

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

S

5

SENATE BILL 654
Education/Higher Education Committee Substitute Adopted 4/28/21
Third Edition Engrossed 5/4/21
House Committee Substitute Favorable 6/9/21
House Committee Substitute #2 Favorable 6/9/21

Short Title: K-12 COVID-19 Provisions.

(Public)

Sponsors:

Referred to:

April 7, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE RELIEF TO PUBLIC SCHOOLS IN RESPONSE TO THE
3 CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. SCHOOL PERFORMANCE GRADES/ANNUAL REPORT CARDS**

7 **SECTION 1.1.** Display of School Performance Grades. – Notwithstanding
8 G.S. 115C-12(9)c1. and G.S. 115C-83.15, the State Board of Education shall not calculate
9 achievement, growth, and performance scores nor display performance scores, growth
10 designations, and letter grades for schools for the 2021-2022 school year, based on data from the
11 2020-2021 school year, but shall display a brief explanation that achievement, growth, and
12 performance scores and letter grades were not calculated and assigned for the 2021-2022 school
13 year because assessment data was heavily impacted by COVID-19 during the 2020-2021 school
14 year.

15 **SECTION 1.2.(a)** Annual Report Cards. – Notwithstanding G.S. 115C-12(9)c1. and
16 Part 1B of Article 8 of Chapter 115C of the General Statutes, the State Board of Education shall
17 issue an annual report card for public school units for the 2021-2022 school year, based on data
18 from the 2020-2021 school year, that only meets the minimum accountability, school
19 identification, and related reporting requirements of the Elementary and Secondary Education
20 Act of 1965 (ESEA), as amended, required under the federal waiver granted by the United States
21 Department of Education to the State of North Carolina for the 2020-2021 school year, dated
22 March 26, 2021.

23 **SECTION 1.2.(b)** Notwithstanding G.S. 115C-47(58), 115C-75.8(d)(7),
24 115C-218.65, 115C-238.66(11), 116-239.8(b)(14), and sub-subdivision 6(d)(2) of S.L. 2018-32,
25 for the 2021-2022 school year, based on data from the 2020-2021 school year, public school units
26 shall only be required to display the annual report card information issued by the State Board of
27 Education pursuant to this Part.

28
29 **PART II. LOW-PERFORMING SCHOOLS**

30 **SECTION 2.1.** Low-Performing Schools. – Notwithstanding G.S. 115C-105.37 and
31 G.S. 115C-218.94(a), for the 2021-2022 school year, the following apply:

- 32 (1) The State Board shall not identify additional low-performing schools based
33 on data from the 2020-2021 school year.



- 1 (2) Schools previously identified as low-performing based on data from the
2 2018-2019 school year shall continue to be identified as low-performing.
3 (3) Previously identified low-performing schools shall continue to carry out the
4 final plan approved by the local board of education pursuant to
5 G.S. 115C-105.37(a1).
6 (4) The State Board and the local board of education shall continue to provide
7 online access to each low-performing school's plan in accordance with
8 G.S. 115C-105.37(a1)(5).
9 (5) The written parental notice required by G.S. 115C-105.37(b) is not required
10 to be provided again, but local boards of education of low-performing schools
11 shall include with their online final plans a brief explanation that
12 low-performing identification continues pending assessment data from the
13 2021-2022 school year.

14 **SECTION 2.2.** Continually Low-Performing Schools. – Notwithstanding
15 G.S. 115C-105.37A and G.S. 115C-218.94(b), for the 2021-2022 school year, the following
16 apply:

- 17 (1) The State Board shall not identify additional continually low-performing
18 schools based on data from the 2020-2021 school year.
19 (2) Schools previously identified as continually low-performing based on data
20 from the 2018-2019 school year shall continue to be identified as continually
21 low-performing.
22 (3) Previously identified continually low-performing schools shall continue to
23 carry out the plan approved by the State Board pursuant to
24 G.S. 115C-105.37A(a).
25 (4) Assistance and intervention levels provided for the 2019-2020 school year
26 based on designation as low-performing for two years under
27 G.S. 115C-105.37A(b) or low-performing for three years under
28 G.S. 115C-105.37A(c) shall continue.
29 (5) Local boards of education may request to reform a continually
30 low-performing school in accordance with G.S. 115C-105.37B.

31 **SECTION 2.3.** Low-Performing Local School Administrative Units. –
32 Notwithstanding G.S. 115C-105.39A, for the 2021-2022 school year, the following apply:

- 33 (1) The State Board shall not identify additional low-performing local school
34 administrative units based on data from the 2020-2021 school year.
35 (2) Local school administrative units previously identified as low-performing
36 based on data from the 2018-2019 school year shall continue to be identified
37 as low-performing.
38 (3) Previously identified low-performing local school administrative units shall
39 continue to carry out the final plan approved by the local board of education
40 pursuant to G.S. 115C-105.39A(b).
41 (4) The State Board and the local board of education shall continue to provide
42 online access to each low-performing local school administrative unit's plan
43 in accordance with G.S. 115C-105.39A(b)(5).
44 (5) The written parental notice required by G.S. 115C-105.39A(c) is not required
45 to be provided again, but the local board of education shall include with its
46 online final plan a brief explanation that low-performing identification
47 continues pending assessment data from the 2021-2022 school year.
48 (6) The provisions of G.S. 115C-105.39(c) through (e) shall not apply.
49

50 **PART III. PUBLIC SCHOOL UNIT CALENDARS FOR THE 2021-2022 SCHOOL**
51 **YEAR**

1 SECTION 3.(a) Part 2 of Article 8 of Chapter 115C of the General Statutes is
2 amended by adding a new section to read:

3 **"§ 115C-84.3. Remote instruction.**

4 (a) Remote instruction means instruction delivered to students in a remote location
5 outside of the school facility, whether synchronously or asynchronously. Instructional days or
6 hours provided through any of the following shall not be considered remote instruction:

7 (1) North Carolina Virtual Public School courses.

8 (2) E-learning courses that meet the requirements of G.S. 115C-238.85.

9 (3) Institution of higher education courses, as provided in Article 16 of this
10 Chapter or G.S. 115D-20(4).

11 (4) Homebound instruction required for a student by an individualized education
12 program, as defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794)
13 plan.

14 (5) Instruction provided to a student during a short- or long-term suspension.

15 (b) A public school unit in a county that has received a good-cause waiver for the school
16 year, as provided in G.S. 115C-84.2(d), may use up to 15 remote instruction days or 90 remote
17 instruction hours when schools are unable to open due to severe weather conditions, energy
18 shortages, power failures, or other emergency situations and may use that time towards the
19 required instructional days or hours for the school calendar. All other public school units may
20 use up to five remote instruction days or 30 remote instruction hours when schools are unable to
21 open due to severe weather conditions, energy shortages, power failures, or other emergency
22 situations and may use that time towards the required instructional days or hours for the school
23 calendar.

