

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2811

Short Title: Public School Bond Act of 2006. (Public)

Sponsors: Representatives Dollar; Almond, Blackwood, Brown, Cleveland, Daughtry, Dockham, Folwell, Frye, Harrell, Pate, Preston, Starnes, Steen, and Walend.

Referred to: Finance.

May 30, 2006

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE STATE TO ISSUE FIVE BILLION DOLLARS OF
2 LIMITED OBLIGATION BONDS TO BE SECURED BY REVENUES FROM
3 THE NORTH CAROLINA EDUCATION LOTTERY FOR PUBLIC SCHOOL
4 CAPITAL FACILITIES.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** This act is entitled "The Public School Facilities Limited
8 Obligation Bond Act of 2006".

9 **SECTION 2.(a)** Authorization of bonds and notes. – The State Treasurer is
10 hereby authorized, by and with the consent of the Council of State, to issue and sell, at
11 one time or from time to time, limited obligation bonds of the State to be designated
12 "State of North Carolina 2006 Public School Facility Bonds", with any additional
13 designations as may be determined to indicate the issuance of bonds from time to time,
14 or notes of the State as provided in this act, in an aggregate principal amount not
15 exceeding five billion dollars (\$5,000,000,000) of limited obligation bonds for the
16 purpose of providing funds, with any other available funds, for the purposes authorized
17 in this act.

18 **SECTION 2.(b)** Use of bond proceeds. – The proceeds of the 2006 Public
19 School Facility Bonds shall be used as provided in this subsection. The proceeds of the
20 2006 Public School Facility Bonds shall be used for the cost of capital facilities for new
21 or renovated public school or community college facilities. Funds shall be allocated for
22 projects among the counties in accordance with the provisions of G.S. 115C-546.2.

23 **SECTION 3.** Definitions. – As used in this act, unless the context otherwise
24 requires:

- 25 (1) "Bonds" means bonds issued under this act.
26 (2) "Capital facility" means any one or more of the following:

- 1 a. Any one or more buildings, utilities, structures, or other
2 facilities or property developments, including streets and
3 landscaping, and the acquisition of equipment, machinery, and
4 furnishings in connection with these items.
- 5 b. Additions, extensions, enlargements, renovations, and
6 improvements to existing buildings, utilities, structures, or other
7 facilities or property developments, including streets and
8 landscaping.
- 9 c. Land or an interest in land.
- 10 d. Other infrastructure.
- 11 (3) "Cost" means any of the following in financing the cost of capital
12 facilities as authorized by this Article:
- 13 a. The cost of constructing, reconstructing, renovating, repairing,
14 enlarging, acquiring, and improving capital facilities, including
15 the acquisition of land, rights-of-way, easements, franchises,
16 equipment, machinery, furnishings, and other interests in real or
17 personal property acquired or used in connection with a capital
18 facility.
- 19 b. The cost of engineering, architectural, and other consulting
20 services.
- 21 c. The cost of providing personnel to ensure effective
22 management of capital facilities.
- 23 d. Administrative expenses and charges.
- 24 (4) "Credit facility" means an agreement entered into by the State
25 Treasurer on behalf of the State with a bank, savings and loan
26 association, or other banking institution, an insurance company,
27 reinsurance company, surety company, or other insurance institution, a
28 corporation, investment banking firm, or other investment institution,
29 or any financial institution or other similar provider of a credit facility,
30 which provider may be located within or without the United States of
31 America, such agreement providing for prompt payment of all or any
32 part of the principal or purchase price (whether at maturity,
33 presentment or tender for purchase, redemption, or acceleration),
34 redemption premium, if any, and interest on any bonds or notes
35 payable on demand or tender by the owner, in consideration of the
36 State agreeing to repay the provider of the credit facility in accordance
37 with the terms and provisions of such agreement.
- 38 (5) "Notes" means notes issued under this act.
- 39 (6) "Par formula" means any provision or formula adopted by the State to
40 provide for the adjustment, from time to time, of the interest rate or
41 rates borne by any bonds or notes, including:
- 42 a. A provision providing for such adjustment so that the purchase
43 price of such bonds or notes in the open market would be as
44 close to par as possible,

1 b. A provision providing for such adjustment based upon a
2 percentage or percentages of a prime rate or base rate, which
3 percentage or percentages may vary or be applied for different
4 periods of time, or

5 c. Such other provision as the State Treasurer may determine to be
6 consistent with this act and will not materially and adversely
7 affect the financial position of the State and the marketing of
8 bonds or notes at a reasonable interest cost to the State.

9 (7) "State" means the State of North Carolina.

