

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1546

Short Title: Students with Disabilities Chgs. (Public)

Sponsors: Representatives Preston, Bell, Johnson, Parmon (Primary Sponsors); Alexander, B. Allen, Carney, Dickson, Farmer-Butterfield, Folwell, Glazier, Jeffus, Jones, Lucas, McLawhorn, Rapp, Ross, Sauls, Tolson, Wainwright, and Warren.

Referred to: Education.

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW ON STUDENTS WITH
2 DISABILITIES.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 115C-106(b) reads as rewritten:

6 "(b) The policy of the State is to provide a free appropriate publicly supported
7 education to every child with ~~special-needs-disabilities~~. The purpose of this Article is to
8 (i) provide for a system of special educational opportunities for all children requiring
9 special education, hereinafter called children with ~~special-needs-disabilities~~; (ii) provide
10 a system for identifying and evaluating the educational needs of all children with ~~special~~
11 ~~needs-disabilities~~; (iii) require evaluation of the needs of ~~such-these~~ children and the
12 adequacy of special education programs before placing children in the programs; (iv)
13 require periodic evaluation of the benefits of the programs to the children and of the
14 nature of the children's needs after placement; (v) prevent denials of equal educational
15 opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the
16 rights of children with ~~special-needs-disabilities~~ and their parents or guardians are
17 protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with
18 respect to children with ~~special-needs-disabilities~~; and (viii) bring State law, regulations,
19 and practice into conformity with relevant federal law."

20 **SECTION 2.** G.S. 115C-107 reads as rewritten:

21 "**§ 115C-107. Children can learn.**

22 The General Assembly finds that all children with ~~special-needs-disabilities~~ are
23 capable of ~~benefitting~~ benefiting from ~~appropriate programs of special education and~~
24 ~~training and that they have the ability to be educated and trained and to learn and~~
25 ~~develop~~ access to the general curriculum and are best educated in the least restrictive

1 environment. Accordingly, the State has a duty to provide them with a free appropriate
2 public education."

3 **SECTION 3.** G.S. 115C-108 reads as rewritten:

4 **"§ 115C-108. Definition of special education and related services.Definitions.**

5 ~~The term "special education" means specially designed instruction, at no cost to the~~
6 ~~parents or guardians, to meet the unique needs of a special needs child, including~~
7 ~~classroom instruction, instruction in physical education, home instruction, and~~
8 ~~instruction in hospitals and institutions. The term also includes speech pathology,~~
9 ~~audiology, occupational and physical therapy. The term "related services" means~~
10 ~~transportation for handicapped children with special needs who are unable because of~~
11 ~~their handicap to ride the regular school buses and such developmental, corrective and~~
12 ~~other supportive services as are required to assist a special needs child to benefit from~~
13 ~~special education and includes speech pathology and audiology, psychological services,~~
14 ~~physical and occupational therapy, recreation, early identification and assessment of~~
15 ~~disabilities in children, counseling services, and medical services for diagnostic or~~
16 ~~evaluation purposes only. The term also includes school social work services, parent~~
17 ~~counseling and training, providing parents with information about child development~~
18 ~~and assisting parents in understanding the special needs of their child. Other similar~~
19 ~~services, materials and equipment may be provided as approved by regulations adopted~~
20 ~~by the State Board of Education.~~The following definitions apply in this Chapter:

21 (1) Child with a disability. – A child:

- 22 a. With mental retardation; hearing impairments, including
23 deafness; speech or language impairments; visual impairments,
24 including blindness; serious emotional disturbance; orthopedic
25 impairments; autism; traumatic brain injury; other health
26 impairments; or specific learning disabilities; and
27 b. Who, by reason of the disability, needs special education and
28 related services.

29 (2) Free appropriate public education. – Special education and related
30 services that:

- 31 a. Are provided at public expense, under public supervision and
32 direction, and without charge;
33 b. Meet the standards of the State Board of Education;
34 c. Include appropriate preschool, elementary, or secondary school
35 education in the State; and
36 d. Are provided in conformity with an individualized education
37 program.

38 (3) IDEA. – The Individuals with Disabilities Education Act, 20 U.S.C. §
39 1400 and regulations adopted under that Act.

40 (4) Individualized education program or IEP. – A written statement for
41 each child with a disability that is developed, reviewed, and revised in
42 accordance with section 614(d) of IDEA.

- 1 (5) Preschool child with a disability. – A child with a disability who has
2 reached the child's third birthday, who is not eligible to enroll in public
3 kindergarten, and who needs special education and related services.
- 4 (6) Related services. – Transportation and any developmental, corrective
5 and other supportive services that may be required to assist a child
6 with a disability to benefit from special education; and includes the
7 early identification and assessment of disabling conditions in children.
- 8 (7) Special education. – Specially designed instruction, at no cost to
9 parents or guardians, to meet the unique needs of a child with a
10 disability, including classroom instruction, instruction in physical
11 education, home instruction, and instruction in hospitals and
12 institutions.
- 13 (8) Supportive services. – Services that may include any one or more of
14 the following: speech-language pathology and audiology services;
15 psychological services; physical and occupational therapy; recreation,
16 including therapeutic recreation; social work services; counseling
17 services, including rehabilitation counseling, orientation and mobility
18 services; and medical services for diagnostic and evaluation purposes
19 only."

20 **SECTION 4.** G.S. 115C-109 is repealed.

21 **SECTION 5.** G.S. 115C-110 reads as rewritten:

22 "**§ 115C-110. Services mandatory; single-agency responsibility; State and local**
23 **plans; census and registration.**

24 (a) The Board shall cause to be provided by all local school administrative units
25 and by all other State and local governmental agencies providing special education
26 services or having children with ~~special-needs~~disabilities in their care, custody,
27 management, jurisdiction, control, or programs, special education and related services
28 appropriate to all children with ~~special-needs~~disabilities. In this regard, all local school
29 administrative units and all other State and local governmental agencies providing
30 special education and related services shall explore available local resources and
31 determine whether the services are currently being offered by an existing public or
32 private agency.

33 When a specified special education or related service is being offered by a local
34 public or private resource, any unit or agency described above shall negotiate for the
35 purchase of that service or shall present full consideration of alternatives and its
36 recommendations to the Board. In this regard, a new or additional program for special
37 education or related services shall be developed with the approval of the Board only
38 when that service is not being provided by existing public or private resources or the
39 service cannot be purchased from existing providers. Further, the Board shall support
40 and encourage joint and collaborative special education planning and programming at
41 local levels to include local administrative units and the programs and agencies of the
42 Departments of Health and Human Services, Correction, and Juvenile Justice and
43 Delinquency Prevention.

1 The jurisdiction of the Board with respect to the design and content of special
2 education programs or related services for children with ~~special-needs~~disabilities
3 extends to and over the Department of Health and Human Services, the Department of
4 Juvenile Justice and Delinquency Prevention, and the Department of Correction.