24 (c) Except as provided in subsection (b) of this section, a public school unit shall not use
25 remote instruction to satisfy the minimum required number of instructional days or hours for the
26 school calendar. However, a local board of education may provide virtual instruction as provided
27 in Part 3A of Article 16 of Chapter 115C of the General Statutes.

28 (d) A governing board that chooses to use remote instruction as provided in subsection
29 (b) of this section shall submit to the State Board, by July 1 annually, a remote instruction plan
30 that provides a detailed framework for delivering quality remote instruction to students for the
31 upcoming school year and information on the number of remote instruction days or hours used
32 in the prior school year to satisfy instructional requirements, when applicable. At a minimum,
33 the plans submitted by governing boards shall include the following:

34 (1) Identification of the resources that will be used to facilitate remote instruction.

35 (2) Communication with and training opportunities for teachers, administrators,
36 instructional support staff, parents, and students on how to access and
37 effectively use remote instruction resources, including regular opportunities
38 for students to use those resources during nonremote instructional days to
39 ensure student success during remote instruction.

40 (3) Establishment of methods for tracking and reporting attendance during remote
41 instruction, including protocols for determining attendance, the reporting
42 system to be used, and how attendance procedures will be communicated to
43 parents before remote instruction begins.

44 (4) Establishment of staff roles and expectations for remote instruction days,
45 including teacher workdays, teacher accessibility, and noncertified staff
46 workdays and responsibilities.

47 (5) Communication of learning targets to students on each remote instruction day
48 and development of measures to ensure that remote instruction time, practice,
49 and application components support learning growth that continues towards
50 mastery of the standard course of study.

1 (6) Development of remote instruction options appropriate for teachers and
 2 students with limited connectivity capability, including the opportunity for
 3 students to download remote instruction materials in advance when
 4 practicable.

5 (7) Provision of remote instruction for students with disabilities in a manner
 6 consistent with each student's individualized education program (IEP), as
 7 defined in G.S. 115C-106.3, or section 504 (29 U.S.C. § 794) plan. Remote
 8 instruction supports shall be considered and included, as appropriate for the
 9 student, when an IEP or 504 plan is initially developed or at any subsequent
 10 review or revision of an IEP or 504 plan.

11 (e) The State Board of Education shall report by September 15 annually to the Joint
 12 Legislative Education Oversight Committee on the following information related to remote
 13 instruction:

14 (1) A copy of each governing board's remote instruction plan.

15 (2) A summary document of the following:

16 a. The number of remote instruction days or hours used by each public
 17 school unit in the prior school year.

18 b. Strengths, challenges, and trends noted by the State Board in its review
 19 of how governing boards implement remote instruction.

20 c. Any other data deemed by the State Board to be useful to the Joint
 21 Legislative Education Oversight Committee in evaluating the use and
 22 delivery of remote instruction in emergency circumstances."

23 **SECTION 3.(b)** G.S. 115C-84.2(a) reads as rewritten:

24 "(a) School Calendar. – Each local board of education shall adopt a school calendar
 25 consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include
 26 the following:

27 (1) A minimum of 185 days or 1,025 hours of instruction covering at least nine
 28 calendar months. The local board shall designate when the instructional days
 29 shall occur. The number of instructional hours in an instructional day may
 30 vary according to local board policy and does not have to be uniform among
 31 the schools in the administrative unit. Local boards may approve school
 32 improvement plans that include days with varying amounts of instructional
 33 time. If school is closed early due to inclement weather, the day and the
 34 scheduled amount of instructional hours may count towards the required
 35 minimum to the extent allowed by State Board policy. The school calendar
 36 shall include a plan for making up days and instructional hours missed when
 37 schools are not opened due to inclement ~~weather~~-weather and may include the
 38 use of remote instruction in accordance with G.S. 115C-84.3.

39 "

40 **SECTION 3.(c)** G.S. 115C-218.85(a)(1) reads as rewritten:

41 "(1) The school shall provide instruction each year for at least 185 days or 1,025
 42 hours over nine calendar ~~months~~-months and may include the use of remote
 43 instruction in accordance with G.S. 115C-84.3."

44 **SECTION 3.(d)** G.S. 115C-238.53(d) reads as rewritten:

45 "(d) A cooperative innovative high school approved under this Part shall do the following:

46 (1) ~~provide~~-Provide instruction each school year for at least 185 days or 1,025
 47 instructional hours during nine calendar ~~months~~-months and may include the
 48 use of remote instruction in accordance with G.S. 115C-84.3. The
 49 requirements of G.S. 115C-84.2 shall not apply to the school calendar of a
 50 program approved under this Part.

- 1 (3) Three virtual academies for local school administrative units with between
2 30,001 and 50,000 students.
3 (4) Four virtual academies for local school administrative units with between
4 50,001 and 100,000 students.
5 (5) Five virtual academies for local school administrative units with more than
6 100,000 students.

7 (b) A virtual academy is a public school that provides a majority of instructional hours
8 through virtual instruction to all students enrolled in the school. Virtual instruction is instruction
9 that primarily uses technology to deliver instructional content over the internet to students in a
10 nonschool setting both synchronously and asynchronously.

11 (c) A local board of education shall not provide the majority of instructional hours
12 through virtual instruction in a school except as provided in this Part. However, a local board of
13 education may provide remote instruction as provided in G.S. 115C-84.3.

14 **"§ 115C-234.5. Virtual academy requirements.**

15 (a) Except as provided in this Part, a virtual academy shall meet all requirements for a
16 public school included in this Chapter.

17 (b) Notwithstanding Article 17 of this Chapter, a virtual academy shall not be required to
18 provide transportation or food services to enrolled students.

19 (c) A virtual academy may include any combination of grade levels.

20 (d) The following students shall be eligible to attend a virtual academy:

21 (1) A student whose parent or guardian applies for admission on that student's
22 behalf, including a commitment to provide internet connectivity for that
23 student if accepted into the virtual academy. A student with an individualized
24 education program (IEP), as defined in G.S. 115C-106.3(8), shall be permitted
25 to enroll in a virtual academy only if the student's IEP team determines that
26 the virtual academy is the least restrictive alternative environment for that
27 student.

28 (2) A student on a short-term or long-term suspension from another public school
29 who is assigned to the virtual academy by the local school administrative unit
30 operating such virtual academy when internet connectivity for that student is
31 available.