10 **SECTION 4.** Security for bonds. – (a) Source of Repayment. – The net
11 proceeds of the North Carolina Education Lottery reserved for educational projects
12 under G.S. 18C-164(c) shall be the sole source of security of the bonds or notes. The
13 payment of amounts payable by the State under the bonds or notes during any fiscal
14 period shall be limited to funds appropriated for that purpose by the General Assembly
15 in its discretion.

16 **SECTION 4.(b)** No Deficiency Judgment or Pledge. – No deficiency
17 judgment may be rendered against the State in any action for breach of any obligation
18 under the bonds or notes or any related documents. The taxing power of the State is not
19 and may not be pledged directly or indirectly to secure any moneys due under the bonds
20 or notes or any related documents. In the event that the General Assembly does not
21 appropriate sums sufficient to make payments required under the bonds or notes or any
22 related documents, the net proceeds of the North Carolina Education Lottery reserved
23 for educational projects under G.S. 18C-164(c) shall be applied to satisfy these payment
24 obligations in accordance with the bonds or notes. These net proceeds are appropriated
25 for the purpose of making these payments. Any net proceeds in excess of the amount
26 required to satisfy the obligations of the State under the bonds or notes or any related
27 documents shall be used for the purposes specified in G.S. 18C-164(c)

28 **SECTION 4.(c)** Nonsubstitution Clause. – The bonds or notes shall not
29 contain a nonsubstitution clause that restricts the right of the State to (i) continue to
30 provide a service or conduct an activity or (ii) replace or provide a substitute for any
31 capital facility.

32 **SECTION 5.** Allocation of proceeds. – The proceeds of 2006 Public School
33 Facility Bonds and notes, including premium thereon, if any, except the proceeds of
34 bonds the issuance of which has been anticipated by bond anticipation notes or the
35 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
36 fund to be designated "2006 Public School Facility Bonds Fund", which may include
37 such appropriate special accounts therein as may be determined by the State Treasurer
38 and shall be disbursed as provided in this act. Moneys in the 2006 Public School
39 Facility Bonds Fund shall be allocated and expended as provided in this act.

40 Any additional moneys which may be received by means of a grant or grants
41 from the United States of America or any agency or department thereof or from any
42 other source for deposit to the 2006 Public School Facility Bonds Fund may be placed
43 in the 2006 Public School Facility Bonds Fund or in a separate account or fund and shall

1 be disbursed, to the extent permitted by the terms of the grant or grants, without regard
2 to any limitations imposed by this act.

3 Moneys in the 2006 Public School Facility Bonds Fund or any separate fund
4 or account established under this act may be invested from time to time by the State
5 Treasurer in the same manner permitted for investment of moneys belonging to the
6 State or held in the State treasury, except with respect to grant money to the extent
7 otherwise directed by the terms of the grant. Investment earnings, except investment
8 earnings with respect to grant moneys to the extent otherwise directed or restricted by
9 the terms of the grant, may be (i) credited to the 2006 Public School Facility Bonds
10 Fund or any separate fund or account established under this act, (ii) used to pay debt
11 service on the bonds authorized by this act, (iii) used to satisfy compliance with
12 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of
13 the State.

14 The proceeds of bonds and notes may be used with any other moneys made
15 available by the General Assembly for purposes authorized by this act, including the
16 proceeds of any other State bond issues, whether heretofore made available or which
17 may be made available at the session of the General Assembly at which this act is
18 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
19 and disbursed under the direction and supervision of the Director of the Budget. The
20 funds provided by this act shall be disbursed for the purposes provided in this act upon
21 warrants drawn on the State Treasurer by the State Controller, which warrants shall not
22 be drawn until requisition has been approved by the Director of the Budget and which
23 requisition shall be approved only after full compliance with the Executive Budget Act,
24 Article 1 of Chapter 143 of the General Statutes.

25 **SECTION 6.** Issuance of limited obligation bonds and notes. – (a) Terms
26 and Conditions. – Bonds or notes may bear any dates; may be serial or term bonds or
27 notes, or any combination of these; may mature in any amounts and at any times, not
28 exceeding 40 years from their dates; may be payable at any places, either within or
29 without the United States, in any coin or currency of the United States that at the time of
30 payment is legal tender for payment of public and private debts; may bear interest at any
31 rates, which may vary from time to time; and may be made redeemable before maturity,
32 at the option of the State or otherwise as may be provided by the State, at any prices,
33 including a price less than or greater than the face amount of the bonds or notes, and
34 under any terms and conditions, all as may be determined by the State Treasurer, by and
35 with the consent of the Council of State.