5 All provisions of this Article that are specifically applicable to local school
6 administrative units also are applicable to the Department of Health and Human
7 Services, the Department of Juvenile Justice and Delinquency Prevention, and the
8 Department of Correction and their divisions and agencies; all duties, responsibilities,
9 rights and privileges specifically imposed on or granted to local school administrative
10 units by this Article also are imposed on or granted to the Department of Health and
11 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and
12 the Department of Correction and their divisions and agencies. However, with respect to
13 children with ~~special-needs~~disabilities who are residents or patients of any
14 state-operated or state-supported residential treatment facility, including without
15 limitation, a school for the deaf, school for the blind, mental hospital or center, mental
16 retardation center, or in a facility operated by the Department of Juvenile Justice and
17 Delinquency Prevention, the Department of Correction or any of its divisions and
18 agencies, the Board shall have the power to contract with the Department of Health and
19 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and
20 the Department of Correction for the provision of special education and related services
21 and the power to review, revise and approve any plans for special education and related
22 services to those residents.

23 The Departments of Health and Human Services, Correction, and Juvenile Justice
24 and Delinquency Prevention shall submit to the Board their plans for the education of
25 children with ~~special-needs~~disabilities in their care, custody, or control. The Board shall
26 have general supervision and shall set standards, by rule or regulation, for the programs
27 of special education to be administered by it, by local educational agencies, and by the
28 Departments of Health and Human Services, Correction, and Juvenile Justice and
29 Delinquency Prevention. The Board may grant specific exemptions for programs
30 administered by the Department of Health and Human Services, the Department of
31 Juvenile Justice and Delinquency Prevention, or the Department of Correction when
32 compliance by them with the Board's standards would, in the Board's judgment, impose
33 undue hardship on this department and when other procedural due process requirements,
34 substantially equivalent to those of G.S. 115C-116, are assured in programs of special
35 education and related services furnished to children with ~~special-needs~~disabilities served
36 by this department. Further, the Board shall recognize that inpatient and residential
37 special education programs within the Departments of Health and Human Services,
38 Correction, and Juvenile Justice and Delinquency Prevention may require more program
39 resources than those necessary for optimal operation of these programs in local school
40 administrative units.

41 Every State and local department, division, unit or agency covered by this section is
42 hereinafter referred to as a "local educational agency" unless the text of this Article
43 otherwise provides.

1 (b) The Board shall make and keep current a plan for the implementation of the
2 policy set forth in G.S. 115C-106(b). The plan shall include:

- 3 (1) A census of the children with ~~special needs~~disabilities in the State, as
4 required by subsection (j) of this section;
5 (2) A procedure for ~~diagnosis~~identification and evaluation of each child;
6 (3) An inventory of the personnel and facilities available to provide
7 special education for these children;
8 (4) An analysis of the present distribution of responsibility for special
9 education between State and local educational agencies, together with
10 recommendations for any necessary or desirable changes in the
11 distribution of responsibilities;
12 (5) Standards for the education of children with ~~special needs~~disabilities;
13 (6) Programs and procedures for the development and implementation of a
14 comprehensive system of personnel development; and
15 (7) Any additional matters, including recommendations for amendment of
16 laws, changes in administrative regulations, rules and practices and
17 patterns of special organization, and changes in levels and patterns of
18 education financial support.

19 (c) The Board shall annually submit amendments to or revisions of the plan
20 required by subsection (b) of this section to the Governor and General Assembly and
21 make it available for public comment ~~pursuant to~~under subdivision (1) of subsection
22 (b) of this section and for public distribution no less than 30 days before January 15 of
23 each year. ~~All such~~These submissions shall set forth in detail the progress made in the
24 implementation of the plan.

25 (d) The Board shall adopt rules covering:

- 26 (1) The qualifications of and standards for certification of teachers,
27 teacher assistants, speech clinicians, school psychologists, and others
28 involved in the education and training of ~~children with special needs~~a
29 child with a disability;
30 (2) Minimum standards for the individualized educational program for all
31 children with ~~special needs~~disabilities other than for the pregnant
32 children, and for the educational program for the pregnant children,
33 who receive special education and related services; and
34 (3) Any other rules as may be necessary or appropriate for carrying out the
35 purposes of this Article. Representatives from the Departments of
36 Health and Human Services, Correction, and Juvenile Justice and
37 Delinquency Prevention shall be involved in the development of the
38 standards outlined under this subsection.

39 (e) On or before October 15, each local educational agency shall report annually
40 to the Board the extent to which it is then providing special education for children with
41 ~~special needs~~disabilities. The annual report also shall detail the means by which the
42 local educational agency proposes to secure full compliance with the policy of this
43 Article, including the following:

- 1 (1) A statement of the extent to which the required education and services
2 will be provided directly by the agency;
- 3 (2) A statement of the extent to which standards in force ~~pursuant to~~ under
4 G.S. 115C-110(b)(5) and G.S. 115C-110(d)(2) are being met by the
5 agency; and
- 6 (3) The means by which the agency will contract to provide, at levels
7 meeting standards in force ~~pursuant to~~ under G.S. 115C-110(b)(5) and
8 G.S. 115C-110(d)(2), all special education and related services not
9 provided directly by it or by the State.
- 10 (f) After submitting the report required by subsection ~~(e)~~, (e) of this section, the
11 local educational agency also shall submit ~~such~~ supplemental and additional reports as
12 the Board may require to keep the local educational agency's plan current.
- 13 (g) By rule, the Board shall prescribe due dates not later than October 15 of each
14 year, and all other necessary or appropriate matters relating to these annual and
15 supplemental and additional reports.
- 16 (h) The annual report shall be a two-year plan for providing appropriate special
17 education and related services to children with ~~special needs~~ disabilities. The agency
18 shall submit the plan to the Board for its review, approval, modification, or disapproval.
19 Unless thereafter modified with approval of the Board, the plan shall be adhered to by
20 the local educational agency. The procedure for approving, disapproving, establishing,
21 and enforcing the plan shall be the same as that set forth for the annual plan. The
22 long-range plan shall include ~~such~~ provisions ~~as may be~~ that are appropriate for the
23 following, without limitation:
- 24 (1) Establishment of classes, other programs of instruction, curricula,
25 facilities, equipment, and special services for children with special
26 needs; and
- 27 (2) Utilization and professional development of teachers and other
28 personnel working with children with special needs.
- 29 (i) Each local educational agency shall provide ~~free appropriate special~~
30 ~~education and related services in accordance with the provisions of this Article for all~~
31 ~~children with special needs who are residents~~ a free appropriate public education to each
32 child with a disability who is a resident of, or whose parents or guardians are residents
33 of, the agency's district, beginning with children aged five. No matriculation or tuition
34 fees or other fees or charges shall be required or asked of ~~children with special needs or~~
35 ~~their~~ any child with a disability or that child's parents or guardians except those fees or
36 charges as are required uniformly of all public school pupils. The provision of ~~free~~
37 ~~appropriate special education~~ a free appropriate public education within the facilities of
38 the Department of Health and Human Services ~~and~~ or the Department of Juvenile
39 Justice and Delinquency Prevention shall not prevent ~~that department~~ either Department
40 from charging for other services or treatment.
- 41 (j) The Board shall require an annual census of children with ~~special needs~~,
42 disabilities, subdivided for "identified" and "suspected" children with ~~special needs~~,
43 disabilities, to be taken in each school year. Suspected children are those in the formal
44 process of being identified, evaluated or ~~diagnosed~~ eligible as children with ~~special~~

1 ~~needs.~~disabilities. The census shall be conducted annually and shall be completed not
2 later than October 15, and shall be submitted to the Governor and General Assembly
3 and be made available to the public no later than January 15 annually.