32 (e) A virtual academy shall provide any hardware and software needed to participate in
33 the virtual academy to an enrolled student. The local board of education may not charge any
34 student a rental fee for the use of hardware or software. A student's parents or legal guardians
35 may be charged damage fees for abuse or loss of hardware or software under rules adopted by
36 the State Board of Education.

37 (f) A virtual academy may require students to attend an in-person or proctored
38 assessment for State-mandated student assessments or to fulfill graduation requirements
39 identified by the academy and may conduct optional in-person meetings between students and
40 instructors or parents and instructors at a public school facility.

41 (g) The State Board of Education shall establish by rule additional minimum
42 requirements for student monitoring, including, but not limited to, compliance with
43 G.S. 115C-84.2, student attendance and testing requirements, infrastructure, and delivery of
44 instruction in virtual academies.

45 **"§ 115C-234.10. Virtual academy approval process.**

46 (a) Each local board of education seeking to offer a virtual academy shall submit to the
47 State Board of Education for approval a plan that provides for the following:

48 (1) Considerations the local school administrative unit will make when reviewing
49 applications for enrollment to attend the virtual academy.

50 (2) The range of grades for which the virtual academy will offer courses.

- 1 (3) The method by which the virtual academy will monitor enrollment, course
2 credit accrual, progress toward graduation, and course completion.
3 (4) Hardware, software, and other infrastructure that supports online learning.
4 (5) The minimum amount of synchronous instruction time required to complete a
5 course, including the amount of time each student must spend in synchronous
6 instruction with a licensed teacher to complete a course.
7 (6) The professional development that will be provided to those teaching in the
8 virtual academy related to the pedagogy of providing virtual instruction.
9 (7) The method by which student proficiency in a course will be tested or
10 measured.
11 (8) The method by which the virtual academy will meet requirements for physical
12 education under the laws of the State.
13 (9) The method by which the virtual academy will communicate student progress
14 with parents or legal guardians, including providing for in-person meetings at
15 the discretion of the principal of the virtual academy.
16 (10) The method for determining location for, safety precautions during, and
17 personnel at an in-person meeting if the virtual academy plans to offer
18 optional in-person meetings.
19 (11) The means by which the local school administrative unit will communicate to
20 the parents and legal guardians of prospective applicants and current enrollees
21 information about the virtual academy so that parents and legal guardians may
22 make informed decisions about enrollment.

23 (b) The State Board of Education shall review and approve a plan submitted by a local
24 board of education for the creation of a virtual academy that meets the requirements established
25 in this Part. A virtual academy shall be approved for a period of five school years and may be
26 renewed for additional five-year terms, upon resubmission of an application.

27 (c) The State Board may revoke approval of a virtual academy at any time on the basis
28 of substantial noncompliance with the requirements of this Part or the approved plan.

29 **"§ 115C-234.15. Operation of virtual academies.**

30 (a) Each approved virtual academy shall adhere to the plan submitted to and approved by
31 the State Board of Education unless the local school administrative unit obtains in writing
32 approval for plan modifications from the State Board of Education.

33 (b) Each approved virtual academy shall receive a school code and shall be assigned a
34 principal for that school.

35 **"§ 115C-234.20. Evaluation.**

36 The State Board of Education shall evaluate the success of virtual academies approved under
37 this Part. Success shall be measured by school performance scores and grades, retention rates,
38 attendance rates, and for grades nine through 12, high school completion and dropout rates. The
39 Board shall report by November 15 of each year to the Joint Legislative Education Oversight
40 Committee on the evaluation of these schools and on any recommended statutory changes."

41 **SECTION 3B.(b)** The State Board of Education shall adopt emergency rules for the
42 implementation of Part 3A of Article 16 of Chapter 115C of the General Statutes, as enacted by
43 this act, for use in the 2021-2022 school year only, in accordance with G.S. 150B-21.1A.

44 **SECTION 3B.(c)** The State Board of Education shall make the first evaluation report
45 required by G.S. 115C-234.20, as enacted by this act, by November 15, 2022.

46 **SECTION 3B.(d)** Notwithstanding the limitations established by Part 3A of Article
47 16 of Chapter 115C of the General Statutes, as enacted by this act, a local school administrative
48 unit that has been assigned a school code to operate a school with virtual instruction as the
49 primary means of instruction by May 1, 2021, may continue to operate that school and provide
50 virtual instruction at that school to satisfy the minimum required number of instructional days or
51 hours for the school calendar during the 2021-2022 school year.

1 **SECTION 3B.(e)** A charter school may provide blended learning that includes
2 virtual instruction during the 2021-2022 school year if the Office of Charter Schools has
3 approved a curriculum amendment allowing blended learning for that school for the 2021-2022
4 school year no later than September 1, 2021.

5 **SECTION 3B.(f)** This section is effective when it becomes law and applies
6 beginning with the 2021-2022 school year.

7 8 **PART IV. PRINCIPAL RECRUITMENT SUPPLEMENT**

9 **SECTION 4.** Notwithstanding G.S. 115C-285.1, for purposes of administering the
10 principal recruitment supplement in the 2021-2022 fiscal year, a school identified as an eligible
11 school in the 2019-2020 and 2020-2021 school years pursuant to G.S. 115C-285.1(a)(2) and
12 Section 2.13(a) of S.L. 2020-3, respectively, shall continue to be an eligible school in the
13 2021-2022 school year.

14 15 **PART V. NOTIFICATION REQUIREMENT FOR TEACHER PERFORMANCE DATA**

16 **SECTION 5.** Notwithstanding G.S. 115C-333.2, for the 2021-2022 school year, to
17 the extent the Education Value-Added Assessment System (EVAAS) data regarding a teacher's
18 performance includes data from more than one school year, when a principal notifies a teacher
19 that the teacher's EVAAS data has been updated, the principal shall provide the teacher with
20 additional context regarding the years on which the data is based and the extent to which the
21 students on which the data is based were taught by another teacher.

22 23 **PART VI. TEACHER EFFECTIVENESS REPORTING REQUIREMENTS**

24 **SECTION 6.** Notwithstanding G.S. 115C-299.5, for the 2021-2022 school year, to
25 the extent teacher effectiveness data reported pursuant to G.S. 115C-299.5 is based on more than
26 one school year, local school administrative units and the State Board of Education shall
27 contextualize that data by specifying the years on which it is based and the extent to which it
28 is not reflective of teacher performance because the students on which the data is based were taught
29 by more than one teacher.

