

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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SENATE BILL 521

Short Title: Raise the Roof. (Public)

Sponsors: Senators Sawyer and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 6, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE ELIGIBLE COUNTIES TO USE FUNDS FROM THE
3 NEEDS-BASED PUBLIC SCHOOL CAPITAL FUND FOR NEW CONSTRUCTION
4 AND BUILDING RENOVATIONS AND TO ALLOW FOR FUNDS FROM THE PUBLIC
5 SCHOOL BUILDING CAPITAL FUND TO BE USED FOR CERTAIN LEASE
6 AGREEMENTS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 5.3 of S.L. 2017-57, as amended by Section 1.1(a) of S.L.
9 2017-187, Section 1.2 of S.L. 2017-197, Section 1.1 of S.L. 2017-212, Section 5.3(a) of S.L.
10 2018-5, and Section 3A.1(a) of S.L. 2018-80, reads as rewritten:

11 "...

12 **"SECTION 5.3.(e)** Grant funds awarded under this section shall be subject to a matching
13 requirement from the recipient county as follows:

- 14 (1) For a county designated as a development tier one area, the grant shall not
15 exceed three dollars (\$3.00) in grant funds for every one dollar (\$1.00)
16 provided by the county. Grant funds awarded to a county designated as a
17 development tier one area shall not exceed fifteen million dollars
18 (\$15,000,000).
- 19 (2) For a county designated as a development tier two area, the grant shall not
20 exceed ~~one dollar (\$1.00)~~ two dollars (\$2.00) for every one dollar (\$1.00) in
21 grant funds provided by the county. Grant funds awarded to a county
22 designated as a tier two area shall not exceed ten million dollars
23 (\$10,000,000).

24 Grant funds shall be used only for the construction of new school buildings ~~only or for school~~
25 building repairs and renovations. Grant funds shall not be used for real property acquisition.
26 Grant funds shall be disbursed in a series of payments based on the progress of the project. To
27 obtain a payment, the grantee shall submit a request for payment along with documentation of
28 the expenditures for which the payment is requested and evidence that the matching requirement
29 contained in subsection (b) of this section has been met. Grant funds shall not be awarded to any
30 county that has received an aggregate amount exceeding eight million seven hundred fifty
31 thousand dollars (\$8,750,000) in funds from the Public School Building Capital Fund from the
32 2012-2013 fiscal year to the 2016-2017 fiscal year. No county may receive grant funds under this
33 section more than once every five years. A county designated as a development tier two area that
34 was awarded a grant of ten million dollars (\$10,000,000) in 2020 and that was subsequently
35 designated as a development tier one area shall be eligible to receive an award under this section
36 as a tier one area provided that the county did not use the funds previously awarded. No portion



1 of grant funds may be used to acquire a Leadership in Energy and Environmental Design (LEED)
2 certification. For fiscal year 2018-2019, for the purposes of this section, a county shall be
3 considered to be designated as a development tier one area if (i) it was so designated by the
4 Department of Commerce in 2017 or 2018 and (ii) the county filed a grant application under this
5 section in 2017.

6 ...

7 "**SECTION 5.3.(e2)** Notwithstanding the new construction requirement in subsection (e) of
8 this section, a county may utilize grant funds for a lease agreement if all of the following criteria
9 are met:

- 10 (1) Ownership of the subject property on which the leased school is constructed
11 shall be retained by the county.
- 12 (2) ~~The lease agreement shall include a repairs and maintenance provision that~~
13 ~~requires the landlord to bear the entire expense of all repairs, maintenance,~~
14 ~~alterations, or improvements to the basic structure, fixtures, appurtenances,~~
15 ~~and grounds of the subject property for the term of the lease.~~
- 16 (3) The lease agreement shall be for a term of at least 15 years and no more than
17 ~~25-40~~ years.
- 18 (4) In lieu of the progress payment requirement provided in subsection (e) of this
19 section, a county that has entered into a lease agreement shall provide a copy
20 of the lease agreement to the Department and shall be periodically reimbursed
21 upon submission of documentation satisfactory to the Department that the
22 matching requirement of this section has been met.

23 Notwithstanding the tier designation restrictions in subsection (e) of this section, a county
24 designated as a development tier three area with a population not exceeding 400,000 according
25 to the most recent federal decennial census shall be eligible for grant funds provided that the
26 funds are utilized in accordance with this subsection. A grant awarded to a county designated as
27 a development tier three area shall not exceed ten million dollars (\$10,000,000) and shall be
28 subject to a matching requirement of one dollar (\$1.00) for every one dollar (\$1.00) of grant
29 funds awarded.

30 For the purposes of this section, the term "lease agreement" shall include any ancillary
31 agreements or predevelopment agreements entered into in anticipation of or in accordance with
32 a lease. A lease agreement entered into pursuant to this subsection shall be subject to the
33 requirements of Article 8 of Chapter 159 of the General Statutes. In determining whether the
34 lease agreement is necessary or expedient pursuant to G.S. 159-151(a)(1) and
35 G.S. 159-151(b)(1), the Local Government Commission may consider any other relevant
36 construction and financing methods available to the county.

