Public Instruction may require.

7 The Superintendent of Public Instruction shall conduct periodic audits of the information
8 reported by the local superintendent under this subsection to confirm the accuracy of reporting
9 at the local school administrative unit and school level of the average and individual class size
10 for students in kindergarten through ~~third~~fifth grade. If the Superintendent of Public Instruction
11 finds that a local board of education is exceeding class size requirements without application to
12 the State Board for an allotment adjustment or a waiver of those class size requirements, the State
13 Board may impose the penalty set forth in subsection (j) of this section until such time the local
14 board of education receives a waiver or the schools in the unit meet the class size requirements
15 for kindergarten through ~~third~~fifth grade.

16 (g) Waivers and Allotment Adjustments. – Local boards of education shall report
17 exceptions to the class size requirements set out for kindergarten through ~~third~~fifth grade and
18 significant increases in class size at other grade levels to the State Board and shall request
19 allotment adjustments at any grade level, waivers from the requirements for kindergarten through
20 ~~third~~fifth grade, or both. Within 45 days of receipt of reports, the State Board of Education,
21 within funds available, may allot additional positions at any grade level. The State Board shall
22 not grant waivers for excess class size in kindergarten through ~~third~~fifth grade, except under the
23 following circumstances:

- 24 (1) Emergencies or acts of God that impact the availability of classroom space or
- 25 facilities.
- 26 (2) An unanticipated increase in student population of an individual school in
- 27 excess of two percent (2%) of the average daily membership of that school.
- 28 (3) Organizational problems in geographically isolated local school
- 29 administrative units in which the average daily membership is less than one
- 30 and one-half per square mile.
- 31 (4) Classes organized for a solitary curricular area.
- 32 (5) A charter school closure.

33 The State Board shall report on all waivers to the Joint Legislative Commission on
34 Governmental Operations within 30 days of the grant of the waiver. The report shall include the
35 local school administrative unit, school, and class or classes for which the waiver was granted,
36 the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size
37 in kindergarten through ~~third~~fifth grade shall not become effective until the State Board submits
38 the report to the Joint Legislative Commission on Governmental Operations.

39 Upon notification from the State Board that the reported exception does not qualify for an
40 allotment adjustment or a waiver, the local board of education shall take action to correct the
41 exception within 30 days. Within 60 days of notification by the State Board, the Superintendent
42 of Public Instruction shall request an updated report from the local board of education on the size
43 of each class in kindergarten through ~~third~~fifth grade for each school within the local school
44 administrative unit. If the Superintendent of Public Instruction finds that a local board of
45 education is continuing to exceed class size requirements, the State Board may impose the
46 penalty set forth in subsection (j) of this section until such time the schools in the unit meet the
47 class size requirements for kindergarten through ~~third~~fifth grade.

48"

49 **SECTION 2.(b)** G.S. 115C-47(10) reads as rewritten:

- 50 "(10) To Assure Appropriate Class Size. – It shall be the responsibility of local
51 boards of education to assure that the class size requirements set forth in

G.S. 115C-301 for kindergarten through ~~third~~-fifth grade are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he or she shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the exception, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).

Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the exception, as required in G.S. 115C-301(g).

At the end of October and end of February of each school year, the local board of education, through the superintendent, shall file a report with the Superintendent of Public Instruction, in a format prescribed by the Superintendent of Public Instruction, describing the organization for each school in the local school administrative unit, as required by G.S. 115C-301(f).

In addition to assuring that the requirements of G.S. 115C-301 are met, each local board of education shall also have the duty to provide an adequate number of classrooms to meet the requirements of that statute."

SECTION 2.(c) G.S. 115C-276(k) reads as rewritten:

"(k) To Submit Organization Reports and Other Information to the State Board. – Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statistical reports, certified by the chairman of the board of education, showing the organization of the schools in his or her unit and any additional information the State Board may require. At the end of the second month of school each year, local boards of education, through the superintendent, shall report school organization, employees' duties, and class sizes to the State Board. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size maximums in kindergarten through ~~third~~-fifth grade that occur at that time."

SECTION 2.(d) G.S. 115C-311(i) reads as rewritten:

"(i) Class Size Flexibility. – Notwithstanding G.S. 115C-301, with the approval of the State Board of Education, Advanced Teaching Roles schools selected to participate in the program may exceed the maximum class size requirements for kindergarten through ~~third~~-fifth grade during any term of up to three years in which State funds are awarded to the local school administrative unit where the school is located. At the conclusion of the term, any class size flexibility approved for an Advanced Teaching Roles school pursuant to this subsection shall expire."

PART III. INCREASE NUMBER OF TEACHER ASSISTANTS IN FOURTH AND FIFTH GRADE CLASSROOMS

SECTION 3. For the 2023-2024 fiscal year and subsequent fiscal years, it is the intent of the General Assembly to appropriate sufficient funds for an expansion of the allotment for teacher assistants, as provided in Section 8.47 of S.L. 2015-241, to increase the number of teacher assistants in fourth and fifth grade classrooms.

PART IV. EFFECTIVE DATE

1 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
2 law.