30 31 **PART VII. TEMPORARILY EXTEND CPR GRADUATION REQUIREMENT** 32 **CHANGES**

33 **SECTION 7.** Notwithstanding G.S. 115C-12(9d)a., for the 2020-2021 school year,
34 any student in grade 12 who has not satisfied the requirement for completion of instruction in
35 cardiopulmonary resuscitation shall be eligible to graduate if both of the following apply:

- 36 (1) Instruction in cardiopulmonary resuscitation cannot be completed due to the
37 COVID-19 emergency.
- 38 (2) The student is eligible to graduate in all respects other than the statutory
39 requirement described in this section, as determined by the principal of the
40 school to which the student is assigned.

41 42 **PART VIII. DELAY IMPLEMENTATION OF SOCIAL STUDIES CHANGES**

43 **SECTION 8.** Notwithstanding S.L. 2019-82, to provide additional time for the
44 development of content and to ensure sufficient professional development opportunities delayed
45 due to COVID-19, the following social studies standard course of study changes shall apply:

- 46 (1) The course requirements of G.S. 115C-81.45(d), Founding Principles of the
47 United States of America and North Carolina: Civic Literacy, shall apply to
48 all students entering the ninth grade in the 2022-2023 school year.
- 49 (2) The course requirements of G.S. 115C-81.65, Economics and Personal
50 Finance, shall apply to all students entering the ninth grade in the 2022-2023
51 school year.

- 1 (3) All other revisions to the social studies standard course of study shall not be
2 implemented prior to the 2022-2023 school year.
3

4 **PART IX. TEACHER LICENSURE REQUIREMENTS**

5 **SECTION 9.(a)** Notwithstanding G.S. 115C-270.15 and G.S. 115C-270.20,
6 applicants for a continuing professional license holding a current initial professional license,
7 residency license, lateral entry license, or limited license expiring June 30, 2021, who have not
8 met the examination or coursework requirements established by the State Board as of June 30,
9 2021, shall be provided an extension until September 30, 2021.

10 **SECTION 9.(b)** G.S. 115C-270.20(a)(5) reads as rewritten:

- 11 "(5) Residency License or RL. – A one-year license, renewable twice, that meets
12 both of the following requirements:
13 a. Is requested by the local board of education and accompanied by a
14 certification of supervision from the recognized educator preparation
15 program in which the individual is enrolled.
16 b. The individual for whom the license is requested meets all of the
17 following requirements:
18 1. Holds ~~a bachelor's degree~~ at least one of the following:
19 I. A bachelor's degree.
20 II. An advanced degree.
21 2. Has either completed coursework relevant to the requested
22 licensure area or passed the content area examination relevant
23 to the requested licensure area that has been approved by the
24 State Board.
25 3. Is enrolled in a recognized educator preparation program.
26 4. Meets all other requirements established by the State Board,
27 including completing preservice requirements prior to
28 teaching."
29

30 **PART X. CLARIFY THE DEFINITION OF YEAR-ROUND SCHOOL**

31 **SECTION 10.(a)** G.S. 115C-84.2(f)(5) reads as rewritten:

- 32 "(5) Year-round school. – A school with a single- or multi-track instructional
33 calendar to provide instructional days throughout the entire school calendar
34 year, beginning July 1 and ending June 30, by utilizing at least one of the
35 following plans:
36 a. A plan dividing students into four groups and requiring each group to
37 be in school for assigned and staggered quarters each school calendar
38 year.
39 b. A plan providing students be scheduled to attend ~~45-four quarters of~~
40 between 43 and 47 instructional days followed by 15 days of vacation,
41 repeated throughout the each school calendar year-year, with vacation
42 periods for students of between 14 and 18 days separating each
43 quarter.
44 c. A plan dividing the school calendar year into five nine-week sessions
45 of classes and requiring each student to attend four assigned and
46 staggered sessions out of the five nine-week sessions to complete the
47 student's instructional year.
48 d. In a local school administrative unit with both single- and multi-track
49 instructional calendars, a plan for a single-track instructional calendar
50 that is identical to at least one track of a multi-track instructional

calendar adopted by the local board that meets the requirements of either sub-subdivision a. or sub-subdivision c. of this subdivision."

SECTION 10.(b) This section is effective when it becomes law and applies beginning with the 2021-2022 school year.

PART XI. DELAY THE IMPLEMENTATION OF CLASS SIZE REQUIREMENTS FOR KINDERGARTEN CLASSES

SECTION 11. Notwithstanding G.S. 115C-301, Section 2(d) of S.L. 2018-2, and any other provision of law, for the 2021-2022 school year only, if the total kindergarten average daily membership for the first month of the 2021-2022 school year for a local school administrative unit is five percent (5%) or more than the total kindergarten average daily membership for the first month of the 2019-2020 school year for that unit, the following shall apply:

- (1) The average class size for kindergarten in that unit shall not exceed one teacher per 20 students.
- (2) At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten in that unit shall not exceed one teacher per 23 students.

PART XII. ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND/USE OF RESERVE FUNDS

SECTION 12.(a) Section 3.2(a) of S.L. 2021-25 reads as rewritten:

"**SECTION 3.2.(a)** Except as otherwise provided in this section, federal funds received by the State under the American Rescue Plan Act for the programs set forth in the schedule below are appropriated in the amounts provided in the notification of award from the federal government or any entity acting on behalf of the federal government to administer the federal funds. ~~Federal funds received by the State under the American Rescue Plan Act from the Elementary and Secondary School Emergency Relief Fund are only appropriated up to the estimated amount set forth in the schedule below for the program.~~ State agencies may, with approval of the Director of the Budget, spend these funds received from federal receipts and federal grants. Any positions created with the funds shall terminate at the earlier of the funds being fully expended or the deadline established by applicable federal law and guidance for use of the funds. The grant amounts in the schedule set forth in this subsection are estimates of North Carolina's allocations to be deposited in the State's Treasury and administered by State agencies.

| <u>Program</u> | <u>Amount</u> |
|---|--|
| ... | |
| Elementary and Secondary School Emergency Relief Fund | 3,260,772,535,599,191,706 |
| ... | |
| Total Estimated Funding | \$6,400,545,070 <u>\$6,738,964,241"</u> |

SECTION 12.(b) Section 3.5 of S.L. 2021-25 reads as rewritten:

"**SECTION 3.5.** The Elementary and Secondary School Emergency Relief Fund funds appropriated in Section 3.2 of this act shall only be used by the Department of Public Instruction to (i) allocate federal grant funds to public school units pursuant to subsection (d) of section 2001 of the American Rescue Plan Act and (ii) reserve ~~twenty-one million five hundred thousand dollars (\$21,500,000)~~ three hundred fifty-nine million nine hundred nineteen thousand one hundred seventy-one dollars (\$359,919,171) of the funds pursuant to subsection (f) of section 2001 of the American Rescue Plan Act to be used according to the following:

- (1) \$20,000,000 shall be used by the Department to allocate funds to each public school unit in the State, except for schools operated by the State Board of Education, to ensure that each public school unit receives a total amount from

1 the Elementary and Secondary School Emergency Relief III (ESSER III) Fund
2 of at least four hundred dollars (\$400.00) per pupil in federal grant funds
3 according to the following:

4 a. If a public school unit did not receive funds pursuant to subsection (d)
5 of section 2001, the public school unit shall receive an amount equal
6 to four hundred dollars (\$400.00) per pupil.

