

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1590

Short Title: The School Construction Bond Act of 2009. (Public)

Sponsors: Representatives Dollar; and Gillespie.

Referred to: State Government/State Personnel, if favorable, Finance.

May 6, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE TO ISSUE THREE BILLION DOLLARS OF REVENUE BONDS TO BE SECURED BY REVENUES FROM THE NORTH CAROLINA EDUCATION LOTTERY FOR PUBLIC SCHOOL CAPITAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The State Treasurer may issue revenue bonds in the amount of three billion dollars (\$3,000,000,000) on behalf of the State. The net revenues of the North Carolina Education Lottery under G.S. 18C-164(c) shall be the sole source of repayment and security for the indebtedness, and all or a portion of the net revenues may be pledged as "revenue" under G.S. 159-81. The indebtedness shall be issued by the State Treasurer pursuant to an order adopted by the Council of State under G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this act. Prior to issuance of any special obligation indebtedness, the State Treasurer shall determine that anticipated net revenues from the North Carolina Education Lottery are sufficient to provide for the repayment of the indebtedness. Indebtedness issued under the provisions of this act may not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, or a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds and revenues pledged therefor. All indebtedness issued under this act shall contain on its face a statement to the effect that the State of North Carolina shall not be obligated to pay the principal or the interest on the notes, except from the net revenues of the North Carolina Education Lottery as shall be provided by the documents governing the revenue bond issuance, and that neither the faith and credit nor the taxing power of the State of North Carolina or of any of its political subdivisions is pledged to the payment of the principal or interest on the bonds. The issuance of bonds under this act shall not directly or indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. The proceeds of indebtedness issued under this act shall be used for the cost of capital facilities, the cost of issuing the bonds, credit enhancement, liquidation facilities, and other incidental costs for new or renovated public school facilities or to repay indebtedness incurred for these purposes on or after January 1, 2000. Funds shall be allocated for projects among the counties in accordance with the provisions of G.S. 115C-546.2(d).

SECTION 2.(a) G.S. 18C-164 reads as rewritten:

"§ 18C-164. Transfer of net revenues.

(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery



1 Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred four times
2 a year to the Education Lottery Fund, which shall be created in the State treasury.

3 (b) From the Education Lottery Fund, the Commission shall transfer a sum equal to five
4 percent (5%) of the net revenue of the prior year to the Education Lottery Reserve Fund. A
5 special revenue fund for this purpose shall be established in the State treasury to be known as
6 the Education Lottery Reserve Fund, and that fund shall be capped at fifty million dollars
7 (\$50,000,000). Monies in the Education Lottery Reserve Fund may be appropriated only as
8 provided in subsection (e) of this section.

9 (c) The Commission shall distribute the remaining net revenue of the Education Lottery
10 ~~Fund, as follows, in the following manner:~~Fund to the State Treasurer to repay indebtedness
11 secured by all or a portion of the net revenues of the Education Lottery. If the remaining net
12 revenue of the Education Lottery Fund exceeds the amount needed to repay indebtedness
13 secured by all or a portion of the net revenues of the Education Lottery, the Commission shall
14 transfer the excess.

15 (1) ~~A sum equal to fifty percent (50%) to support reduction of class size in early~~
16 ~~grades to class size allotments not exceeding 1:18 in order to eliminate~~
17 ~~achievement gaps and to support academic prekindergarten programs for~~
18 ~~at risk four year olds who would otherwise not be served in a high quality~~
19 ~~education program in order to help those four year olds be prepared~~
20 ~~developmentally to succeed in school.~~

21 (2) ~~A sum equal to forty percent (40%) to the Public School Building Capital~~
22 ~~Fund in accordance with G.S. 115C-546.2.~~

23 (3) ~~A sum equal to ten percent (10%) to the State Educational Assistance~~
24 ~~Authority to fund college and university scholarships in accordance with~~
25 ~~Article 35A of Chapter 115C of the General Statutes.~~

26 (d) Of the sums transferred under subsection (c) of this section, the General Assembly
27 shall appropriate the funds annually based upon estimates of lottery net revenue to the
28 Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal
29 Research Division of the North Carolina General Assembly.

30 (e) If the actual net revenues are less than the appropriation for that given year, then the
31 Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal
32 the appropriation by the General Assembly. ~~If the monies available in the Education Lottery~~
33 ~~Reserve Fund are insufficient to reach a full appropriation, the Governor shall transfer monies~~
34 ~~in order of priority, to the following:~~

35 (1) ~~To support academic prekindergarten programs for at risk four year olds~~
36 ~~who would otherwise not be served in a high quality education program in~~
37 ~~order to help those four year olds be prepared developmentally to succeed in~~
38 ~~school.~~

39 (2) ~~To reduce class size.~~

40 (3) ~~To provide financial aid for needy students to attend college.~~

41 (4) ~~To the Public School Building Capital Fund to be spent in accordance with~~
42 ~~this section.~~

43 (f) ~~If the actual net revenues exceed the amounts appropriated in that fiscal year, the~~
44 ~~excess net revenues shall remain in the Education Lottery Fund, and then be transferred as~~
45 ~~follows:~~

46 (1) ~~Fifty percent (50%) to the Public School Building Capital Fund to be spent~~
47 ~~in accordance with this section.~~

48 (2) ~~Fifty percent (50%) to the State Educational Assistance Authority to be~~
49 ~~spent in accordance with this section."~~

50 **SECTION 2.(b)** G.S. 115C-546.2(d) reads as rewritten:

1 "(d) Monies transferred into the Fund in accordance with Chapter 18C of the General
2 Statutes shall be allocated for capital projects for school construction projects as follows:

3 (1) ~~A sum equal to sixty five percent (65%) of those monies transferred in~~
4 ~~accordance with G.S. 18C 164 shall be allocated on a per average daily~~
5 ~~membership basis according to the average daily membership for the budget~~
6 ~~year as determined and certified by the State Board of Education.~~

7 (2) ~~A sum equal to thirty five percent (35%) of those monies transferred in~~
8 ~~accordance with G.S. 18C 164 shall be allocated to those local school~~
9 ~~administrative units located in whole or part in counties in which the~~
10 ~~effective county tax rate as a percentage of the State average effective tax~~
11 ~~rate is greater than one hundred percent (100%), with the following~~
12 ~~definitions applying to this subdivision:~~

13 a. ~~"Effective county tax rate" means the actual county rate for the~~
14 ~~previous fiscal year, including any countywide supplemental taxes~~
15 ~~levied for the benefit of public schools, multiplied by a three year~~
16 ~~weighted average of the most recent annual sales assessment ratio~~
17 ~~studies.~~

18 b. ~~"State average effective tax rate" means the average effective county~~
19 ~~tax rates for all counties.~~

20 e. ~~"Sales assessment ratio studies" means sales assessment ratio studies~~
21 ~~performed by the Department of Revenue under G.S. 105-289(h).~~

22 (3) ~~No county shall have to provide matching funds required under subsection~~
23 ~~(c) of this section.~~

24 (4) ~~A county may use monies in this Fund to pay for school construction~~
25 ~~projects in local school administrative units and to retire indebtedness~~
26 ~~incurred for school construction projects incurred on or after January 1,~~
27 ~~2003.~~

28 (5) ~~A county may not use monies in this Fund to pay for school technology~~
29 ~~needs."~~

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