36 **SECTION 6.(b)** Signatures; Form and Denomination; Registration. – Bonds
37 or notes may be issued in certificated or uncertificated form. If issued in certificated
38 form, bonds or notes shall be signed on behalf of the State by the Governor or bear the
39 Governor's facsimile signature, shall be signed by the State Treasurer or bear the State
40 Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile
41 of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile
42 signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a
43 manual signature which may be that of a bond registrar, trustee, paying agent, or
44 designated assistant of the State Treasurer. If any officer whose signature or facsimile

1 signature appears on bonds or notes issued under this Article ceases to be that officer
2 before the delivery of the bonds or notes, the signature or facsimile signature shall
3 nevertheless have the same validity for all purposes as if the officer had remained in
4 office until delivery of the bonds or notes. Bonds or notes issued under this Article may
5 bear the facsimile signatures of persons who, at the actual time of the execution of the
6 bonds or notes, were the proper officers to sign any bond or note although at the date of
7 the bond or note those persons may not have been officers.

8 The form and denomination of bonds or notes, including the provisions with respect
9 to registration of the bonds or notes and any system for their registration, shall be as
10 prescribed by the State Treasurer in conformity with this Article.

11 **SECTION 6.(c) Manner of Sale; Expenses.** – Subject to the approval by the
12 Council of State as to the manner in which bonds or notes will be offered for sale,
13 whether at public or private sale, whether within or without the United States, and
14 whether by publishing notices in certain newspapers and financial journals, mailing
15 notices, inviting bids by correspondence, negotiating contracts of purchase, or
16 otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from
17 time to time at any rates of interest, which may vary from time to time, and at any
18 prices, including a price less than or greater than the face amount of the bonds or notes,
19 as the State Treasurer may determine. All expenses incurred in the preparation, sale, and
20 issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of
21 bonds or notes or other available moneys.

22 **SECTION 6.(d) Application of Proceeds.** – The proceeds of any bonds or
23 notes shall be used solely for the purposes for which the bonds or notes were issued and
24 shall be disbursed in the manner and under the restrictions, if any, that the Council of
25 State may provide in the resolution authorizing the issuance of, or in any trust
26 agreement securing, the bonds or notes.

27 Any additional moneys that may be received by means of a grant or grants from the
28 United States or any agency or department thereof or from any other source to aid in
29 financing the cost of a capital facility may be disbursed, to the extent permitted by the
30 terms of the grant or grants, without regard to any limitations imposed by this act.

31 **SECTION 6.(e) Notes; Repayment.** – By and with the consent of the
32 Council of State, the State Treasurer is authorized to borrow money and to execute and
33 issue notes of the State for the same, but only in any of the following circumstances and
34 under the following conditions:

- 35 (1) For anticipating the sale of bonds, the issuance of which the Council of
36 State has approved, if the State Treasurer considers it advisable to
37 postpone the issuance of the bonds.
- 38 (2) For the payment of interest on or any installment of principal of any
39 bonds then outstanding, if there are not sufficient funds in the State
40 treasury with which to pay the interest or installment of principal as
41 they respectively become due.
- 42 (3) For the renewal of any loan evidenced by notes authorized in this act.
- 43 (4) For the purposes authorized in this act.

1 (5) For refunding bonds or notes or financing contract indebtedness as
2 authorized in this act.

3 Funds derived from the sale of limited obligation bonds or notes may be used in the
4 payment of any bond anticipation notes issued under this act. Funds provided by the
5 General Assembly for the payment of interest on or principal of bonds shall be used in
6 paying the interest on or principal of any notes and any renewals thereof, the proceeds
7 of which have been used in paying interest on or principal of the bonds.

8 **SECTION 6.(f)** Refunding Bonds and Notes. – By and with the consent of
9 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds
10 and notes for the purpose of refunding the bonds and notes and to pay the cost of
11 issuance of the refunding bonds or notes. The refunding bonds and notes may be
12 combined with any other issues of State bonds and notes issued pursuant to this act.
13 Refunding bonds or notes may be issued at any time prior to the final maturity of the
14 debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or
15 notes shall be applied to the immediate payment and retirement of the obligations being
16 refunded or, if not required for the immediate payment of the obligations being
17 refunded, the proceeds shall be deposited in trust to provide for the payment and
18 retirement of the obligations being refunded and to pay any expenses incurred in
19 connection with the refunding. Money in a trust fund may be invested in (i) direct
20 obligations of the United States government, (ii) obligations the principal of and interest
21 on which are guaranteed by the United States government, (iii) to the extent then
22 permitted by law, obligations of any agency or instrumentality of the United States
23 government, or (iv) certificates of deposit issued by a bank or trust company located in
24 the State if the certificates are secured by a pledge of any of the obligations described in
25 (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest,
26 equal at least to the principal amount of the certificates so secured. This section does not
27 limit the duration of any deposit in trust for the retirement of obligations being refunded
28 but that have not matured and are not presently redeemable or, if presently redeemable,
29 have not been called for redemption.