7 b. If a public school unit received funds pursuant to subsection (d) of
8 section 2001, the per pupil amount allocated under this subdivision
9 shall be reduced so that (i) the total amount in federal grant funds from
10 the ESSER III Fund is equal to four hundred dollars (\$400.00) per
11 pupil or (ii) the public school unit receives no additional funding
12 because the total amount from the ESSER III Fund would exceed four
13 hundred dollars (\$400.00) per pupil.

14 (2) \$1,500,000 to be allocated in equal amounts to the Governor Morehead School
15 for the Blind, Eastern North Carolina School for the Deaf, and North Carolina
16 School for the Deaf for school facility repairs and improvements to enable
17 operation of the schools to reduce risk of virus transmission and exposure to
18 environmental health hazards and to support student health needs. The funds
19 may be used for inspection, testing, maintenance, repair, replacement, and
20 upgrade projects to improve the indoor air quality in school facilities,
21 including mechanical and nonmechanical heating, ventilation, and air
22 conditioning systems, filtering, purification and other air cleaning, fans,
23 control systems, and window and door repair and replacement.

24 (3) \$36,000,000 to be held in a reserve by the Department to be allocated to public
25 school units as grants to support COVID-19 related needs, including for
26 in-person instruction supplemental programs to address learning loss and
27 provide enrichment activities, such as for after-school and before-school
28 programs, during the instructional year. The allocation of grants shall be
29 prioritized to public school units based on need as demonstrated by the
30 expenditure of existing federal funding received for COVID-19 related
31 impacts. The Department may allocate up to fifty percent (50%) of the funds
32 as grants to public school units prior to July 1, 2022.

33 (4) \$36,000,000 to be held in a reserve by the Department to be allocated to public
34 school units as grants to support COVID-19 related needs, including for
35 in-person instruction summer programs to address learning loss and provide
36 enrichment activities. The allocation of grants shall be prioritized to public
37 school units based on need as demonstrated by the expenditure of existing
38 federal funding received for COVID-19 related impacts. The Department may
39 allocate up to fifty percent (50%) of the funds as grants to public school units
40 prior to July 1, 2022.

41 (5) \$10,000,000, of which up to fifty percent (50%) may be used prior to July 1,
42 2022, for the deployment of a competency-based education platform that
43 enables the development of credit by demonstrated mastery for students for
44 grades seven through 12 for credit recovery or acceleration to address various
45 education delivery methods during the COVID-19 pandemic. The platform
46 shall also be used for teacher competency and professional development and
47 principal professional development. The Department shall submit an interim
48 report by April 15, 2022, and a final report by April 15, 2023, to the Joint
49 Legislative Education Oversight Committee on the deployment of the
50 competency-based education platform, including the use of funds for
51 professional development.

- 1 (6) \$10,000,000, of which up to fifty percent (50%) may be used prior to July 1,
2 2022, to support a common learning management system to be utilized for
3 in-person and remote instruction for kindergarten through fifth grade for a
4 period of up to three years. Funds may also be used for the kindergarten
5 readiness programs based on the Science of Reading.
- 6 (7) \$37,500,000, of which up to fifty percent (50%) may be used prior to July 1,
7 2022, for teacher and principal professional development for implementing
8 the Science of Reading and the requirements of the Excellent Public Schools
9 Act of 2021.
- 10 (8) \$1,000,000, of which up to fifty percent (50%) may be used prior to July 1,
11 2022, to contract with external research partners pursuant to subdivision (4)
12 of Section 5A of S.L. 2021-1, as enacted by Section 1.2 of S.L. 2021-3, to
13 assess the impact of COVID-19 on public school units and the responses of
14 the State to the challenges presented by COVID-19.
- 15 (9) \$2,500,000, of which up to fifty percent (50%) may be used prior to July 1,
16 2022, for five new time-limited and full-time equivalent positions in the
17 Office of Learning Recovery and Acceleration of the Department and
18 associated operating costs in response to the COVID-19 pandemic.
- 19 (10) \$500,000, of which up to fifty percent (50%) may be used prior to July 1,
20 2022, to support expansion of the North Carolina Preschool Pyramid Model
21 (NCPPM) across and within local school administrative unit preschool
22 programs and to support the implementation of NCPPM in kindergarten in a
23 developmentally appropriate and vertically aligned manner. Funds shall be
24 used to provide training, consultation, and ongoing support for local school
25 administrative units to implement the NCPPM framework to prekindergarten
26 and kindergarten classrooms, with priority given to low-performing schools
27 and local school administrative units affected by COVID-19 that receive
28 low-wealth supplemental funding.
- 29 (11) \$17,000,000, of which up to fifty percent (50%) may be used prior to July 1,
30 2022, to establish a grant program in response to the COVID-19 pandemic for
31 the following purposes:
- 32 a. To provide contracted school health support services to public school
33 units with a demonstrated need. Public school units receiving the funds
34 shall contract with school health support personnel to provide
35 additional physical and mental health support services for students.
- 36 b. To identify and locate students missing from public school units by
37 contracting with any of the following:
- 38 1. School resource officers.
- 39 2. Local law enforcement agencies.
- 40 3. School health support personnel.
- 41 4. One or more third-party entities to provide technology to assist
42 with this purpose.

43 For purposes of this subdivision, the term "school health support personnel"
44 shall refer to school counselors, school nurses, school psychologists, and
45 school social workers. No later than February 15, 2022, and annually
46 thereafter through February 15, 2025, the Department shall report to the Joint
47 Legislative Education Oversight Committee on the public school units that
48 received funds pursuant to this subdivision, the specific services and products
49 provided, the type of school health support personnel that provided services
50 pursuant to this subdivision, and the amount of funding provided for each
51 product or service in each public school unit.