4 In taking the census, the Board shall require the cooperation, participation, and
5 assistance of all local educational agencies and all other State and local governmental
6 departments and agencies providing or required to provide special education services to
7 children with ~~special needs,~~disabilities, and those departments and agencies shall
8 cooperate and participate with and assist the Board in conducting the census.

9 The census shall include the number of children identified and suspected with
10 ~~special needs,~~disabilities, their age, the nature of their disability, their county or city of
11 residence, their local school administrative unit residence, whether they are being
12 provided special educational or related services and if so by what department or agency,
13 whether they are not being provided special education or related services, the identity of
14 each department or agency having children with ~~special needs~~disabilities in its care,
15 custody, management, jurisdiction, control, or programs, the number of children with
16 ~~special needs~~disabilities being served by each department or agency, and ~~such~~ other
17 information or data as the Board shall require. The census shall be of children with
18 ~~special needs~~disabilities between the ages of three and 21, inclusive.

19 (k) The Department shall monitor the effectiveness of individualized education
20 programs in meeting the educational needs of all children with ~~special needs~~disabilities
21 other than pregnant children, and of educational programs in meeting the educational
22 needs of the pregnant children.

23 (l) The Board shall provide for procedures assuring that in carrying out the
24 requirements of this Article procedures are established for consultation with individuals
25 involved in or concerned with the education of children with ~~special needs,~~disabilities,
26 including parents or guardians of ~~such~~these children, and there are public hearings,
27 adequate notice of ~~such~~the hearings, and an opportunity for comment available to the
28 general public ~~prior to~~before the adoption of the policies, procedures, and rules ~~or~~
29 ~~regulations~~ required by this Article.

30 (m) Children with ~~special needs~~disabilities shall be educated in the least
31 restrictive appropriate setting, as defined by the State Board of Education.

32 (n) **(Effective July 1, 2003)** Each interpreter or transliterator employed by a local
33 educational agency, to provide services to hearing-impaired students, must annually
34 complete 15 hours of job-related training that has been approved by the local
35 educational agency."

36 **SECTION 6.** G.S. 115C-111 reads as rewritten:

37 "**§ 115C-111. Free appropriate public education for all children with special**
38 **needs.disabilities.**

39 No child with ~~special needs~~a disability between the ages ~~specified by G.S. 115C-109~~
40 of three years through 20 years shall be denied a free appropriate public education or be
41 prevented from attending the public schools of the local educational agency in which he
42 or his parents or legal guardian resides or from which he receives services or from
43 attending any other public program of free appropriate public education because he is a
44 child with ~~special needs~~a disability. If it appears that a child should receive a ~~program~~

1 of-free appropriate public education in a program operated by or under the supervision
2 of the Department of Health and Human Services or the Department of Juvenile Justice
3 and Delinquency Prevention, the local educational agency shall confer with the
4 appropriate Department of Health and Human Services or Department of Juvenile
5 Justice and Delinquency Prevention staff for their participation and determination of the
6 appropriateness of placement in said program and development of the child's
7 individualized education program. The individualized education program may then be
8 challenged under the due process provisions of G.S. 115C-116. Every child with special
9 needs and a disability shall be entitled to attend these nonresidential schools or programs and
10 receive from them free appropriate public education."

11 **SECTION 7.** G.S. 115C-113 reads as rewritten:

12 "**§ 115C-113. ~~Diagnosis and evaluation;~~ Evaluation and identification;**
13 **individualized education program.**

14 (a) Before taking any action described in subsection ~~(b)~~, ~~below~~, ~~(b)~~ of this
15 section, each local educational agency shall ~~cause a multi-disciplinary diagnosis and~~
16 ~~evaluation to be made of the child.~~ The State Board of Education shall establish special,
17 ~~simplified procedures for the diagnosis and evaluation of the pregnant child, which~~
18 ~~procedures shall focus on the particular needs of the pregnant child and shall exclude~~
19 ~~those procedures which are not pertinent to the pregnant.~~ conduct evaluations and
20 determine eligibility consistent with IDEA. The local educational agency shall use the
21 ~~diagnosis and evaluation to determine if the child has special needs, diagnose and~~
22 ~~disability, evaluate those that child's individual needs, propose special education~~
23 ~~programs and related services to meet those needs, and provide or arrange to provide~~
24 ~~such programs. that special education and related services.~~ A multi-disciplinary
25 diagnosis and evaluation is one which includes, without limitation, medical (if
26 necessary), psychological (if necessary) and educational assessments and
27 ~~recommendations; such an recommendations.~~ The evaluation may include any other
28 assessments as the Board may, by rule or regulation, require. ~~the Board requires.~~

29 All testing and evaluation materials and procedures utilized for the purposes of
30 evaluation and placement of children with ~~special needs~~ disabilities will be selected and
31 administered so as not to be racially or culturally discriminatory. ~~Such~~ These materials
32 or procedures shall be provided and administered in the child's native language or mode
33 of communication, unless it clearly is not feasible to do so, and no single procedure
34 shall be the sole criterion for determining an appropriate educational program for a
35 child.

36 (b) An initial ~~multi-disciplinary diagnosis and full and individual~~ evaluation
37 ~~based on rules developed by the Board consistent with IDEA~~ shall be made before any
38 ~~such child with a disability~~ is placed in a special education program, removed from ~~such~~
39 a special education program and placed in a regular school program, transferred from
40 one type of special education program to another, or removed from a school program
41 for placement in a nonschool program, or otherwise tracked, classified, or treated as a
42 child with special needs.

43 (c) Referral of any child shall be in writing, signed by the person requesting
44 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or

1 delivered to one of the following: the child's teacher, the principal of the school to
2 which the child is, has been or will be assigned, or the superintendent of the affected
3 local educational agency or his designee. The local educational agency shall send a
4 written notice to the parent or guardian describing the evaluation procedure to be
5 followed and requesting consent for the evaluation. If the parents or guardian consent,
6 the ~~diagnosis and~~ evaluation may be undertaken; if they do not, the local educational
7 agency may obtain a due process hearing ~~pursuant to~~ under G.S. 115C-116 on the
8 failure of the parent or guardian to consent.

