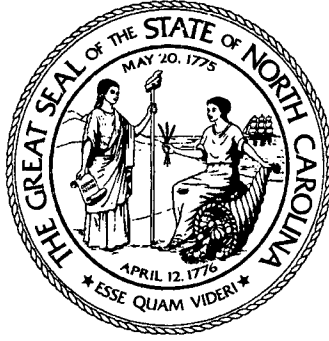


2006-2007

**HOUSE SELECT
COMMITTEE ON
PUBLIC SCHOOL
CONSTRUCTION**

MINUTES



HOUSE SELECT COMMITTEE/ PUBLIC SCHOOL CONSTRUCTION

Fall 2006 Interim

Chair:

Representative Douglas Yongue

Committee Staff:

Adam Levinson, Fiscal Research

Cindy Avrette, Staff Attorney

Trina Griffin, Staff Attorney

Katie Stanley, Committee Clerk

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

MEMBERS:	ASSISTANT:	PHONE:	OFFICE:
Representative Douglas Yongue, Chair	Katie Stanley, Committee Clerk	3-5821	1303
Representative Martha Alexander	Ann Faust	3-5807	2208
Representative Lucy Allen	Melissa Riddle	3-5860	1307
Representative Jeff Barnhart	Pamela Ahlin	5-2009	608
Representative Larry Bell	Carolyn Edwards	3-5863	538
Representative Becky Carney	Joyce Langdon	3-5827	1221
Representative Linda Coleman	Rich Webb	3-5924	1013
Representative Bob England	Lisa Brown	3-5749	2219
Representative Dale Folwell	Mary Marchman	3-5787	508
Representative Bruce Goforth	Ann Jordan	3-5746	1220
Representative Larry Hall	Marjorie Conner	3-5872	417B
Representative Julia Howard	Anne Soles	3-5904	1106
Representative Linda Johnson	Rachel Faison	3-5861	1006
Representative Earl Jones	Sherrie Burnette	3-5825	536
Representative Marvin Lucas	Thelma Utley	3-5775	1323
Representative Edd Nye	Jo Bobbitt	3-5477	639
Representative Garland Pierce	Mildred Alston	3-5803	1313
Representative William Wainwright	Blinda Edwards	3-5995	532
Representative Roger West	Linda Johnson	3-5859	1004
Representative W.A. Wilkins	Nancy Brantley	5-0850	1301
Representative Arthur Williams	Linda Uzzle	3-5906	637
Representative Michael Wray	Mary Capps	3-5662	533