- 1 (12) \$2,000,000, of which up to fifty percent (50%) shall be used prior to July 1,
2 2022, to contract with a third-party entity for a period of up to two years to
3 develop and implement a system of tracking expenditures of State and federal
4 funds provided for subscription services and technology in response to the
5 COVID-19 pandemic.
- 6 (13) \$100,000 to be used prior to July 1, 2022, to establish one new time-limited
7 and full-time equivalent position at the Department to manage new software
8 platforms for public school students funded pursuant to this section in
9 response to the COVID-19 pandemic.
- 10 (14) \$1,000,000, of which up to fifty percent (50%) shall be used prior to July 1,
11 2022, for the School Planning Section of the Department to contract with a
12 third-party entity in response to the COVID-19 pandemic to make available
13 to all local school administrative units and counties technology for the
14 following purposes related to elementary and secondary education:
- 15 a. A consolidated information database regarding all of the following
16 education-related expenses:
- 17 1. Status and details of expected, proposed, and issued local
18 bonds.
- 19 2. Interactive listing of vendors providing products and services,
20 including ratings and reviews of vendors.
- 21 3. Document-sharing functionality related to purchased products
22 and services, including capital improvement projects.
- 23 b. A software platform to advertise nationwide requests for proposals
24 from local school administrative units and county governments for
25 education-related products and services, including capital
26 improvement projects.
- 27 (15) \$21,000,000, of which up to fifty percent (50%) shall be used prior to July 1,
28 2022, to be allocated to public school units on the basis of average daily
29 membership in response to the COVID-19 pandemic to contract with a
30 third-party entity for technology to mitigate cyberbullying, monitor student
31 internet activity, monitor classroom educational devices, and assist with
32 suicide prevention services.
- 33 (16) \$2,600,000 to be allocated prior to July 1, 2022, to local school administrative
34 units and charter schools, including virtual charter schools authorized
35 pursuant to Section 8.35(b) of S.L. 2014-100, as amended by Section 7.13 of
36 S.L. 2018-5, to account for additional students enrolled in local school
37 administrative units and charter schools during the 2020-2021 school year as
38 a result of the COVID-19 pandemic. The Department shall allocate six
39 hundred dollars (\$600.00) per month for each student enrolled in a local
40 school administrative unit or charter school above the number of students
41 accounted for by the Department in the funded average daily membership for
42 the unit or school from the 2020-2021 school year. For charter schools, funds
43 shall be provided only for additional students legally enrolled at the school in
44 accordance with the school's charter, G.S. 115C-218.7(b), and Section 3.2 of
45 S.L. 2020-97, as amended by Section 2.5 of S.L. 2021-3.
- 46 (17) \$100,000,000, of which up to fifty percent (50%) may be used prior to July 1,
47 2022, to be allocated to public school units to provide teachers with up to an
48 eleventh month of salary pursuant to this subdivision. Notwithstanding
49 G.S. 115C-302.1, for the 2021-2024 school years, a veteran teacher or growth
50 teacher may apply to his or her principal to be employed for a term of 11
51 months. In the discretion of the principal, a teacher who receives a term of 11

1 months pursuant to this subdivision may either work for an additional month
2 following the school year or work additional hours during the school year
3 amounting to up to one additional month of employment. Work performed
4 during this time shall address learning loss resulting from the COVID-19
5 pandemic, including the supplementary instruction for students, professional
6 development, and mentoring of other teachers. For purposes of this
7 subdivision, the following definitions shall apply:

8 a. Growth teacher. – A teacher who received a bonus in January of 2020,
9 based on data from the 2018-2019 school year, pursuant to any of the
10 following programs:

- 11 1. The Third Grade Read to Achieve Teacher Bonus Program
12 provided in Section 8.8C of S.L. 2017-57, as amended by
13 Section 2.10 of S.L. 2017-97 and Section 8.10 of S.L. 2018-5.
- 14 2. The Fourth and Fifth Grade Reading Teacher Bonus Program
15 provided in Section 8.8D of S.L. 2017-57, as amended by
16 Section 8.11 of S.L. 2018-5.
- 17 3. The Fourth to Eighth Grade Math Teacher Bonus Program
18 provided in Section 8.8E of S.L. 2017-57, as amended by
19 Section 8.12 of S.L. 2018-5.

20 b. Veteran teacher. – A teacher with at least 25 years of experience as a
21 licensed teacher.

22 (18) \$1,000,000, of which up to fifty percent (50%) may be used prior to July 1,
23 2022, in additional funding for services provided by Beginnings for Parents
24 of Children Who Are Deaf or Hard of Hearing, Inc., for outreach to and
25 support of North Carolina families affected by COVID-19.

26 (19) \$970,000 for the Department to contract with Schools That Lead, Inc., to
27 establish the Schools That Lead Program (Program) according to the
28 following:

29 a. Program; purpose. – The Department shall contract with Schools That
30 Lead, Inc., to provide professional development to teachers and
31 principals in up to 75 schools, beginning with the 2021-2022 school
32 year and ending in the 2023-2024 school year. The contract shall
33 require Schools That Lead, Inc., to develop or purchase a statewide,
34 online platform that allows teachers to share student performance
35 improvement methods across the State. The selected schools shall be
36 charter schools or schools under the authority of a local school
37 administrative unit affected by COVID-19. Professional development
38 services shall be offered to teachers and principals in grades K-12. The
39 Superintendent of Public Instruction, in consultation with Schools
40 That Lead, Inc., shall determine which schools are eligible to
41 participate in the Program. At a minimum, the Program shall offer
42 services to three cohorts of schools, as follows:

- 43 1. High schools working to increase on-time graduation.
- 44 2. Middle schools working to prepare students to succeed in high
45 school by reducing the likelihood of retention in the ninth
46 grade for multiple school years.
- 47 3. Elementary schools working to reduce the number of students
48 with early warning indicators of course failures, absences, and
49 discipline.

50 b. Evaluation. – Of the funds allocated pursuant to this subdivision, the
51 Department shall use up to one hundred thousand dollars (\$100,000)

