

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60149-LYx-122B* (2/23)

Short Title: Lease Purchase for School Warehouse. (Public)

Sponsors: Representatives Current, Clary, and Rayfield (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW A LOCAL SCHOOL ADMINISTRATIVE UNIT THAT OPERATES A CENTRAL KITCHEN TO ACQUIRE BY LEASE PURCHASE OR INSTALLMENT PURCHASE A WAREHOUSE FOR THE CENTRAL KITCHEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-528 reads as rewritten:

"§ 115C-528. Lease purchase and installment purchase contracts for certain ~~equipment.~~ equipment and certain real property.

(a) Local boards of education may purchase or finance the purchase of automobiles; school buses; mobile classroom units; photocopiers; and computers, computer hardware, computer software, and related support services by lease purchase contracts and installment purchase contracts as provided in this section. Computers, computer hardware, computer software, and related support services purchased under this section shall meet the technical standards specified in the North Carolina Instructional Technology Plan as developed and approved under G.S. 115C-102.6A and G.S. 115C-102.6B.

(a1) A local board of education that operates a central kitchen may purchase or finance the purchase of warehouse space for use with the central kitchen by lease purchase contracts and installment purchase contracts as provided in this section.

(b) A lease purchase contract under this section creates in the local board the right to possess and use the property for a specified period of time in exchange for periodic payments and shall include either an obligation or an option to purchase the property during the term of the contract. The contract may include an option to upgrade the property during the term. A local board may exercise an option to upgrade without rebidding the contract.

1 (c) An installment purchase contract under this section creates in the property
2 purchased a security interest to secure payment of the purchase price to the seller or to
3 an individual or entity advancing moneys or supplying financing for the purchase
4 transaction.

5 (d) The term of a contract entered into under this section shall not exceed the
6 useful life of the property purchased. An option to upgrade shall be considered in
7 determining the useful life of the property.

8 (e) A contract entered into under this section shall be considered a continuing
9 contract for capital outlay and subject to G.S. 115C-441(c1).

10 (f) A contract entered into under this section is subject to Article 8 of Chapter
11 159 of the General Statutes, except for G.S. 159-148(a)(4) and (b)(2). For purposes of
12 determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the
13 five hundred thousand dollar (\$500,000) threshold shall apply.

14 (g) Subsections (e) and (f) of this section shall not apply to contracts entered into
15 under this section so long as the term of each contract does not exceed three years and
16 the total amount financed during any three-year period is no greater than two hundred
17 fifty thousand dollars (\$250,000) or is no greater than three times the local board's
18 annual State allocation for classroom materials, equipment, and instructional supplies,
19 whichever is less. The local board shall submit information, including the principal and
20 interest paid and the amount of outstanding obligation, concerning these contracts as
21 part of the annual budget it submits to its board of county commissioners under Article
22 31 of this Chapter.

23 (h) No contract entered into under this section may contain a nonsubstitution
24 clause that restricts the right of a local board to:

25 (1) Continue to provide a service or activity; or

26 (2) Replace or provide a substitute for any property financed or purchased
27 by the contract.

28 (i) No deficiency judgment may be rendered against any local board of
29 education or any unit of local government, as defined in G.S. 160A-20(h), in any action
30 for breach of a contractual obligation authorized by this section, and the taxing power of
31 a unit of local government is not and may not be pledged directly or indirectly to secure
32 any moneys due under a contract authorized by this section."

33 **SECTION 2.** This act is effective when it becomes law.