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

2006 INTERIM



Rep. Douglas Yongue
Chair



Rep. Martha Alexander



Rep. Lucy Allen



Rep. Jeff Barnhart



Rep. Becky Carney



Rep. Linda Coleman



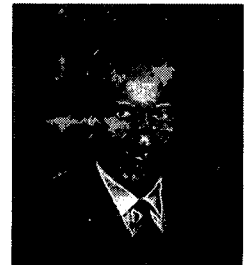
Rep. Bob England



Rep. Dale Folwell



Rep. Bruce Goforth



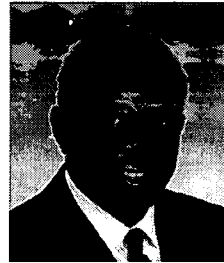
Rep. Larry Hall



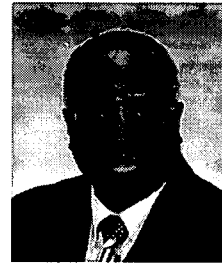
Rep. Julia Howard



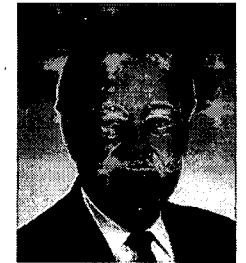
Rep. Linda Johnson



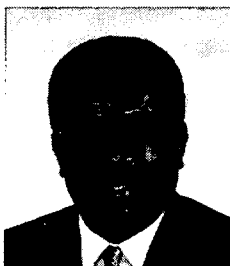
Rep. Earl Jones



Rep. Marvin Lucas



Rep. Edd Nye



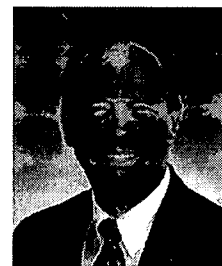
Rep. Garland Pierce



Rep. William Wainwright



Rep. Roger West



Rep. Winkie Wilkins



Rep. Michael Wray



Rep. Cunningham
Ex-officio



Rep. Eddins
Ex-officio



Rep. Hackney
Ex-officio

HOUSE SELECT COMMITTEE / PUBLIC SCHOOL CONSTRUCTION

October 26, 2006

Minutes

The House Select Committee on Public School Construction met at 10:00 a.m. on Thursday, October 26, 2006 in Room 544 of the Legislative Office Building. Chairman Doug Yongue welcomed members of the committee, committee staff, and guest speakers to the first meeting. Members present were Representatives Lucy Allen, Jeff Barnhart, Becky Carney, Linda Coleman, Bob England, Dale Folwell, Larry Hall, Julia Howard, Linda Johnson, Earl Jones, Marvin Lucas, Edd Nye, Garland Pierce, William Wainwright, W.A. Wilkins, and Michael Wray. Chairman Yongue recognized Vice-Chairs of the committee: Representatives Earl Jones, Linda Johnson, and Marvin Lucas. Following all introductions, Chairman Yongue provided a brief explanation of the Committee Charge and the long time need for such a committee. He challenged members of the committee to keep the interest of *all* schools in mind when exploring construction needs and financing options for Local Education Agencies (LEAs). Please see *attachments 1 – 3* for Attendance, Visitor Registration, and Agenda.

Glossary of Relevant Terms

Ben Matthews, School Support Division, Department of Public Instruction (DPI) presented an overview of the construction process. He passed out a glossary of relevant construction terms and used a flow chart to indicate the required steps that agencies, departments, architects, etc. must take, by statute, in order to start and finish a cost-effective school construction project. The list of terms and flow chart can be viewed as *attachments 4 and 5*. Mr. Matthews explained that preliminary steps in seeking approval may take as long as two years before the actual start of new construction of a high school facility. Representative Jones inquired about adding an additional step to ensure minority participation through an Equal Opportunity Audit. Chairman Yongue said that we would revisit this issue at a later meeting.

Mr. Matthews recognized North Carolina's best practices in school construction. In 1995 the North Carolina General Assembly directed the State Board of Education to reevaluate the guidelines for school construction. The same session directed the State Board of Education to establish a clearing house of prototype plans for easier access by local boards of education. These plans ideally eliminate delays in city inspections, in the review process by agencies, etc. while still requiring bidding and construction maintenance. The cost savings equal 1-2%, which can be quite significant. Currently, North Carolina spends less than other states per square foot, but costs are rising. There was some discussion about the differences between use of pre-fab, manufactured buildings, modular units, and brick and mortar construction. Mr. Matthews warned committee members against modular units due to long-term sustainability, and safety. Members suggested collaboration with the industrial arts programs at area community college campuses. They also discussed initiatives to offer incentives for water conservation as well as innovative uses of a learning facility, all of which the School Planning Division encourages LEAs to consider. Chairman Yongue assured members that an entire future meeting would be devoted to cost-saving incentives and environmentally friendly construction and design plans. Mr. Matthews made the committee aware of challenges such as water and sewer, compliance with needs associated with Learn and Earn Early Colleges, Smart Start, More-at-Four, and class

size reduction. Mr. Steve Taynton, Section Chief in the School Planning Division at DPI, was called upon to answer questions for clarification.

Public School Construction Funding Options

Mr. Canaan Huie, Legislative Drafting Division, presented a history of public school construction funding in North Carolina. Mr. Huie briefed members on school construction needs across the state. While every county or LEA needs at least \$ 1 million in school construction, about ten high growth area school districts account for 50% of the statewide needs – totaling \$9.7 billion in 2006. Wake County had the highest need, which accounts for nearly 15% of the statewide needs. The major funding sources include state funds earmarked for school construction, local funding sources generally available to all counties, local funding sources available to a limited number of counties, and new options, which include general and special obligation bonds or impact taxes.