9 The local educational agency shall provide or cause to be provided, as soon as
10 possible after receiving consent for evaluation, a ~~diagnosis and~~ an evaluation
11 appropriate to the needs of the child unless the parents or guardian have objected to
12 ~~such the~~ evaluation. If at the conclusion of the evaluation, the child is determined to be a
13 child with ~~special needs,~~ a disability, the local educational agency shall within 30
14 calendar days convene an individualized education program committee. The purpose of
15 the meeting shall be to propose the special education and related services for the child.
16 An interpretation of the multi-disciplinary ~~diagnosis and~~ evaluation will be made to the
17 parent or guardian during the meeting. The proposal shall set forth the specific benefits
18 expected from ~~such a~~ any program, a method for monitoring the benefits, and a
19 statement regarding conditions ~~which that~~ will be considered indicative of the child's
20 readiness for participation in regular classes.

21 After an initial referral is made, the provision of special education and related
22 services shall be implemented within 90 calendar days to eligible students, unless the
23 parents or guardian refuse to consent to evaluation or placement or the parent or local
24 educational agency requests a due process hearing.

25 Within 12 months after placement in a special education program, and at least
26 annually thereafter, those people responsible for developing the child's individualized
27 education program, or educational program for the pregnant, shall review the child's
28 progress and, on the basis of previously stated expected benefits, decide whether to
29 continue or discontinue the placement or program. If the review indicates that the
30 placement or program does not benefit the child, the appropriate reassignment or change
31 in the prescribed program shall be recommended to the parents or guardian.

32 The local educational agency shall keep a complete written record of all ~~diagnostic~~
33 ~~and~~ evaluation procedures attempted, their results, the conclusions reached, and the
34 proposals made.

35 (d) The local educational agency shall furnish the results, findings, and
36 proposals, as described in the individualized education program based on the ~~diagnosis~~
37 ~~and~~ evaluation to the parents or guardian in writing in the parents' or guardian's native
38 language or by their dominant mode of communication, prior to the parent or guardian
39 giving consent for initial placement in special education and related services. Prior
40 notice will be given to the parents or guardian by the local educational agency before
41 any change in placement.

42 A reevaluation must be completed at least every three years to determine the
43 appropriateness of the child's continuing to receive special education and related
44 services.

1 (e) Each local educational agency shall make and keep current a list of all
2 children evaluated ~~and diagnosed pursuant to~~ under this section who are found to have
3 ~~special needs~~ disabilities and of all children who are receiving home, hospital,
4 institutional or other special education services, including those being educated within
5 the regular classroom setting or in other special education programs.

6 (f) Each local educational agency shall prepare ~~individualized educational~~
7 ~~programs for all children found to be children with special needs other than the pregnant~~
8 ~~children,~~ an IEP for each child with a disability who requires special education and
9 related services and educational programs prescribed in subsection (h) of this section for
10 the pregnant children. ~~The individualized educational program shall be developed in~~
11 ~~conformity with Public Law 94-142 and the implementing regulations issued by the~~
12 ~~United States Department of Education and shall be implemented in conformity with~~
13 ~~timeliness set by that Department. The term "individualized educational program"~~
14 ~~means a written statement for each such child developed in any meeting by a~~
15 ~~representative of the local educational agency who shall be qualified to provide, or~~
16 ~~supervise the provision of, specially designed instruction to meet the unique needs of~~
17 ~~such children, the teacher, the parents or guardian of such child, and, whenever~~
18 ~~appropriate, such child, which statement shall be based on rules developed by the~~
19 ~~Board.~~ The development of an IEP, including its time lines, shall meet the requirements
20 of IDEA. Each local educational agency shall ~~establish,~~ develop or revise, whichever is
21 appropriate, the individualized educational program of each child with ~~special~~
22 ~~needs~~ disabilities each school year and will then review and, if appropriate revise, its
23 provisions periodically, but not less than annually. In the facilities and programs of the
24 Department of Health and Human Services and the Department of Juvenile Justice and
25 Delinquency Prevention, the individualized educational program shall be planned in
26 collaboration with those other individuals responsible for the design of the total
27 treatment or habilitation plan or both; the resulting educational, treatment, and
28 habilitation plans shall be coordinated, integrated, and internally consistent.

29 (g) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.24(e).

30 (h) Each local educational agency shall prepare educational programs for the
31 pregnant children. The State Board of Education shall ~~promulgate~~ adopt rules and
32 ~~regulations~~ specifically to address the preparation of these educational ~~programs, which~~
33 ~~rules and regulations~~ programs. The rules shall include specific standards for ensuring
34 that the individual educational needs of each child are addressed."

35 **SECTION 8.** G.S. 115C-114(a) reads as rewritten:

36 "(a) No local educational agency may release to any persons other than the
37 eligible student, his parents or guardian or any surrogate parent any records, data or
38 information on any child with ~~special needs~~ a disability except (i) as permitted by the
39 prior written consent of the student, his parents or guardian or surrogate parent, (ii) as
40 required or permitted by federal law, (iii) school officials within the local education
41 agency who have legitimate educational interest, (iv) school officials of other local
42 educational agencies in which the student intends to enroll, or (v) certain authorized
43 representatives of the State and federal government who are determining eligibility of
44 the child for aid, as provided under Public Law 93-380 or other federal law."

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

2 "(3) If the placement of the child in a private school, out-of-state school or
3 a school in another local educational agency determined by the
4 Superintendent of Public Instruction to be the most cost-effective way
5 to provide an appropriate education to that child and the child is not
6 currently being educated by the Department of Health and Human
7 Services, the Department of Juvenile Justice and Delinquency
8 Prevention, or the Department of Correction, the State will bear a
9 portion of the cost of the placement of the child. The local school
10 administrative unit shall pay an amount equal to what it receives per
11 pupil from the State Public School Fund and from other State and
12 federal funds for children with ~~special-needs~~disabilities for that child.
13 The State shall pay the full cost of any remainder up to a maximum of
14 fifty percent (50%) of the total cost."

15 **SECTION 10.** G.S. 115C-116(a) reads as rewritten:

16 "(a) Prior Notice. – The parent, guardian, or surrogate parent of a child shall be
17 notified promptly when the local educational agency proposes to initiate or change, or
18 refuses to initiate or change, the identification, evaluation, or educational placement of a
19 child as a child with ~~special-needs~~disabilities. The written notice shall contain a full
20 explanation of all the procedural safeguards available to the parent, guardian, or
21 surrogate parent including the right to review the proposed decision, and a statement
22 offering the parent, guardian, or surrogate parent the opportunity for mediation. The
23 local educational agency shall document that all required notices have been sent to and
24 received by parents, guardians, or surrogate parents."

