

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 462 (First Edition)

SHORT TITLE: Restore Public Schools' Sales Tax Refund.

SPONSOR(S): Senator McKissick

FISCAL IMPACT					
\$ In Millions					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES					
End Transfer to Public School Fund	45.7	45.7	48.0	50.4	52.9
LEA Sales Tax Exemption and Refund	(8.0)	(41.4)	(42.8)	(44.5)	(46.2)
General Fund Impact	\$37.6	\$4.3	\$5.2	\$5.9	\$6.6
EXPENDITURES					
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue					
EFFECTIVE DATE: July 1, 2009					

BILL SUMMARY:

Effective for purchases made on or after July 1, 2009, SB 462, the Restore Public Schools' Sales Tax Refund Act, provides a sales tax exemption for local school administrative units (LEAs) on purchases that meet specified conditions and reinstates the repealed LEA state sales and use tax refund. The legislation also repeals a mandatory distribution from the Department of Revenue to the State Public School Fund (SPSF) created in 2005 to replace the repealed public school refund.

S.L. 2005-276 repealed the state sales tax refund for LEAs and replaced it with a recurring transfer of the equivalent amount of state funds to the Public School Fund. The result was to direct these state funds for public education through the budgetary process instead of returning the money directly to LEAs as refunds. The provision did not affect the local sales tax refund for school districts. This bill reenacts the State sales and use tax refund and exemption for LEAs.

ASSUMPTIONS AND METHODOLOGY:

The legislation proposes maintaining the Department of Revenue transfer to the Public School Fund during the 2009-10 fiscal year while reinstating the public school refund and exemption. Reinstating the state sales and use tax exemption and refund to LEAs would increase General Fund availability during the 2009-10 fiscal year by \$37.6 million.

The \$36.7 million increase in General Fund availability represents the difference between ending the transfer to the SPSF of \$45.7 million and the \$8.0 million public school tax exemption received in 2009-10. The \$8.0 million equals 20 percent of estimated state sales and use tax refunds and exemptions accrued by the schools during the 2009-10 fiscal year. Schools, under SB 462, would be eligible to receive a sales and use tax exemption of roughly \$8.0 million for certain items immediately after June 30, 2009 and a refund for the non-exempt purchases. The refunds of state sales and use tax for the 2009-10 fiscal year will be distributed in October of the 2010-11 fiscal year.

The State Public School Fund receives a quarterly transfer from the Department of Revenue, as directed under G.S. 105-164.44H, in lieu of a refund of state sales and use taxes to LEAs. Initially, the transfer replaced the LEA sales and use tax refunds. The transfer amount equals the amount of state sales and use tax refunded to the LEAs during the 2005-2006 fiscal year, the last year in which LEAs could still receive the refund. The 2009-10 budget estimates that the SPSF transfer would equal \$46.3 million. In subsequent years, the allocation uses the amount transferred in the previous year as a base, plus or minus the percentage State sales and use tax collections increase or decrease. Fiscal Research estimates that sales and use tax nominal collections will decline in 2008-09 by 6.5 percent lowering the 2009-10 public school fund distribution by a proportional amount. Sales and use tax collections will remain flat during the 2010-11 fiscal year, increasing by five percent annually after 2011-12. Eliminating the transfer, while reinstating the refund provides a net gain to the General fund during the 2010-2011 fiscal year of \$5.0 million.

As shown in Table 1, LEA sales and use tax refunds declined by 11 percent between 2005-06 and 2006-07, coinciding with the repeal of the LEA state sales and use tax exemption and refund. There may be no complete explanation of why LEA spending declined after instating the SPSF transfer, but anecdotal evidence suggests that LEAs began purchasing items through their respective county governments.

Table 1. LEA State Sales and Use Tax Refunds, by Fiscal Year (\$ In Millions)		
FY 2005-06	FY 2006-07	2007-08
Based on 2004-05 Spending	Based on 2005-06 Spending	Based on 2006-07 Spending
\$41.1	\$36.7	\$36.4

Shifting spending to the counties allowed schools to benefit from the local government sales and use tax exemption while using the higher, pre 2006-07 spending levels as the basis for the SPSF transfer. Should the state sales and use tax exemption be created in addition to the reinstatement of the refund, LEA spending will increase as schools reallocate expenditures from the county level back to the LEA. Eliminating the transfer to the SPSF, however, will more than offset the expenditures associated with a tax refund and exemption providing a net surplus to the General Fund of \$4.3 million during fiscal 2010-11.

Elimination of the Public School Fund Transfer will negatively impact the amount of support schools receive through the SPSF. For example, under this legislation and notwithstanding any other adjustments, SPSF availability and expenditures will decline by \$45.7 million in FY 2010-11.

SOURCES OF DATA:

LEA Sales and Use Tax Refunds—North Carolina Department of Revenue, *Amounts Refunded During Designated Fiscal Years under G.S. 105-164.14(2b), (2c)*.

Public School Fund Appropriations—BD-701, *Public School Fund*, Budget Code 13510, Fund 1800, Account 438150.

TECHNICAL CONSIDERATIONS: None

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