State funding is generated from two sources of revenue - corporate tax receipts and NC Education Lottery. Corporate tax receipts require one-third matching funds and are distributed on average daily membership. These funds may be used for the purchase of land, planning or design fees, construction, renovation, enlargement, repair, and school technology. At least 35 percent of the gross revenue from the lottery proceeds can be used for various educational purposes. The breakdown is as follows: 40% allotted for school construction costs, 50% allotted for class size reduction and 10 % allotted for need based scholarships. Mr. Huie informed the committee of the first distribution of lottery proceeds on October 18, 2006 amounting to a total of \$95 million. Of this total distribution, 40% or \$38 million was allocated to the Public School Building Capital Fund. Estimated transfers to the Education Lottery Fund for 2006-07 are \$425 million or \$170 million to the Public School Building Capital Fund. Sixty-five percent of the lottery proceeds are distributed based solely on Average Daily Membership (ADM) and 35% of the proceeds reserved for school districts in counties in which the effective county tax rate is higher than the average State effective tax rate, at which point the proceeds are then distributed based on ADM. Matching funds are not required for these funds and may be used to pay for school construction projects or to retire indebtedness incurred for that purpose after January 1, 2003. These funds may not be used for school technology needs.

Local funding sources, according to Mr. Huie, include revenues from property taxes, supplemental school taxes, local sales taxes, general obligation bonds and special indebtedness. He gave an overview of these sources and the requirements and restrictions connected to this funding. A brief review of the history and regulations of the use of bonds for school construction was presented to the committee members. Wake, Forsyth, Union and Hoke Counties will each have a bond referendum for school construction in the upcoming November election. The financing sources portion of the presentation covered operational leases, capital and build-to-suit leases. A brief description of land transfer taxes and impact fees was also covered in this portion of the presentation. Seven counties have been authorized to levy local transfer taxes: Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, and Washington (voters have not approved the levy in Washington County). All seven authorizations require the proceeds to be spent on capital needs. All seven authorizations authorize a tax rate of 1 percent. No new local transfer tax has been authorized since 1989. Transfer taxes are a significant source of revenue. For the six counties that levy transfer taxes, net collections in 2004-05 totaled more than \$46 million.

Based on collections of the State tax, a local tax at the rate of one percent adopted statewide could yield around \$600 million. Impact fees are sometimes called development fees or facility fees imposed on developers to offset costs of providing services to new developments. In addition to schools, impact fees may be used to offset the cost of additional streets, water and sewer infrastructure, or recreation facilities. Only three counties - Catawba, Chatham, and Orange - have been authorized to levy impact fees. There are 22 municipalities authorized to levy impact fees but no new impact fees have been authorized since 1991. One new option for consideration is a Local Option Impact tax. This tax differs from impact fees in that they are not necessarily designed to offset the costs associated with development and could be based on other factors such as square footage. Representatives Carney and Allen had questions of clarification related to the use of lottery funds and tax dollars. Please see *attachment 6* for Mr. Huie's presentation in its entirety.

Explanation of Public Schools Facility Needs Survey

Steve Taynton, Section Chief in the School Planning Division at DPI, provided the committee with an explanation of the Five-Year Public School Facility Needs Assessment. Please see *attachment 7*. This included the estimated projected construction needs for each LEA. The total cost of construction needs statewide is \$9,767,544,206. The committee was asked to consider *all* school districts as they continue to study the issues of rapid growth and school construction.

Experiences of Counties and Local School Administrative Units

Mr. Jim Blackburn, North Carolina Association of County Commissioners provided additional historical background on general obligation bonds. Beginning in 1953 and approximately every 10 years thereafter a bond referendum has been approved. In 1986 because of the high interest rate, the sales and use tax became a source for funding rather than a general obligation bond. Mr. Blackburn emphasized that the challenge facing the state results in large part from the limited bond capacity the state has remaining due to earlier bond programs. Consideration, he insisted, should be given to funding a statewide school construction bond issue, supporting local revenue options, and authorizing impact fees for all counties. There was no handout.

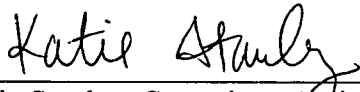
Mr. Mike Burriss, Wake County Public School System, provided the members of the committee with an overview of the school building program for Wake County. Please see *attachment 8* for his presentation in its entirety. He emphasized the rapid growth in student population this school year by 7,568 students. In addition, the need for the acquisition of land for school facilities was a major issue in the presentation. He presented the key features of the Capital Improvement Plan for 2007-09 for Wake County Public Schools and some of the challenges not addressed in this plan. The estimated cost of the Capital Improvement Plan program for new schools and crowding solutions \$675,631,413 and for major renovation projects \$380,243,424, totaling \$1,055,874,837.

