

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

H

1

HOUSE BILL 771

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

Sponsors: Representatives Lofton, Bradford, Hawkins, and Willis (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 4, 2021

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A PROGRAM FOR LOCAL SCHOOL ADMINISTRATIVE
2 UNITS TO APPLY TO THE DEPARTMENT OF PUBLIC INSTRUCTION FOR
3 ONGOING EXTRAORDINARY COSTS OF CHILDREN WITH DISABILITIES,
4 INCLUDING FOR PLACEMENT OF STUDENTS IN SETTINGS OUTSIDE THE
5 SCHOOL SYSTEM TO REDUCE THE USE OF MODIFIED DAY, HOMEBOUND, AND
6 HOSPITALIZED PLACEMENTS, AND TO REQUIRE AN ANNUAL REPORT ON THE
7 MONITORING OF STUDENTS IN HOMEBOUND, MODIFIED DAY, AND HOSPITAL
8 PLACEMENTS.
9

10 The General Assembly of North Carolina enacts:

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

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

34 For the purposes of this act, extraordinary costs shall only include costs directly
35 attributable to providing the special education services on the student's IEP, such as salary of



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

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

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

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

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

32 **"§ 115C-107.5. Annual reports.**

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

37 ...

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

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

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

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

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

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

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

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