25 **SECTION 11.** G.S. 115C-116(b) reads as rewritten:

26 "(b) Mediation. – It is the policy of this State to encourage local educational
27 agencies and parents, guardians, surrogate parents, custodians, and eligible students to
28 seek informal resolution of disputes or disagreements regarding the identification of
29 children with ~~special-needs~~disabilities and the provision of special education and related
30 services before filing a request for a formal administrative review of the matter. To that
31 end, the following provisions apply to the mediation of these disputes:

- 32 (1) Purpose. – The purpose of mediation is to clarify the concerns of the
33 parents and to resolve disputes.
- 34 (2) Definitions. – As used in this subsection, the following terms have the
35 following meanings:
- 36 a. "Dispute" means a disagreement between the parties that is
37 subject to review under subsection (c) of this section.
- 38 b. "Mediation" means an informal process conducted by a
39 mediator with the objective of helping parties voluntarily settle
40 their dispute.
- 41 c. "Mediator" means a neutral person who acts to encourage and
42 facilitate a resolution of a dispute.
- 43 d. "Parents" means parents, guardians, surrogate parents,
44 custodians, and eligible students.

- 1 e. "Parties" means the local educational agency and the parents.
2 (3) Nonadversarial. – The mediation shall be informal and nonadversarial
3 as provided in G.S. 150B-22.
4 (4) Rules of procedure. – The mediator is encouraged to follow applicable
5 procedures provided in G.S. 7A-38.1, G.S. 7A-38.2, and applicable
6 rules adopted by the Supreme Court under G.S. 7A-38.1. The mediator
7 may establish other procedures to facilitate an informal resolution of
8 the dispute. The mediator shall not render a decision or judgment as to
9 the merits of the dispute.
10 (5) Request for mediation. – Before a request for formal administrative
11 review is filed, mediation shall commence upon the request of either
12 party, so long as the other party consents.
13 (6) Selection of mediator. – The parties shall agree to the selection of the
14 mediator. The Exceptional Children Division of the Department of
15 Public Instruction shall maintain a list of mediators who are certified
16 or trained in resolving disputes under this subsection.
17 (7) Notice of right to mediation. – The local educational agency shall
18 notify parents of their right to request mediation under this subsection.
19 (8) Time periods tolled. – Notwithstanding G.S. 150B-23, time periods
20 related to the filing of a formal administrative review or the taking of
21 any other action with respect to the dispute, including any applicable
22 statutes of limitations, are tolled upon the filing of a request for
23 mediation under this subsection until the mediation is completed or the
24 mediator declares an impasse.
25 (9) Good cause for continuance. – A good faith effort by both parties to
26 mediate the dispute is presumed to constitute good cause for a
27 continuance so long as the administrative law judge does not find that
28 the time delay for mediation would likely result in irreparable harm to
29 one of the parties or to the child.
30 (10) Inadmissibility of negotiations. – Evidence of statements made and
31 conduct occurring in a mediation shall not be subject to discovery and
32 shall be inadmissible in any proceeding in the action or other actions
33 on the same claim. However, no evidence otherwise discoverable shall
34 be inadmissible merely because it is presented or discussed in a
35 mediation. Mediators shall not be compelled in any civil proceeding to
36 testify or produce evidence concerning statements made and conduct
37 occurring in a mediation.
38 (11) Mediator's fees. – If mediation is requested before a request for formal
39 administrative review is filed, the local educational agency shall pay
40 the mediator's fees for one mediation session. If resolution is not
41 reached in that session, the parties must agree to continue the
42 mediation. The local educational agency shall pay any mediator fees
43 for subsequent mediation sessions unless the parties agree otherwise.

1 (12) Mediated settlement conference after a request for administrative
2 review. – In addition to mediation as provided by this subsection, the
3 parties may participate in a mediated settlement conference as
4 provided by G.S. 150B-23.1.

5 (13) Promotion of other settlement procedures. – The parties may agree to
6 use other dispute resolution methods or to use mediation in other
7 circumstances, including after a request for formal administrative
8 review is filed, to the extent permitted under State and federal law."

9 **SECTION 12.** G.S. 115C-116(c) reads as rewritten:

10 "(c) Right of Review. – The parent, guardian, or surrogate parent may obtain
11 review of proposed decisions ~~on the following grounds:~~ relating to the following:

12 (1) The child has not been identified or has been incorrectly identified as a
13 child with ~~special needs;~~ a disability;

14 (2) The child's individualized education ~~plan-program and placement~~ is
15 not appropriate to meet ~~his~~ the child's needs;

16 (3) The child's individualized education ~~plan-program~~ is not being
17 implemented; or

18 (4) The child is ~~otherwise~~ being denied a free, appropriate education.

19 In addition, a local educational agency may obtain review as provided by this section if
20 a parent, guardian, or surrogate parent refuses to consent to the evaluation of the child
21 for the purpose of determining whether the child is a child with ~~special needs~~ a disability
22 or for the purpose of developing a free appropriate educational program for the child."

23 **SECTION 13.** G.S. 115C-122 reads as rewritten:

24 "**§ 115C-122. Early childhood development program; evaluation and placement of**
25 **children.**

26 The General Assembly of North Carolina declares that the public policy of North
27 Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

28 (1) The State shall provide for a comprehensive early childhood
29 development program by emphasizing preventative and remedial
30 measures designed to provide the services which will enable children
31 to develop to the maximum level their physical, mental, social, and
32 emotional potentials and to strengthen the role of the family as the first
33 and most fundamental influence on child development. The General
34 Assembly finds that the complexity of early childhood development
35 precludes the enactment of legislation which is of a sufficiently
36 comprehensive nature to encompass all possible implications. The
37 Departments of Public Instruction and Health and Human Services
38 shall, therefore, jointly develop an early childhood development
39 program plan with flexibility sufficient to meet the State's policy as set
40 forth in this subdivision. Said plan shall provide for the operation of a
41 statewide early childhood development program no later than June 30,
42 1983.

43 (2) The State requires a system of educational opportunities for all
44 children with ~~special needs~~ disabilities and requires the identification

1 and evaluation of the needs of children and the adequacy of various
2 education programs before placement of children, and shall provide for
3 periodic evaluation of the benefits of programs to the individual child
4 and the nature of the child's needs thereafter.

- 5 (3) The State shall prevent denial of equal educational and service
6 opportunity on the basis of national origin, sex, economic status, race,
7 religion, and physical, mental, social or emotional ~~handicap-disability~~
8 in the provision of services to any child. Each local school
9 administrative unit shall develop program plans to meet the
10 educational requirements of children with ~~special-needs~~disabilities and
11 each local human services agency shall develop program plans to meet
12 the human service requirements of children with ~~special~~
13 ~~needs~~disabilities in accordance with program standards and in a
14 planning format as shall be prescribed by the State Board of Education
15 and the Department of Health and Human Services respectively.