Mr. Brown Hendrix, Hoke County Public Schools presented the needs and experience of his LEA in addressing local school construction needs. In contrast, this presentation reviewed the challenges for small, rural LEAs facing rapid growth in a low-wealth school population. Mr. Hendrix emphasized the impact on Hoke County and other communities having large military

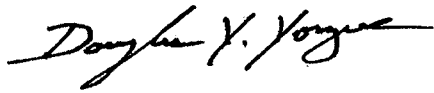
populations. The school population grew by approximately 200 students this school year and they anticipate growth in enrollment by 500 to 600 students next school year due to returning troop activity and reorganization of other military bases. Several suggestions were presented to the committee as a way to help with the rapid growth in student enrollment, including funding for a statewide bond, earmarking a percentage of low-wealth funds for capital needs, assessing a one percent transfer fee for school construction. There was no handout.

Following the last presentation, Representatives Johnson, Lucas, Folwell, and Carney made closing remarks. Mr. Canaan Huie clarified future meeting dates as November 21, December 13, and January 9. With no further committee business, Chairman Yongue adjourned the meeting at 2:00 pm.

Respectfully Submitted by,



Katie Stanley, Committee Assistant



Rep. Douglas Y. Yongue, Chair

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
AGENDA

Thursday, October 26, 2006
Room 544, Legislative Office Building
10:00 a.m.

- I. **Welcome and Introductions**
Rep. Doug Yongue
- II. **Explanation of Committee Charge**
Rep. Doug Yongue
- III. **Glossary of Relevant Terms**
Steve Taynton and Ben Matthews, Department of Public Instruction
- IV. **Public School Construction Funding Options**
Canaan Huie, Legislative Drafting Division
- V. **Lunch Break**
- VI. **Explanation of Public Schools Facility Needs Survey**
Steve Taynton, Department of Public Instruction
- VII. **Experiences of Counties and Local School Administrative Units**
 - Jim Blackburn, North Carolina Association of County Commissioners
 - Mike Burriss, Wake County Public School System
 - Brown Hendrix, Hoke County Public Schools

Future Meeting Dates: Tuesday, November 21, 2006; Wednesday, December 13, 2006; Tuesday, January 9, 2007. All meetings begin at 10 a.m. and are scheduled to end by 3:00 p.m.

~~Future Meeting Dates: Nov. 14, Dec. 12, Jan. 16, Jan. 23~~
~~All meetings in Room 544, LOB, at 9:30 a.m.~~

VISITOR REGISTRATION SHEET

House Select Committee on Public School Construction October 26, 2006

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Terry Stoops	John Locke Foundation
Nicole Kreiser	Walle County Budget & Mgmt Svcs
Michael House	NSAE
Becki Gray	Civitas Institute
Shawn Hendrix	Hoke County Schools
Andrew Callahan	Hoke County Schuls.
Michelle Burruss	Waller Ctr Public Schools

VISITOR REGISTRATION SHEET

House Select Committee on Public School Construction October 26, 2006

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Leane Winn	NC SBA
Jo Ann Menus	PSF
Ann Greaves	PCAC
Don Matthey	NC DPI
Jim Hanna	WC PSS
PEYTON MAYNARD	EMS
Jim Blackburn	NC Association of County Commissioners
ADAM BRUEGGEMANN	OSBM
THE PATTON	NC DPI
GREG FLYNN	NC DPI
Zhang Wilson	SBE

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
AGENDA

Thursday, October 26, 2006
Room 544, Legislative Office Building
10:00 a.m.