30 **SECTION 6.(g)** Security. – Payment of the principal of and the interest on
31 bonds and notes shall be secured by the net proceeds of the North Carolina Education
32 Lottery reserved for educational projects under G.S. 18C-164(c).

33 **SECTION 6.(h)** Trust Agreement. – In the discretion of the State Treasurer,
34 any bonds and notes issued under this act may be secured by a trust agreement or
35 similar instrument between the State and a corporate trustee or by a resolution of the
36 Council of State providing for the appointment of a corporate trustee. The corporate
37 trustee may be, in either case, any trust company or bank that has the powers of a trust
38 company within or without the State. The trust may contain any provisions for
39 protecting and enforcing the rights and remedies of the owners of any bonds or notes
40 issued under the trust that are reasonable and not in violation of law, including
41 covenants setting forth the duties of the State with respect to the purposes for which
42 bond or note proceeds may be applied, the disposition and application of the revenues or
43 assets of the State, the duties of the State with respect to the capital facilities financed,
44 the disposition of any charges and collection of any revenues and administrative

1 charges, the terms and conditions of the issuance of additional bonds and notes, and the
2 custody, safeguarding, investment, and application of all moneys. All bonds and notes
3 issued under this Article pursuant to the same trust shall be equally and ratably secured
4 as provided in the trust, without priority by reasons of number, dates of bonds or notes,
5 execution, or delivery, in accordance with the provisions of this act and of the trust. The
6 trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the
7 extent and in the manner prescribed in the trust, be subordinated and junior in standing,
8 with respect to the payment of principal and interest and to the security of the payment,
9 to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust
10 company that may act as depository of the proceeds of bonds or notes, revenues, or any
11 other money under this act to furnish any indemnifying bonds or to pledge any
12 securities that may be required by the State Treasurer. The trust may set out the rights
13 and remedies of the owners of any bonds or notes and of any trustee and may restrict the
14 individual rights of action by the owners. In addition to the foregoing, the trust may
15 contain any other provisions the State Treasurer considers appropriate for the security of
16 the owners of any bonds or notes. Expenses incurred in carrying out the provisions of
17 the trust may be treated as a part of the cost of any capital facility or as an
18 administrative charge and may be paid from the proceeds of the bonds or notes or from
19 any other available funds.

20 **SECTION 7.** Variable rate demand bonds and notes and financing contract
21 indebtedness. – In fixing the details of special indebtedness, the State Treasurer may
22 make the special indebtedness subject to any of the following conditions:

- 23 (1) It is payable from time to time on demand or tender for purchase by
24 the owner thereof if a credit facility supports the special indebtedness,
25 unless the State Treasurer specifically determines that a credit facility
26 is not required upon a determination by the State Treasurer that the
27 absence of a credit facility will not materially and adversely affect the
28 financial position of the State or the marketing of the bonds or notes or
29 financing contract indebtedness at a reasonable interest cost to the
30 State.
- 31 (2) It is additionally supported by a credit facility.
- 32 (3) It is subject to redemption or mandatory tender for purchase prior to
33 maturity.
- 34 (4) It bears interest at a rate or rates that may be fixed or may vary over
35 any period of time, as may be provided in the proceedings providing
36 for the issuance or incurrence of the special indebtedness, including
37 any variations that may be permitted pursuant to a par formula.
- 38 (5) It is the subject of a remarketing agreement under which an attempt is
39 made to remarket special indebtedness to new purchasers before its
40 presentment for payment to the provider of the credit facility or to the
41 State.

42 If the aggregate principal amount payable by the State under a credit facility is in
43 excess of the aggregate principal amount of the bonds or notes secured by the credit
44 facility, whether as a result of the inclusion in the credit facility of a provision for the

1 payment of interest for a limited period of time or the payment of a redemption
2 premium or for any other reason, then the amount of authorized but unissued bonds or
3 notes and financing contract indebtedness during the term of the credit facility shall not
4 be less than the amount of the excess, unless the payment of the excess is otherwise
5 provided for by agreement of the State executed by the State Treasurer.

