A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CONSTRUCTION, LEASING, AND OPERATION OF NET-ZERO ENERGY SCHOOL FACILITIES THAT WILL PRODUCE RENEWABLE ENERGY SUFFICIENT TO RETURN ENERGY BACK TO THE UTILITY GRID EQUAL TO THAT CONSUMED BY THE SCHOOL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-530 reads as rewritten:

§ 115C-530. Operational leases of school buildings and school facilities.
(a) Local boards of education may enter into operational leases of real or personal property for use as school buildings or school facilities. Operational leases for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational leases for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted if all of the following conditions are met:

1. The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.
2. An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year.
3. The leases are approved by a resolution adopted by the board of county commissioners. If an operational lease is approved by the board of county commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.
4. Any construction, repair, or renovation of the property is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines.

For purposes of this section, an operational lease is defined according to generally accepted accounting principles and may be for new or existing buildings.

(b) Local boards of education may enter into contracts for the construction, repair, or renovation of leased property if (i) the budget resolution includes an appropriation authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year, and (iii) the construction, repair, or renovation is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work undertaken or contracted by a private developer is subject to the requirements of Article 8 of Chapter 143 of the General Statutes. Contracts for new construction and renovation that are
subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing contracts for capital outlay must be approved by the board of county commissioners.

(b1) Net-Zero Energy Schools. — Local boards of education may enter into an operating lease for design and construction of a net-zero energy school. For purposes of this section, a "net-zero energy school" is a school designed to include sufficient renewable energy generation on the school site to equal one hundred five percent (105%) of the school's estimated entire annual electrical consumption. The annual energy consumption shall be determined by meeting all requirements of ASHRAE (American Society of Heating, Refrigeration and Air Conditioning Engineers) Standard 90.1-2007 "Energy Standard for Buildings Except Low-Rise Residential Buildings," Appendix-G "Performance Rating Method." The school shall be served by the utility that provides service in the territory where the school is located in the manner prescribed by G.S. 62-133.11.

(b2) In approving an operating lease for a net-zero energy school, the county commissioners may make the following additional provisions as an incentive for the conservation of energy and the use of clean and renewable energy sources:

(1) This section applies to operating leases for net-zero energy schools (a "Qualifying Lease") where (i) in the resolution approving such operating lease the county board of commissioners has expressly and irrevocably elected to have the provisions of this section apply and (ii) the payment schedule for the periodic payments due under the operating lease (the "Covered Payments") has been received by the State Treasurer. This section does not apply to any other operating leases or other obligations of a county or a school administrative unit.

(2) Whenever the lessor, or its assignee (collectively the "Covered Payee"), under Qualifying Lease has not received a Covered Payment by the fifth day immediately following the due date for such Covered Payment, the Covered Payee shall notify the State Treasurer by telephone, facsimile, or other similar communication, followed by written verification of the payment status. The State Treasurer shall immediately contact the school administrative unit and the county wherein such unit is located and determine whether the school administrative unit will make the payment not later than the fifth day after such notice.

(3) If the school administrative unit indicates that it will not make the payment timely, the State Treasurer shall forward the amount in immediately available funds to the Covered Payee necessary to make Covered Payment and shall withhold that amount from any payments due from the State to such school administrative unit or the county in which such unit is located from any source that is not restricted. If the amount payable currently is insufficient to pay the amount necessary, the State Treasurer shall withhold amounts from any future payments, including payments to be made in a succeeding fiscal year, until the total amount of the Covered Payment has been withheld.

(4) The State Treasurer shall notify the school finance officer of the school administrative unit and the county finance officer of the county in which such unit is located of amounts withheld and payments made pursuant to this section.

(5) The General Assembly covenants that it will not impair the obligations of contracts entered into under the provisions of this section; however, nothing in this subsection is to be construed to require the State to continue the payment of State allocations or distributions to any school administrative unit or the county in which such unit is located, or to limit or prohibit the
State from repealing, amending, or modifying any law relating to the amount of State allocation or payments to the school administrative unit or the county in which it is located or the manner or timing of the payments. Nothing in this section is deemed or construed to create a debt of the State with respect to Covered Payments within the meaning of any State constitutional provision or to create any liability except to the extent provided in this section.