- I. **Welcome and Introductions**
Rep. Doug Yongue
- II. **Explanation of Committee Charge**
Rep. Doug Yongue
- III. **Glossary of Relevant Terms**
Steve Taynton and Ben Matthews, Department of Public Instruction
- IV. **Public School Construction Funding Options**
Canaan Huie, Legislative Drafting Division
- V. **Lunch Break**
- VI. **Explanation of Public Schools Facility Needs Survey**
Steve Taynton, Department of Public Instruction
- VII. **Experiences of Counties and Local School Administrative Units**
 - Jim Blackburn, North Carolina Association of County Commissioners
 - Mike Burriss, Wake County Public School System
 - Brown Hendrix, Hoke County Public Schools

Future Meeting Dates: Tuesday, November 21, 2006; Wednesday, December 13, 2006; Tuesday, January 9, 2007. All meetings begin at 10 a.m. and are scheduled to end by 3:00 p.m.

Future Meeting Dates: Nov. 14, Dec. 12, Jan. 16, Jan. 23
All meetings in Room 544, LOB, at 9:30 a.m.

Commonly Used School Construction Terms

Single-prime : A method of bidding/contracting in which the owner contracts with a single prime contractor (usually a general contractor) who then has subcontractors with plumbing, electrical, heating, ventilation, and air conditioning (HVAC) contracts. Usually results in less conflict during construction. An approved method stipulated in GS 143-128.

Multi-prime : A method of bidding/contracting in which the owner contracts separately with a General, Plumbing, Electrical and HVAC contractors (sometimes additional ones as well): An approved method stipulated in GS 143-128.

Dual Bidding: A method of bidding in which both of the above types are solicited. An approved method stipulated in GS 143-128.

Design/Build: A concept of construction whereby both the design and construction components of a given project are handled by a single entity. The scope of work involved varies as per agreement between the parties. Must be approved by the State Building Commission prior to use.

Construction Management (2 basic types):

Construction Management: In this scenario, the LEA (or County) hires a firm to perform "Construction Management." He is at no risk, but sells his services as a way to control costs and manage construction. He often will break down the construction prime bids into many contracts (steel, grading, drywall, masonry, etc in addition to the normal prime contractors). He may offer suggestions or a shopping list on ways to save money. Often it is such items as gravel in lieu of asphalt paving, less expensive light fixtures, cheaper roofing, etc. He does provide construction expertise to the LEA.

Construction Management At Risk: In this scenario, the LEA (or County) hires a firm to perform "Construction Management" in which the Manager provides a guaranteed maximum price. In practice, however, this maximum price is usually not determined until after bids are received. An approved method stipulated in GS 143-128.

Sale lease-back/ Capital Lease Financing : This (I assume) refers to SB2009, Public-Private Partnerships. In this case a developer or non-profit takes ownership of the school property and builds/renovates the facility. The developer then leases the facility to the LEA for twenty years or more. At the end of the lease, the property is turned back over to the LEA for free or a nominal sum. The developer is able to claim depreciation and potentially other tax breaks as a part of his profit. The developer borrows for the development on the commercial market, usually at a substantially higher rate than bonds would be. The current law requires substantially the same requirements for bidding and construction as public work.

Private & Commercial Financing : See sale lease-back above

Use of Real estate Investment Trusts : See sale lease-back above

Impact Fees : These are fees charged usually to developers for the impact upon local infrastructure (roads, water/sewer, schools) in an effort to offset some of these costs. Typically these costs are passed on to the eventual home buyer or tenant as higher costs.

Transfer Tax : A special tax on the transfer of real estate to help overcome local infrastructure costs as noted above.

Types of Bonds:

Local -General referendum decided by a general vote of the county/municipality. Usually the lowest interest rate but very time consuming to agree on the amount of the bond, prepare a bond campaign and obtain a vote of approval. If not approved, a second referendum (usually for a smaller amount) may take another year or more, thus losing more money to inflation and suffering overcrowding or poor facilities longer. Regulated by the LGC.

Local bonds use a guaranteed revenue source (such as lottery funds). Does not require voter approval but will carry a slightly higher interest rate. Regulated by the Local Government Commission - LGC.

State Bonds are those that are issued by the State of North Carolina (who then carries the debt) and distributed to the various counties/LEAs under some formula. State Bonds were issued in 1996, 1983 and numerous other times.

COPS: Certificates of Participation. In this special case of financing/bonds, the County takes over the ownership of the school property and builds the facility. It does not require voter approval but usually results in a higher interest rate. Regulated by the LGC.