16 The General Assembly intends that the educational program and
17 human service program requirements of Session Laws 1973, Chapter
18 1293, shall be realized no later than June 30, 1982. The General
19 Assembly further intends that currently imposed barriers to
20 educational and human service opportunities for children with ~~special~~
21 ~~needs-disabilities~~ by reason of a single standardized test, income,
22 federal regulations, conflicting statutes, or any other barriers are
23 hereby abrogated; except that with respect to barriers caused by reason
24 of income, it shall be permissible for the State or any local education
25 agency or local human services agency to charge fees for special
26 services rendered, or special materials furnished to a child with ~~special~~
27 ~~needs, disabilities, his parents, guardian~~ that child's parents or guardian,
28 or persons standing in loco parentis unless the imposition of ~~such~~ fees
29 would prevent or substantially deter the child, ~~his parents, the child's~~
30 parents or guardian, or persons standing in loco parentis from availing
31 themselves of or receiving ~~such~~ these services or materials.

- 32 (4) It is recognized that children have a variety of characteristics and
33 needs, all of which must be considered if the potential of each child is
34 to be realized; that in order to accomplish this the State must develop a
35 full range of service and education programs, and that a program must
36 actually benefit a child or be designed to benefit a particular child in
37 order to provide ~~such~~ the child with appropriate educational and
38 service opportunities. The General Assembly requires that all
39 programs employ least restrictive alternatives as shall be defined by
40 the Departments of Public Instruction and Health and Human
41 Services."

42 **SECTION 14.** G.S. 115C-139 reads as rewritten:

43 **"§ 115C-139. Interlocal cooperation.**

1 (a) The Board, any two or more local educational agencies and any ~~such~~ agency
2 and any State department, agency, or division having responsibility for the education,
3 treatment or habilitation of children with ~~special-needs~~disabilities are authorized to enter
4 into interlocal cooperation undertakings ~~pursuant to the provisions of Chapter 160A,~~
5 ~~Article 20, Part 1~~ under Part 1 of Article 20 of Chapter 160A of the General Statutes or
6 into undertakings with a State agency such as the Departments of Public Instruction,
7 Health and Human Services, Juvenile Justice and Delinquency Prevention, or
8 Correction, or their divisions, agencies, or units, for the purpose of providing for the
9 special education and related services, treatment or habilitation of ~~such~~these children
10 within the jurisdiction of the agency or unit, and shall do so when it itself is unable to
11 provide the appropriate public special education or related services for these children. In
12 entering into ~~such~~these undertakings, the local agency and State department, agency, or
13 division shall also contract to provide the special education or related services that are
14 most educationally appropriate to the children with ~~special-needs~~disabilities for whose
15 benefit the undertaking is made, and provide these services by or in the local agency
16 unit or State department, agency, or division located in the place most convenient to
17 these children.

18 (b) Local educational agencies may establish special education and related
19 programs for children with ~~special-needs~~disabilities aged birth through four and 19
20 through 21 inclusive."

21 **SECTION 15.** G.S. 115C-140 reads as rewritten:

22 "**§ 115C-140. Contracts with private service-providers.**

23 State departments, agencies and divisions and local educational agencies furnishing
24 special education and related services to children with ~~special-needs~~disabilities may
25 contract with private special education facilities or service providers to furnish ~~such~~
26 ~~services as~~services that the public providers are unable to furnish. No contract between
27 any public and private service provider ~~shall be~~is effective until it has received the prior
28 written approval of the Board. The Board shall not withhold its approval of the contract
29 unless the private facilities and providers do not meet the Board's standards established
30 ~~pursuant to~~under G.S. 115C-110(a), 115C-110(b)(5), and 115C-110(d)(2)."

31 **SECTION 16.** G.S. 115C-140.1 reads as rewritten:

32 "**§ 115C-140.1. Cost of education of children in group homes, foster homes, etc.**

33 (a) **(Effective until July 1, 2003)** Notwithstanding the provisions of any other
34 statute and without regard for the place of domicile of a parent or guardian, the cost of a
35 free appropriate public education for a child with ~~special-needs~~a disability who is placed
36 in or assigned to a group home, foster home or other similar facility, ~~pursuant to~~under
37 State and federal law, shall be borne by the local board of education in which the group
38 home, foster home or other similar facility is located. Nothing in this section obligates
39 any local board of education to bear any cost for the care and maintenance of a child
40 with ~~special-needs~~a disability in a group home, foster home or other similar facility.

41 (a) **(Effective July 1, 2003)** Notwithstanding the provisions of any other statute
42 and without regard for the place of domicile of a parent or guardian, the cost of a free
43 appropriate public education for a child with ~~special-needs~~a disability who is placed in
44 or assigned to a group home, foster home or other similar facility, ~~pursuant to~~under

1 State and federal law, shall be borne by the local board of education in which the group
2 home, foster home or other similar facility is located. However, the local school
3 administrative unit in which a child is domiciled shall transfer to the local school
4 administrative unit in which the institution is located an amount equal to the actual local
5 cost in excess of State and federal funding required to educate that child in the local
6 school administrative unit for the fiscal year. Nothing in this section obligates any local
7 board of education to bear any cost for the care and maintenance of a child with ~~special~~
8 needs a disability in a group home, foster home or other similar facility.

9 (b) The State Board of Education shall use State and federal funds appropriated
10 for children with ~~special-needs~~disabilities to establish a reserve fund to reimburse local
11 boards of education for the education costs of children assigned to group homes or other
12 facilities as provided in subsection (a) of this section."

13 **SECTION 17.** G.S. 115C-142 reads as rewritten:

14 **"§ 115C-142. Nonreduction.**

15 Notwithstanding any of the other provisions of this Article, it is the intent of the
16 General Assembly that funds appropriated by it for the operation of programs of special
17 education and related services by local school administrative units not be reduced;
18 rather, that adequate funding be made available to meet the special educational and
19 related services needs of children with ~~special-needs,~~disabilities, without regard to
20 which State or local department, agency, or unit has the child in its care, custody,
21 control, or program."

22 **SECTION 18.** G.S. 115C-145 reads as rewritten:

23 **"§ 115C-145. Allocation of federal funds.**

24 At ~~such any~~ time as any federal moneys for the special education and related
25 services for children with ~~special-needs~~disabilities are made available, these funds shall
26 be allocated according to a formula designed by the Board not inconsistent with federal
27 laws and regulations. Such formula shall insure equitable distribution of resources based
28 upon the number of children with ~~special-needs~~disabilities served by the respective
29 agencies, and shall be implemented as funds are made available from federal and State
30 appropriations."

31 **SECTION 19.** The title of Part 14 of Article 9 of Chapter 115C of the
32 General Statutes reads as rewritten:

33 "Part 14. ~~Handicapped Children, Children With Disabilities, Ages Three to Five.~~"

34 **SECTION 20.** G.S. 115C-146.1 is repealed.

35 **SECTION 21.** G.S. 115C-146.2 reads as rewritten:

36 **"§ 115C-146.2. Entitlement to services.**

37 Preschool ~~handicapped~~-children with disabilities are entitled, at no cost to their
38 parents or guardians, to individualized education programs specifically designed to meet
39 their unique needs for special education and related services."

