

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 771  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH50026-MKa-66B

Short Title: Funds for CWD/Extraordinary Costs/Report. (Public)

Sponsors: Representative Lofton.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PROGRAM FOR LOCAL SCHOOL ADMINISTRATIVE UNITS TO APPLY TO THE DEPARTMENT OF PUBLIC INSTRUCTION FOR ONGOING EXTRAORDINARY COSTS OF CHILDREN WITH DISABILITIES, INCLUDING FOR PLACEMENT OF STUDENTS IN SETTINGS OUTSIDE THE SCHOOL SYSTEM TO REDUCE THE USE OF MODIFIED DAY, HOMEBOUND, AND HOSPITALIZED PLACEMENTS, AND TO REQUIRE AN ANNUAL REPORT ON THE MONITORING OF STUDENTS IN HOMEBOUND, MODIFIED DAY, AND HOSPITAL PLACEMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Program Established. – Beginning with the 2021-2022 fiscal year, the Department of Public Instruction shall establish a grant program for local school administrative units to apply for funds from the Special State Reserve Fund (SSRF) for children with disabilities for the purpose of covering the extraordinary costs of certain students with disabilities, including costs associated with the placement of students in settings outside the public schools. The grant program shall provide funds for students with disabilities on an ongoing basis according to the students' individualized education programs (IEPs). The grant program established by this act shall be administered separately from the grant program funded from the SSRF available to local school administrative units for high costs related to emergency situations for children with disabilities in a school year.

**SECTION 1.(b)** Applications. – A local school administrative unit may apply for grant funds for a student with disabilities served by the unit for extraordinary costs associated with services provided to the student, including for a placement outside of the public schools in the unit. To be eligible for a grant, the local school administrative unit must demonstrate that the total cost of the services equals or exceeds four times the State average per pupil expenditure for children with disabilities in the prior fiscal year. The local school administrative unit shall provide documentation to the Department of Public Instruction to support the funding request. The student's IEP must support the determination of the services, including if the placement of the student is at a private facility. Grant funds shall be student-specific and follow the student for special education and related services provided within the State. The Department shall require documentation for renewal of the grant for each school year with a request for funds for the student. The Department shall reimburse seventy-five percent (75%) of the extraordinary costs and disburse funds in quarterly amounts to providers on an approved list from the Department.

For the purposes of this act, extraordinary costs shall only include costs directly attributable to providing the special education services on the student's IEP, such as salary of educational personnel; salary of related services personnel; costs for specialized books, materials,



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1 or equipment; tuition costs; and consultant costs, if directly attributable to the student's  
2 instructional program. Extraordinary costs shall not include transportation costs, administrative  
3 or overhead costs, the costs of adapting classrooms or materials that are used by more than one  
4 student, nor the costs associated with evaluation, development of the IEP, or service coordination  
5 for the student with disabilities.

6 **SECTION 1.(c) Oversight.** – The Department of Public Instruction shall ensure that,  
7 if a student who is covered by grant funds is placed in a private facility, the facility is approved  
8 by the Department as adhering to State and federal laws governing education services for students  
9 with disabilities and State and federal laws governing seclusion and restraint of students. The  
10 student's local school administrative unit shall remain legally responsible for ensuring the student  
11 is receiving a free appropriate public education (FAPE) in the least restrictive environment (LRE)  
12 while the student is placed in the private facility, as required by State and federal laws governing  
13 education services for students with disabilities, and the unit shall conduct an annual review of  
14 the student's IEP and any interim reviews requested by the student's parent or legal guardian for  
15 purposes of educational decision making in accordance with federal and State laws. Prior to  
16 approving a renewal of the grant for a particular student, the Department shall ensure that the  
17 annual review of the student's IEP has been completed and the student's parent or legal guardian  
18 for purposes of educational decision making has received the notice of procedural safeguards  
19 required by State and federal laws governing education services for students with disabilities.

20 **SECTION 1.(d) Appropriation.** – There is appropriated from the General Fund to  
21 the Special State Reserve Fund the sum of one million dollars (\$1,000,000) in recurring funds  
22 for the 2021-2022 school year for the Department of Public Instruction to implement the grant  
23 program established pursuant to this section.

24 **SECTION 1.(e) Report.** – By March 15, 2022, the Department of Public Instruction  
25 shall report to the Joint Legislative Education Oversight Committee, the House Appropriations  
26 Education Committee, the Senate Appropriations on Education/Higher Education Committee,  
27 and the Fiscal Research Division on the amount of grant applications for the 2021-2022 school  
28 year, amount of grant funds awarded, the types of out-of-school system placements and service  
29 providers, and the type of extraordinary costs reimbursed.

30 **SECTION 2.(a) G.S. 115C-107.5 reads as rewritten:**

31 **"§ 115C-107.5. Annual reports.**

32 The State Board shall report no later than October 15 of each year to the Joint Legislative  
33 Education Oversight Committee on the implementation of this Article and the educational  
34 performance of children with disabilities. The report may be filed electronically. Each annual  
35 report shall include the following information:

36 ...

37 (4) A summary analysis of the following data to be monitored and collected by  
38 the Department of Public Instruction on students with disabilities in each local  
39 school administrative unit on a monthly basis:

40 a. The number of new and continued homebound placements.

41 b. The number of new and continued modified day placements.

42 c. The number of students newly receiving and continuing to receive  
43 education services in institutionalized settings, including psychiatric  
44 residential treatment facilities and residential settings with schools  
45 overseen by the Department of Health and Human Services or the State  
46 Board of Education.

47 The data collected by the Department under this subdivision shall be  
48 disaggregated by gender, race, ethnicity, disability, grade level, school within  
49 a local school administrative unit, and whether the student has an IEP or a  
50 section 504 (29 U.S.C. § 794) plan. The report may reflect deidentified data  
51 for individual students, when available, regarding disciplinary outcomes,

1                   length of homebound, modified day, or institutionalized placements,  
2                   including total number of homebound, modified day, and institutionalized  
3                   placements over the course of a student's public school enrollment, and over  
4                   the current and two prior school years, and the regular education, special  
5                   education, and related services being received (i) prior to and (ii) during the  
6                   homebound, modified day, or an institutionalized setting placement."

7                   **SECTION 2.(b)** The State Board of Education shall submit the information required  
8 pursuant to G.S. 115C-107.5(4), as enacted by this section, beginning with the report submitted  
9 to the Joint Legislative Education Oversight Committee by October 15, 2022.

10                   **SECTION 3.** This act becomes effective July 1, 2021.