School Design terms (just a sample):

Cost per Square foot: probably the most reliable indicator of costs. School Planning solicits and tracks these costs and publishes them on its web site

Cost per student: not a reliable indicator of cost because smaller schools must devote more of their cost to core spaces (cafeteria, media center gym) that does not contribute to capacity.

Design Function: How well a school "works." separation of noisy vs. quiet activities, arrangement to promote supervision and safety, adequate space for learning or other activities, minimization of corridors or other non-productive spaces, etc.

Energy efficiency: Selection of HVAC, lighting, water and other systems to minimize energy/utility usage in keeping with initial cost/life cycle cost analysis

Infrastructure Cost: Additional cost usually outside the realm of the onsite project costs. These costs may include, but are not limited to, roads, sewer, water, electrical service, etc. In regard to technology, this refers to the cost of installing the conduits/cables and electrical for networking and is usually a part of construction costs.

Stock Plans: Plans and specifications that are predetermined and available for use by interested parties. Most often, modifications are made to meet specific requirements of the owner. These are usually limited to small projects such as houses or restaurants.

Prototype Plans: Plans and specifications that are developed to be used multiple times on different sites. Modifications are made for different site conditions, HVAC orientation or specific requirements of the owner. The 1996 North Carolina General Assembly directed the State Board of Education to establish a central clearinghouse of prototype plans (www.schoolclearinghouse.org) for access by local boards of education that may want to use a prototype design in the construction of school facilities.

Custom Plans: Plans and specifications are designed by an architect for a client's specific project.

Performance Bond: A bond to ensure that a service provided by a contractor will be completed according to plans and specifications within the agreed upon contract amount.

Payment Bond: A bond to ensure that a the contractor will make payments to his various subcontractors for their work.

Bid Bond: A bond provided by bidders on a project that guarantees that they will enter into a contract for the price shown on their bid.

Pre-Fab Construction: A construction technique where the components are constructed offsite and assembled or installed onsite. May be small items such as cabinetwork or modular portions of a building. See Modular Construction below.

Modular Construction: Two types

Modular Units: Stand alone single classrooms. Usually double wide nominal 24x32 or 24x36. Both below recommended size for primary classrooms

Modular construction: A larger building containing two or more classrooms, toilets, etc composed of modular pieces attached together on site. Very expensive to move

Specification: A detailed description of materials, methods of installation and other pertinent information to identify the components to be used in the construction of a project.

Working Drawings/Construction Documents: A detailed document consisting of plans and specifications that enable a contractor(s) to bid and build a project.

Change Order: A written document that makes a change to the original plans/specifications. Such changes may result in a debit or credit in the original agreed upon cost.

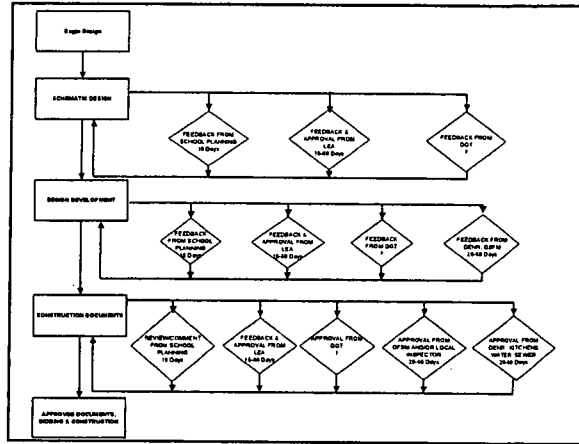
Long Range Plan: Every five years, each LEA is required to develop a Long Range Plan of future facility needs. School Planning has developed a computerized program that standardizes construction costs and typical new school spaces. Pupil population projections are provided and each LEA assesses their facilities for needed renovations, additions and new schools.

Sustainability, Green Buildings, LEED, High Performance Buildings: A method of design and construction that emphasizes energy/water conservation, recyclable materials, renewable resources, waste reduction, improved air quality and other similar features.

Life Cycle Cost Analysis: A study of alternative specific building systems and components (such as HVAC, insulation thickness, exterior materials, etc.) to determine their cost over their expected life. Results of this analysis is then used to potentially select a component that may be more expensive initially but less expensive over its useful life.