6 **SECTION 8.** Other agreements. – The State Treasurer may authorize,
7 execute, obtain, or otherwise provide for bond insurance, investment contracts, credit
8 and liquidity facilities, credit enhancement facilities, interest rate swap agreements and
9 other derivative products, and any other related instruments and matters the State
10 Treasurer determines are desirable in connection with the issuance of the bonds or
11 notes. The State Treasurer is authorized to employ and designate any financial
12 consultants, underwriters, fiduciaries, and bond attorneys to be associated with any
13 incurrence or issuance of the bonds or notes under this act as the State Treasurer
14 considers appropriate.

15 **SECTION 9.** Tax exemption. – The bonds and notes shall at all times be
16 free from taxation by the State or any political subdivision or any of their agencies,
17 excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer
18 of the indebtedness; and franchise taxes. The interest component of any payments made
19 by the State under special indebtedness, including the interest component of any
20 certificates of participation, is not subject to taxation as to income.

21 **SECTION 10.** Investment eligibility. – The bonds or notes are securities or
22 obligations in which all of the following may invest, including capital in their control or
23 belonging to them: public officers, agencies, and public bodies of the State and its
24 political subdivisions; insurance companies, trust companies, investment companies,
25 banks, savings banks, savings and loan associations, credit unions, pension or retirement
26 funds, and other financial institutions engaged in business in the State; and executors,
27 administrators, trustees, and other fiduciaries. The bonds or notes are securities or
28 obligations that may properly and legally be deposited with and received by any officer
29 or agency of the State or political subdivision of the State for any purpose for which the
30 deposit of bonds, notes, or obligations of the State or any political subdivision of the
31 State is now or may later be authorized by law.

32 **SECTION 11.** Interpretation of act. – (a) Additional Method. – The
33 foregoing sections of this act shall be deemed to provide an additional and alternative
34 method for the doing of the things authorized thereby and shall be regarded as
35 supplemental and additional to powers conferred by other laws, and shall not be
36 regarded as in derogation of any powers now existing.

37 **SECTION 11.(b)** Statutory References. – References in this act to specific
38 sections or Chapters of the General Statutes or to specific acts are intended to be
39 references to these sections, Chapters, or acts as they may be amended from time to
40 time by the General Assembly.

41 **SECTION 11.(c)** Broad Construction. – This act, being necessary for the
42 health and welfare of the people of the State, shall be broadly construed to effect the
43 purposes thereof.

1 **SECTION 11.(d)** Inconsistent Provisions. – Insofar as the provisions of this
2 act are inconsistent with the provisions of any general, special, or local laws, or parts
3 thereof, the provisions of this act shall be controlling.

4 **SECTION 11.(e)** Severability. – If any provision of this act or the
5 application thereof to any person or circumstance is held invalid, such invalidity shall
6 not affect other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this act are
8 declared to be severable.

9 **SECTION 12.(a)** G.S. 18C-164 reads as rewritten:

10 **"§ 18C-164. Transfer of net revenues.**

11 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of
12 all revenues to the Lottery Fund and after accrual of all obligations of the Commission
13 for prizes and expenses shall be considered to be the net revenues of the North Carolina
14 State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be
15 transferred periodically to the Education Lottery Fund, which shall be created in the
16 State treasury.

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

23 (c) ~~The Commission shall distribute the remaining net revenue of the Education~~
24 ~~Lottery Fund, as follows, in the following manner: Fund to the State Treasurer to repay~~
25 ~~indebtedness secured by the proceeds of the Education Lottery. If the remaining net~~
26 ~~revenue of the Education Lottery Fund exceeds the amount needed to repay~~
27 ~~indebtedness secured by the proceeds of the Education Lottery, the Commission shall~~
28 ~~transfer the excess~~

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

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

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

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

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

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

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

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

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

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

17 (1) To the State Treasurer to the extent needed to repay indebtedness
18 secured by the proceeds of the Education Lottery.

19 (2) Fifty percent (50%) After the distribution in subdivision (1) of this
20 subsection to the Public School Building Capital Fund to be spent in
21 accordance with this section. G.S. 115C-546.2.

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

24 **SECTION 12.(b)** G.S. 115C-546.2(d) reads as rewritten:

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

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

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

39 a. ~~"Effective county tax rate" means the actual county tax rate~~
40 ~~multiplied by a three year weighted average of the most recent~~
41 ~~annual sales assessment ratio studies.~~

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

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

4 (3) No county shall have to provide matching funds required under
5 subsection (c) of this section.

6 (4) A county may use monies in this Fund to pay for school construction
7 projects in local school administrative units and to retire indebtedness
8 incurred for school construction projects incurred on or after January
9 1, ~~2003.~~ 2000.

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

12 **SECTION 13.** This act is effective when it becomes law.