40 **SECTION 22.** G.S. 115C-146.3(a) reads as rewritten:

41 "(a) The General Assembly finds:

42 (1) That preschool ~~handicapped~~-children with disabilities will benefit from
43 the special education and related services required by this Part;

- 1 (2) That the General Assembly has evaluated the known needs of the State
- 2 and has endeavored to satisfy those needs in comparison to the social
- 3 and economic problems of the State;
- 4 (3) That the funds appropriated to serve these preschool ~~handicapped~~
- 5 ~~children~~ children with disabilities are a reasonable amount to provide
- 6 such children with special education and related services; and
- 7 (4) That, therefore, (i) State funds appropriated to implement this Part are
- 8 the only State funds for public schools that may be used to provide
- 9 special education and related services to preschool ~~handicapped~~
- 10 ~~children;~~ children with disabilities; and (ii) preschool ~~handicapped~~
- 11 ~~children~~ with disabilities will continue to be served by all other State
- 12 funds ~~they are otherwise entitled to;~~ to which they are entitled."

13 **SECTION 23.** G.S. 115C-146.3(b) reads as rewritten:

14 "(b) The State Board of Education shall cause local school administrative units to
15 make available special education and related services to all preschool ~~handicapped~~
16 children with disabilities whose parents or guardians request these services. These
17 services shall start no later than the beginning of the school year immediately following
18 the child's third birthday."

19 **SECTION 24.** G.S. 115C-174.11(b)(2) reads as rewritten:

20 "(2) The tests shall be administered annually to all ninth grade students in
21 the public schools. Students who fail to attain the required minimum
22 standard for graduation in the ninth grade shall be given remedial
23 instruction and additional opportunities to take the test up to and
24 including the last month of the twelfth grade. Students who fail to pass
25 parts of the test shall be retested on only those parts they fail. ~~Students~~
26 ~~in the ninth grade who are enrolled in special education programs or~~
27 ~~who have been officially designated as eligible for participation in~~
28 ~~such programs may be excluded from the testing programs."~~

29 **SECTION 25.** G.S. 115C-81(b)(4) reads as rewritten:

30 "(4) Standards for student performance and promotion based on the
31 mastery of competencies, including standards for graduation, that take
32 into account children with ~~special needs~~ disabilities and, in particular,
33 include appropriate modifications;".

34 **SECTION 26.** G.S. 115C-105.25(b)(4) reads as rewritten:

35 "(b) Subject to the following limitations, local boards of education may transfer
36 and may approve transfers of funds between funding allotment categories:

- 37 ...
- 38 (4) Funds allocated for children with ~~special needs~~ disabilities, for
- 39 students with limited English proficiency, and for driver's education
- 40 shall not be transferred.

41"

42 **SECTION 27.** G.S. 115C-149 reads as rewritten:

43 **"§ 115C-149. Policy. Chemically dependent children excluded from provisions of**
44 **Article 9.**

1 The General Assembly of North Carolina hereby declares that the policy of the State
2 is to ensure that an appropriate education is provided for drug and alcohol addicted
3 children; however, drug and alcohol addicted children are not "children with ~~special~~
4 ~~needs~~" ~~disabilities~~" within the meaning of ~~G.S. 115C-109~~ G.S. 115C-108 unless
5 because of some other condition they meet that definition."

6 **SECTION 28.** G.S. 115C-238.29F(d)(4) reads as rewritten:

7 "(4) The school shall comply with policies adopted by the State Board of
8 Education for charter schools relating to the education of children with
9 ~~special needs~~ disabilities."

10 **SECTION 29.** G.S. 115C-238.29H(a) reads as rewritten:

11 "(a) The State Board of Education shall allocate to each charter school:

- 12 (1) An amount equal to the average per pupil allocation for average daily
13 membership from the local school administrative unit allotments in
14 which the charter school is located for each child attending the charter
15 school except for the allocation for children with ~~special~~
16 ~~needs~~ disabilities and for the allocation for children with limited
17 English proficiency;
- 18 (2) An additional amount for each child attending the charter school who
19 is a child with ~~special needs~~ a disability; and
- 20 (3) An additional amount for children with limited English proficiency
21 attending the charter school, based on a formula adopted by the State
22 Board.

23 In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual
24 adjustments to the amount allocated to a charter school based on its enrollment growth
25 in school years subsequent to the initial year of operation.

26 In the event a child with ~~special needs~~ a disability leaves the charter school and
27 enrolls in a public school during the first 60 school days in the school year, the charter
28 school shall return a pro rata amount of funds allocated for that child to the State Board,
29 and the State Board shall reallocate those funds to the local school administrative unit in
30 which the public school is located. In the event a child with ~~special needs~~ a disability
31 enrolls in a charter school during the first 60 school days in the school year, the State
32 Board shall allocate to the charter school the pro rata amount of additional funds for
33 children with ~~special needs~~ disabilities."

34 **SECTION 30.** G.S. 115C-242(1) reads as rewritten:

35 "(1) A school bus may be used for the transportation of pupils enrolled in
36 and employees in the operation of the school to which ~~such the~~ bus is
37 assigned by the superintendent of the local school administrative unit.
38 Except as otherwise ~~herein provided~~, such provided in this subdivision,
39 transportation shall be limited to transportation to and from ~~such the~~
40 school for the regularly organized school day, and from and to the
41 points designated by the principal of the school to which ~~such the~~ bus
42 is assigned, for the receiving and discharging of passengers. No pupil
43 or employee shall be so transported upon any bus other than the bus to
44 which ~~such the~~ pupil or employee has been assigned ~~pursuant to the~~

1 ~~provisions of under this Article: Provided, that Article; however,~~
2 children enrolled in a Headstart program ~~which that~~ is housed in a
3 building owned and operated by a local school administrative unit
4 where school is being conducted may be transported on public school
5 buses, so long as the contractual arrangements made cause no extra
6 expense to the State. ~~Provided further, that children State. Children~~
7 with ~~special needs~~disabilities may be transported to and from the
8 nearest appropriate private school having a special education program
9 approved by the State Board of Education if the children to be
10 transported are or have been placed in that program by a local school
11 administrative unit as a result of the State or the unit's duty to provide
12 ~~such the~~ children with a free appropriate public education."

13 **SECTION 31.** G.S. 115C-242(5) reads as rewritten:

14 "(5) Local boards of education, under rules ~~and regulations~~ adopted by the
15 State Board of Education, may permit the use and operation of school
16 buses for the transportation of pupils and instructional personnel as the
17 board ~~deems considers~~ necessary to serve the instructional programs of
18 the schools. Included in the use permitted by this section is the
19 transportation of children with ~~special needs, disabilities,~~ such as
20 mentally retarded children and children with physical defects, and
21 children enrolled in programs that require transportation from the
22 school grounds during the school day, such as special vocational or
23 occupational programs. On any such trip, a city or county-owned
24 school bus shall not be taken out of the State.