- 1 to contract with an independent research organization to measure the
2 impacts of the Program on student outcomes, including, but not limited
3 to, (i) on-time graduation in high school, (ii) ninth grade retention
4 rates, and (iii) course failures, absences, and discipline in elementary
5 schools. The independent research organization shall report its interim
6 findings to the Department no later than June 30 of each year, starting
7 in 2023, and shall submit a final report no later than June 30, 2025.
- 8 c. Report. – The Department of Public Instruction, in consultation with
9 Schools That Lead, Inc., shall submit a report on the impacts of the
10 Program authorized by this subdivision, including, but not limited to,
11 an accounting of expenditures, school performance data, principal
12 performance data, teacher performance data, and student outcome
13 data, beginning October 1, 2023, and continuing each year thereafter
14 until October 1, 2025, to the Joint Legislative Education Oversight
15 Committee and the Fiscal Research Division. The October 1, 2025,
16 report shall include a summary and copy of the final report provided
17 by the independent research organization pursuant to sub-subdivision
18 b. of this subdivision.
- 19 d. Allocation of funds. – The Department shall allocate up to three
20 hundred thousand dollars (\$300,000) to Schools That Lead, Inc., for
21 the contract prior to July 1, 2022. The Department shall allocate any
22 remaining funds for the contract on or after July 1, 2022.
- 23 (20) \$18,000,000, of which up to fifty percent (50%) may be used prior to July 1,
24 2022, to provide coaching support and professional development for
25 principals and school improvement leadership teams in local school
26 administrative units. Funds shall be used (i) to design and implement a
27 leadership institute for principals employed in qualifying public schools and
28 (ii) to provide grants to local school administrative units in which a majority
29 of the public schools are qualifying public schools for flexible improvement
30 and intervention options approved by the Department to address negative
31 impacts of COVID-19. Up to two million dollars (\$2,000,000) of these funds
32 may be used for 20 time-limited or full-time equivalent positions for the
33 Department to support the activities set forth in this subdivision. For the
34 purposes of this subdivision, a qualifying public school is a school meeting
35 the following criteria:
- 36 a. For the most recent year for which data are available, has a school
37 performance score in the lowest-performing five percent (5%) of all
38 schools.
- 39 b. Receives funds under Part A of Title I of the Elementary and
40 Secondary Education Act of 1965, as amended.
- 41 c. Is governed by a local board of education.
- 42 d. Is not one of the following types of schools:
- 43 1. An alternative school.
- 44 2. A cooperative innovative high school.
- 45 3. A school that was in its first or second year of operation in the
46 previous school year.
- 47 4. A newcomers school. For the purposes of this subdivision, a
48 newcomers school is a school in which at least ninety percent
49 (90%) of its students are enrolled for no more than one year on
50 the basis of their status as recently arrived English language
51 learners.

- 1 (21) \$5,000,000 to be transferred to the Board of Governors of The University of
2 North Carolina to be allocated to the National College Advising Corps, Inc.
3 (CAC), a nonprofit organization, to support a temporary expansion of the
4 placement of college advisers in North Carolina public schools through their
5 program over a two-year period for the purpose of increasing the number of
6 underrepresented, low-income, or first-generation postsecondary degree or
7 certificate students entering and completing their postsecondary education at
8 community colleges and universities. In furthering its mission, CAC operates
9 an innovative model of partnering with schools, communities, families, and
10 postsecondary institutions, including providing for a two-year service
11 opportunity to recent college graduates as near-peer college advisers working
12 full-time in the public schools, with an emphasis on engaging college advisers
13 who have similar backgrounds to the students the program seeks to serve.
14 CAC uses near-peer college advisers to perform various services for students,
15 including (i) attending postsecondary campus visits, fairs, and workshops with
16 students, (ii) assisting with registering for college entrance exams, (iii)
17 assisting with Free Application for Federal Student Aid (FAFSA) registrations
18 and completions, (iv) identifying available scholarships, (v) assisting with
19 postsecondary applications, and (vi) engaging with parents. The Board of
20 Governors may allocate up to two million five hundred thousand dollars
21 (\$2,500,000) to CAC prior to July 1, 2022. The Board of Governors may
22 allocate the remaining funds to CAC through the deadline established by
23 applicable federal law and guidance for the expenditure of the funds. Funds
24 made available to CAC pursuant to this subdivision shall be matched by CAC
25 on the basis of two dollars (\$2.00) in private funds for every one dollar (\$1.00)
26 in federal funds. CAC shall use the funds provided to it under this subdivision
27 to place college advisers in counties designated as tier one and tier two under
28 G.S. 143B-437.08. CAC shall submit an interim report by October 1, 2022,
29 and a final report by October 1, 2024, to the Joint Legislative Education
30 Oversight Committee and the Fiscal Research Division on the progress of
31 expanding the placement of college advisers, data on the effectiveness of the
32 program in increasing access for students to postsecondary education, and the
33 use of the funds.
- 34 (22) \$2,400,000 to be allocated to Communities in Schools of North Carolina, Inc.,
35 to provide for the extension of nine-month contracts for its employees for the
36 purpose of providing assistance and enrichment activities over the summers
37 for students in kindergarten through twelfth grade experiencing learning loss
38 and negative impacts from COVID-19. The Department shall allocate up to
39 fifty percent (50%) of these funds to Communities in Schools of North
40 Carolina, Inc., prior to July 1, 2022.
- 41 (23) \$10,500,000 to be used for career and technical education (CTE) programs to
42 provide options for students outside traditional classroom instruction during
43 the COVID-19 pandemic as follows:
- 44 a. \$10,000,000 to provide grants for local school administrative units to
45 create pilot programs for the expansion of credentials and
46 certifications. The Department may allocate up to fifty percent (50%)
47 of these funds as grants to local school administrative units prior to
48 July 1, 2022.
- 49 b. \$500,000 shall be allocated as grants to nationally certified programs
50 in CTE focused on developing critical skills necessary for students to
51 succeed in the retail sector. Funds shall be used to support instructor

1 and student training and testing to increase the State's skilled
2 workforce in the retail sectors. The Department may allocate up to fifty
3 percent (50%) of these funds as grants to eligible programs prior to
4 July 1, 2022.

5 (24) \$13,200,000 to be allocated to the North Carolina Education Corps (NC ED
6 Corps), a nonprofit corporation, for the purpose of NC ED Corps partnering
7 with public school units to recruit, train, and deploy corps members, who
8 include community college and university students, recent graduates, and
9 retirees, to work as tutors and mentors with public school students. Corps
10 members work in the public schools to build relationships and connect with
11 students and help teachers reach students who need additional academic
12 support. The program shall focus on accelerating COVID-19 learning
13 recovery with students, families, and school personnel, particularly through
14 high-impact literacy tutors grounded in the Science of Reading and reading
15 instruction. The Department shall allocate up to three million two hundred
16 thousand dollars (\$3,200,000) of the funds provided under this subdivision to
17 NC ED Corps prior to July 1, 2022. The Department shall allocate the
18 remaining funds to NC ED Corps on or after July 1, 2022.