(6) Whenever the State Treasurer is required by this section to make a payment to a Covered Payee on behalf of a school administrative unit or the county in which such unit is located, the State Treasurer or the designee of the State Treasurer shall initiate an audit of the school administrative unit or the county in which such unit is located to determine the reason for failure to make a Covered Payment and to assist the school administrative unit or the county in which such unit is located, if necessary, in developing and implementing measures to assure that future payments will be made when due.

SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.11. Net-zero energy schools.
(a) Definitions. – For purposes of this section, "electric power supplier" means a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State.
(b) Interconnection With Electric Power Supplier. – When a local educational authority enters into an operating lease for a net-zero energy school as set forth in G.S. 115C-530(b1), the electric power supplier providing electric service in the territory where the school is located shall provide service to the school for a maximum fee of four hundred dollars ($400.00) per month, escalated annually starting in 2013 at the consumer price index. Services provided by the electric power supplier shall include operation, maintenance, and replacement of interconnection facilities sufficient to carry the electrical load at the interconnection point; and related electric power supplier services including meter reading and accounting. The party entering into the net-zero energy lease agreement with the local educational authority shall compensate the electric power supplier for the actual direct costs of initial distribution, transformer, and interconnection facilities on the secondary side of the transformer. These interconnection costs shall not exceed what the electric power supplier would charge any other customer for a similar interconnection.
(c) Purchase and Sale of Electricity. – The net-zero energy school shall be interconnected with the electric power supplier providing service in the territory where the school is located to provide power to the net-zero energy school and to allow the electricity generated by the equipment located at the school to be exported to the electric distribution system. At the end of each annual billing period of the service contract with the electric power supplier, the electricity generated at the net-zero energy school shall be netted against the power received from the electric power supplier, and the net-zero energy school or its owner shall be invoiced for electricity according to the annual difference between the amount of electricity the electric power supplier delivered to the net-zero energy school and the amount of electricity generated at the net-zero energy school and delivered to the electric distribution system.
system. To the extent that the generation equipment at the net-zero energy school does not generate more electricity than is delivered, the electric power supplier may charge the net-zero energy school for the net electric power delivered during the annual billing period at the peak energy rate in effect at the end of that period. If the net-zero energy school generates net excess electricity, the electric power supplier shall not be required to pay for the net excess electricity. The electric power supplier shall be required to enter into a contract with the owner of the net-zero energy school that meets the requirements set forth in subsection (d) of this section.

(d) Contract Terms. – The power purchase contract between the electric power supplier and the owner of the net-zero energy school shall include the following terms:

(1) The owner of the net-zero energy school shall be paid by the electric power supplier the fixed amount of not less than forty dollars ($40.00) per gross MWh for (i) electricity generated by a renewable energy resource, as defined in G.S. 62-133.8(a)(8), at the net-zero energy school and (ii) energy saved through energy efficiency measures at the net-zero energy school.

(2) The term of the contract shall be for a period of not less than 20 years from the date the school initially meets the definition of a net-zero energy school pursuant to G.S. 115C-530(b1).

(3) Payments under the contract shall be made no less frequently than annually.

(4) The baseline to be utilized for the calculation of MWh savings due to the installation of energy conserving measures shall be energy-use intensity benchmarks from the most current Commercial Buildings Energy Consumption Survey.

(5) Payments shall (i) be considered the purchase of a Renewable Energy Certificate under G.S. 62-133.8 for each MWh of energy generated or saved and (ii) not be deemed a payment for electricity.

(e) Standby Generation Authorized. – The net-zero energy school or its owner may operate either renewable or nonrenewable on-site standby generation up to the prime capacity of the net-zero energy school, in conjunction with the installed on-site renewable resource generation, and such standby generating equipment shall be included in the electric power supplier's load management, demand response, or interruptible rate program designed to reduce the electric power supplier's peak loads on the same terms and conditions as are made available to other customers of the electric power supplier participating in those programs."

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