25 If State funds are inadequate to pay for the transportation approved
26 by the local board of education, local funds may be used for these
27 purposes. Local boards of education shall determine that funds are
28 available to such boards for the transportation of children to and from
29 the school to which they are assigned for the entire school year before
30 authorizing the use and operation of school buses for other services
31 deemed necessary to serve the instructional program of the schools.

32 Children with ~~special needs~~disabilities may be transported to and
33 from the nearest appropriate private school having a special education
34 program approved by the State Board of Education if the children to be
35 transported have been placed in that program by a local school
36 administrative unit as a result of the State or the unit's duty to provide
37 such children with a free appropriate public education."

38 **SECTION 32.** G.S. 115C-250 reads as rewritten:

39 **"§ 115C-250. Authority to expend funds for transportation of children with special**
40 **needs, disabilities.**

41 (a) The State Board of Education and local boards of education may expend
42 public funds for transportation of handicapped children with ~~special needs~~disabilities
43 who are unable because of their handicap to ride the regular school buses and who have
44 been placed in programs by a local school board as a part of its duty to provide such

1 children with a free appropriate education, including its duty under G.S. 115C-115. At
2 the option of the local board of education with the concurrence of the State Board of
3 Education, funds appropriated to the State Board of Education for contract
4 transportation of exceptional children may be used to purchase buses and minibuses as
5 well as for the purposes authorized in the budget. The State Board of Education shall
6 adopt rules ~~and regulations~~ concerning the construction and equipment of these buses
7 and minibuses.

8 The Departments of Health and Human Services, Juvenile Justice and Delinquency
9 Prevention, and Correction may also expend public funds for transportation of
10 ~~handicapped~~ children with ~~special needs~~ disabilities who are unable because of their
11 ~~handicap~~ disability to ride the regular school buses and who have been placed in
12 programs by one of these agencies as a part of that agency's duty to provide ~~such~~ these
13 children with a free appropriate public education.

14 If a local area mental health center places a child with ~~special needs~~ a disability in an
15 educational program, the local area mental health center shall pay for the transportation
16 of the child, if handicapped and unable because of the handicap to ride the regular
17 school buses, to the program.

18 (b) Funds appropriated for the transportation of children with ~~special~~
19 ~~needs~~ disabilities may be used to pay transportation safety assistants employed in
20 accordance with the provisions of G.S. 115C-245(e) for buses to which children with
21 ~~special needs~~ disabilities are assigned."

22 **SECTION 33.** G.S. 115C-397.1 reads as rewritten:

23 "**§ 115C-397.1. Management and placement of disruptive students.**

24 If, after a teacher has requested assistance from the principal two or more times due
25 to a student's disruptive behavior, the teacher finds that the student's disruptive behavior
26 continues to interfere with the academic achievement of that student or other students in
27 the class, then the teacher may refer the matter to a school-based committee. The
28 teacher may request that additional classroom teachers participate in the committee's
29 proceedings. For the purposes of this section, the committee shall notify the student's
30 parent, guardian, or legal custodian and shall encourage that person's participation in the
31 proceedings of the committee concerning the student. A student is not required to be
32 screened, evaluated, or identified as a child with ~~special needs~~ a disability under this
33 section. The committee shall review the matter and shall take one or more of the
34 following actions: (i) advise the teacher on managing the student's behavior more
35 effectively, (ii) recommend to the principal the transfer of the student to another class
36 within the school, (iii) recommend to the principal a multidisciplinary ~~diagnosis and~~
37 evaluation of the student, (iv) recommend to the principal that the student be assigned to
38 an alternative learning program, or (v) recommend to the principal that the student
39 receive any additional services that the school or the school unit has the resources to
40 provide for the student. If the student is suspected of being a child with a disability or
41 has been identified as a child with a disability, then the committee and the principal
42 shall follow rules as described in federal law and procedures adopted by the State Board
43 of Education for children with disabilities. If the principal does not follow the
44 recommendation of the committee, the principal shall provide a written explanation to

1 the committee, the teacher who referred the matter to the committee, and the
 2 superintendent, of any actions taken to resolve the matter and of the reason the principal
 3 did not follow the recommendation of the committee.

4 This section shall be in addition to the supplemental to disciplinary action taken in
 5 accordance with any other law. The recommendation of the committee is final and shall
 6 not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student
 7 to refer a disciplinary matter to this committee or to have the matter of the student's
 8 behavior referred to this committee before any discipline is imposed on the student."

9 **SECTION 34.** G.S. 110-91(11) reads as rewritten:

10 **"§ 110-91. Mandatory standards for a license.**

11 All child care facilities shall comply with all State laws and federal laws and local
 12 ordinances that pertain to child health, safety, and welfare. Except as otherwise
 13 provided in this Article, the standards in this section shall be complied with by all child
 14 care facilities. However, none of the standards in this section apply to the school-age
 15 children of the operator of a child care facility but do apply to the preschool-age
 16 children of the operator. Children 13 years of age or older may receive child care on a
 17 voluntary basis provided all applicable required standards are met. The standards in this
 18 section, along with any other applicable State laws and federal laws or local ordinances,
 19 shall be the required standards for the issuance of a license by the Secretary under the
 20 policies and procedures of the Commission except that the Commission may, in its
 21 discretion, adopt less stringent standards for the licensing of facilities which provide
 22 care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time
 23 basis.

24 ...

25 (11) Staff Development. – The Commission shall adopt minimum standards
 26 for ongoing staff development for facilities but limited to the following
 27 topic areas:

- 28 a. Planning a safe, healthy learning environment;
- 29 b. Steps to advance children's physical and intellectual
 30 development;
- 31 c. Positive ways to support children's social and emotional
 32 development;
- 33 d. Strategies to establish productive relationships with families;
- 34 e. Strategies to manage an effective program operation;
- 35 f. Maintaining a commitment to professionalism;
- 36 g. Observing and recording children's behavior;
- 37 h. Principles of child growth and development; and
- 38 i. Learning activities that promote inclusion of children with
 39 special needs-disabilities.

40 These standards shall include annual requirements for ongoing staff
 41 development appropriate to job responsibilities. A person may carry
 42 forward in-service training hours that are in excess of the previous
 43 year's requirement to meet up to one-half of the current year's required
 44 in-service training hours.

...."

SECTION 35. G.S. 143-318.14A(a)(13) is repealed.

SECTION 36. G.S. 143-683(6) reads as rewritten:

"(6) Report to each session of the General Assembly not later than the first day of its convening. The report shall include a summary of the Commission's work and any recommendations the Commission may have on ways to improve the efficiency and effectiveness of health services delivery to children with special health care needs in this State, ~~The Commission shall provide a copy of its report to the General Assembly's Commission on Children With Special Needs; State;~~".

SECTION 37. This act is effective when it becomes law.