19 (25) \$10,000,000 for the Department to contract with the State Education
20 Assistance Authority (Authority) to establish and administer the Student
21 Success Program to allow parents of eligible children to use federal funds
22 intended to mitigate the negative impacts of COVID-19 towards allowable
23 educational uses of their choice to address student learning loss and provide
24 supplemental educational support. However, prior to the expenditure of any
25 funds provided under this subdivision, the Department of Public Instruction
26 shall obtain a letter of determination from the United States Department of
27 Education that the use of funds as required by this subdivision is consistent
28 with federal law and guidelines for the expenditure of funds from the
29 Elementary and Secondary School Emergency Relief Fund under the
30 Coronavirus Aid, Relief, and Economic Security Act and the American
31 Rescue Plan Act. Upon receipt of the determination letter from the United
32 States Department of Education that the funds may be used for this purpose,
33 the Student Success Program (Program) shall be established according to the
34 following:

35 a. Program established; eligibility. – The Authority shall provide a
36 one-time grant to eligible children through the Program. Grants
37 awarded to eligible children shall be in an amount of one thousand
38 dollars (\$1,000) per child. For the purposes of this subdivision, an
39 "eligible child" shall be a child residing in North Carolina who has not
40 yet received a high school diploma and who meets all of the following
41 requirements:

- 42 1. Is eligible to attend a North Carolina public school pursuant to
43 G.S. 115C-366.
- 44 2. Has not enrolled in a postsecondary institution in a
45 matriculated status eligible for enrollment for 12 hours of
46 academic credit.
- 47 3. Resides in a household with an income level not in excess of
48 one hundred fifty percent (150%) of the amount required for a
49 student to qualify for the federal free or reduced-price lunch
50 program.

- 1 b. Applications; priority of awards. – The Authority shall make
2 information on the Program and the application process available on
3 its website. Grants shall be awarded to eligible children during the
4 application period established by the Authority in the order they are
5 received according to the following priority schedule:
6 1. Awards shall first be awarded to eligible children who reside
7 in households with an income level below the federal poverty
8 level.
9 2. After the application period is open for two months, grants may
10 also be awarded to eligible children who reside in households
11 with an income level at the amount required for a student to
12 qualify for the free or reduced-price lunch program.
13 3. After the application period is open for four months, grants
14 may also be awarded to eligible children who reside in
15 households with an income level not in excess of one hundred
16 fifty percent (150%) of the amount required for a student to
17 qualify for the free or reduced-price lunch program.
18 c. Use of grant funds. – The Authority shall enter into a written
19 agreement with the recipient of the grant to only use the funds for the
20 following allowable expenditures prior to the receipt of the funds:
21 1. Tutoring services provided by an educator licensed by North
22 Carolina, a person with experience teaching in higher
23 education, or a person who has a bachelor's degree or graduate
24 degree in the subject area in which tutoring is provided.
25 2. Textbooks, curriculum, or other instructional materials.
26 3. Therapies for children with disabilities from a licensed or
27 accredited practitioner or provider, including, but not limited
28 to, occupational, behavioral, physical, and speech language
29 therapies.
30 4. Educational programs or courses offered for a fee or pursuant
31 to contract by a local educational agency, charter school,
32 nonpublic school, institution of higher education, or career and
33 technical education program.
34 5. Fees for national standardized assessments, advanced
35 placement examinations, examinations related to college or
36 university admissions, or industry recognized certification
37 examinations.
38 Grant funds must be spent by the recipient no later than September 1,
39 2023. Any unexpended funds remaining after September 1, 2023, shall
40 be returned to the Authority and to the Department of Public
41 Instruction.
42 d. Authorizations; limitations. – Household members of applicants for
43 grants shall authorize the Authority to access information needed for
44 verification of applications that are held by other State agencies,
45 including the Department of Revenue, the Department of Health and
46 Human Services, and the Department of Public Instruction. Any
47 personally identifiable information included in an application related
48 to eligible children receiving grants shall not be a public record under
49 Chapter 132 of the General Statutes. For the purposes of this
50 sub-subdivision, personally identifiable information means any
51 information directly related to a child or members of a child's

1 household, including the name, birthdate, address, social security
2 number, telephone number, email address, financial information, or
3 any other information or identification number that would provide
4 information about a specific child or members of a specific child's
5 household.

6 e. Administration. – The Authority may contract with outside
7 organizations to administer the Program, including a vendor that
8 provides a virtual e-wallet platform and an e-commerce marketplace.
9 The outside organizations may also include vendors, auditing firms, or
10 financial institutions who can restrict the use of funds to allowable
11 expenditures or firms that preauthorize allowable expenditures. Up to
12 five percent (5%) of the funds available for the Program may be used
13 for administrative costs, including to contract with outside
14 organizations. The Authority shall adopt any necessary rules for the
15 administration of the Program.

16 f. Additional availability of funds. – Notwithstanding Section 5A of S.L.
17 2021-1, as enacted by Section 1.2 of S.L. 2021-3, or any other
18 provision of law to the contrary, after August 15, 2021, any
19 unencumbered funds remaining from the funds made available in the
20 Elementary and Secondary School Emergency Relief II Fund and
21 reserved pursuant to subsection (c1) of Section 5 of S.L. 2021-1, as
22 enacted by Section 1.3 of S.L. 2021-3, except for those funds reserved
23 for the purposes set forth under subdivisions (6), (8), (9), (13), and (14)
24 of Section 5A of S.L. 2021-1, shall be used for the purposes of the
25 Program.

26 (26) If, on August 15, 2023, there are any funds that are unencumbered from the
27 Elementary and Secondary School Emergency Relief III Fund reserve of
28 funds pursuant to subsection (f) of section 2001 of the American Rescue Plan
29 Act, those funds shall be reallocated to be used for expenditures on or after
30 that date to meet additional needs of the elementary and secondary schools of
31 the State within federal law and guidelines, as determined by the State Board
32 of Education."

33 **SECTION 12.(c)** Within 15 days of the date this act becomes law, the Department
34 of Public Instruction shall seek a letter of determination from the United States Department of
35 Education regarding the establishment of the Student Success Program (Program) pursuant to
36 subdivision (25) of Section 3.5 of S.L. 2021-25, as enacted by this act, and whether the use of
37 funds for that Program is consistent with federal law and guidelines for the expenditure of funds
38 from the Elementary and Secondary School Emergency Relief Fund under the Coronavirus Aid,
39 Relief, and Economic Security Act and the American Rescue Plan Act, as described under the
40 authorizing legislation. Upon receipt of the determination letter from the United States
41 Department of Education, the Department of Public Instruction shall notify the State Education
42 Assistance Authority of a determination of consistency or inconsistency with federal law and
43 guidelines on the use of funds under the proposed Program and the authorizing legislation. If the
44 letter contains a determination that the use of funds is consistent with federal law and guidelines,
45 as described under the authorizing legislation, the State Education Assistance Authority shall
46 open the application period for grants for the Program pursuant to sub-subdivision b. of
47 subdivision (25) of Section 3.5 of S.L. 2021-25, as enacted by this act, within 30 days of
48 notification from the Department of Public Instruction.

50 **PART XIII. EFFECTIVE DATE**

1 **SECTION 13.** Except as otherwise provided, this act is effective when it becomes
2 law.