37"

38 **SECTION 2.** G.S. 115C-546.2 reads as rewritten:

39 "**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund;**
40 **matching requirements.**

41 (a) Repealed by Session Laws 2013-316, s. 2.4(b), effective July 23, 2013, and Session
42 Laws 2017-206, s. 7(a), effective August 30, 2017.

43 (b) Counties shall use monies previously credited to the Fund by the Secretary of
44 Revenue pursuant to G.S. 115C-546.1(b) for capital outlay projects including the planning,
45 construction, reconstruction, enlargement, improvement, repair, or renovation of public school
46 buildings and for the purchase of land for public school buildings; for equipment to implement a
47 local school technology plan; or for both. Monies used to implement a local school technology
48 plan shall be transferred to the State School Technology Fund and allocated by that Fund to the
49 local school administrative unit for equipment.

1 As used in this section, "public school buildings" only includes facilities for individual
2 schools that are used for instructional and related purposes and does not include centralized
3 administration, maintenance, or other facilities.

4 In the event a county finds that it does not need all or part of the funds allocated to it for
5 capital outlay projects including the planning, construction, reconstruction, enlargement,
6 improvement, repair, or renovation of public school buildings, for the purchase of land for public
7 school buildings, or for equipment to implement a local school technology plan, the unneeded
8 funds allocated to that county may be used to retire any indebtedness incurred by the county for
9 public school facilities.

10 In the event a county finds that its public school building needs and its school technology
11 needs can be met in a more timely fashion through the allocation of financial resources previously
12 allocated for purposes other than school building needs or school technology needs and not
13 restricted for use in meeting public school building needs or school technology needs, the county
14 commissioners may, with the concurrence of the affected local Board of Education, use those
15 financial resources to meet school building needs and school technology needs and may allocate
16 the funds it receives under this Article for purposes other than school building needs or school
17 technology needs to the extent that financial resources were redirected from such purposes. The
18 concurrence described herein shall be secured in advance of the allocation of the previously
19 unrestricted financial resources and shall be on a form prescribed by the Local Government
20 Commission.

21 (c) Monies in the Fund previously credited to the Fund by the Secretary of Revenue
22 pursuant to G.S. 115C-546.1(b) allocated for capital projects shall be matched on the basis of one
23 dollar of local funds for every three dollars of State funds. Such monies in the Fund transferred
24 to the State Technology Fund do not require a local match.

25 Revenue received from local sales and use taxes that is restricted for public school capital
26 outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local
27 matching requirement. Funds expended by a county after July 1, 1986, for land acquisition,
28 engineering fees, architectural fees, or other directly related costs for a public school building
29 capital project that was not completed prior to July 1, 1987, may be used to meet the local match
30 requirement.

31 (d) If funds are appropriated from the Education Lottery Fund to the Public School
32 Building Capital Fund, such funds shall be allocated for school capital construction projects on
33 a per average daily membership basis according to the average daily membership for the budget
34 year as determined and certified by the State Board of Education.

35 (1), (2) Repealed by Session Laws 2013-360, s. 6.11(b), effective July 1, 2013.

36 (3) No county shall have to provide matching funds required under subsection (c)
37 of this section.

38 (4) A county may use monies in this Fund to pay for school construction projects
39 in local school administrative units and to retire indebtedness incurred for
40 school construction projects.

41 (5) A county may not use monies in this Fund to pay for school technology needs.

42 (6) A county may use monies in this Fund for lease agreements that meet the
43 criteria provided in subsection (g) of this section.

44 (e) The State Board of Education may use up to one million five hundred thousand dollars
45 (\$1,500,000) each year of monies in the Fund to support positions in the Department of Public
46 Instruction's Support Services Division.

47 (f) If a county has received a grant fund award from the Needs-Based Public School
48 Capital Fund, that county shall be ineligible to receive allocations from the Public School
49 Building Capital Fund for a period of five years from the date the grant funds were awarded.

1 (g) In addition to the purposes provided in this section, a county may utilize monies in
2 this Fund to enter into a lease agreement for the construction of new school facilities if all of the
3 following criteria are met:

4 (1) Ownership of the subject property on which the leased school is constructed
5 shall be retained by the county.

6 (2) The lease agreement shall be for a term of at least 15 years and no more than
7 40 years.

8 (3) A county that has entered into a lease agreement shall provide a copy of the
9 lease agreement to the Department of Public Instruction.

10 For the purposes of this subsection, the term "lease agreement" shall include any ancillary
11 agreements or predevelopment agreements entered into in anticipation of or in accordance with
12 a lease. A lease agreement entered into pursuant to this subsection shall be subject to the
13 requirements of Article 8 of Chapter 159 of the General Statutes. In determining whether the
14 lease agreement is necessary or expedient, pursuant to G.S. 159-151(a)(1) and
15 G.S. 159-151(b)(1), the Local Government Commission may consider any other relevant
16 construction and financing methods available to the county."

17 **SECTION 3.** This act is effective when it becomes law.