House Select Committee on
Public School Construction
Thursday October 26, 2006 10:00 AM

Dr. Ben Matthews
School Support Division
NC Dept. of Public Instruction



2005/2006 Long Range Plan

- **9.7 Billion in 5 year Needs** (revised July 2006)
- Over 7,000 Mobile Units ~178,325 kids
- Need 266 New Schools and 4,941 new classrooms at existing schools
- 57% Increase in needs since 2000/2001 Survey
- 4.5 Billion (not incl. COPS) was spent on School Construction last 5 years
- Lottery will only generate 850M in five years

Best Practices

- North Carolina is a national *Leader* in promoting good school design at a reasonable cost
- Many other states have developed facility standards or guidelines, often using ours as a starting point.
- North Carolina probably has produced more reference material than any other state.
- North Carolina is a leader in promoting the work of the Council of Educational Facilities Planners International (CEFPI)

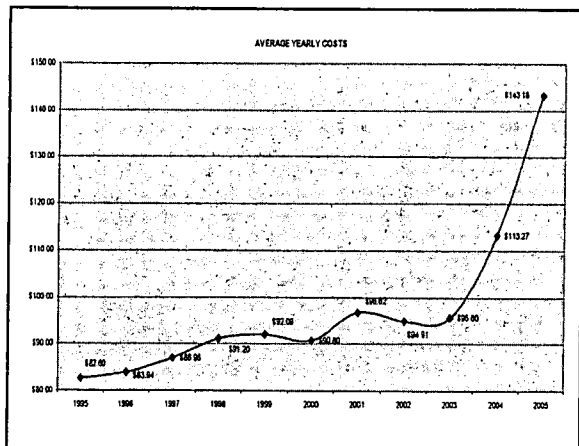
Best Practices (cont)

- Recent Benchmarking Study by New Mexico of fourteen states
 - North Carolina is at Low end of Cost per square foot for construction
 - North Carolina is fourth from the bottom at capital outlay per student by the state

Minimal Funding / Minimal Project Oversight	Significant Funding / Minimal Project Oversight	Significant Funding / Significant Project Oversight
Colorado	Arizona	Arkansas
Oklahoma	California	Massachusetts
Texas	Kansas	New Mexico
Utah	North Carolina	Ohio
	Wyoming	

Construction Costs

- +20% increase in 2004
- +20% increase in 2005
- For the most part "plain vanilla" schools
- Strive for efficiency, long life, ease of maintenance
- Cheaper generally means lesser quality, shorter life, higher maintenance
- Strive to control non-essential spaces or features to save costs
- Projects w/Construction Management average 6.2% more per square foot than the year's average when their fees are included



Modular Construction

- Two types
 - Modular Units: Stand alone single classrooms. Usually double wide nominal 24x32 or 24x36. Both below recommended size for primary classrooms
 - Modular construction: A larger building containing two or more classrooms, toilets, etc composed of modular pieces attached together on site. Very expensive to move
- Much shorter life, less energy efficient, low ceilings, sheetrock interior, wood framed, must go outside to reach main building

Plan Reuse

- Prototype Plans Clearinghouse over forty plans currently shown www.schoolclearinghouse.org
- Saves more time than money
 - Most time saved on review/approval process (3 months or more)
 - Usually requires minor to major modifications
 - 1% - 2% savings in overall cost
- Very popular among fast growing LEAs
- Also used by other LEAs who like a particular design

Pre-K Issues

- Smart Start, More at Four, etc programs continue to be an issue in Public Schools
 - Four year olds and younger are classified differently by building code
 - Triggers inspection by code official using Pre-K code
 - More, smaller toilets required
 - Difficult/costly new code renovations often required
- Did have similar problem with Early/Middle College & Learn & Earn Programs but solved by S198 Language:
 - "115D-41(b) Community college facilities that comply with applicable State, county, and local fire codes for community college facilities may be used without modification for public school students in joint or cooperative programs such as middle or early college programs and dual enrollment programs." (Similar language for College/University locations)

Design/Construction Bottlenecks

- Miss a BOE agenda deadline or excess discussion can delay a month or two per phase
- Inadequate staff or high construction activity can slow OSFM or DENR dramatically
- Unwillingness of large city inspections to review plans before final construction documents and permitting can delay construction & add to costs
- DOT requirements for unexpected road widenings, turn lanes, etc. can cripple budgets

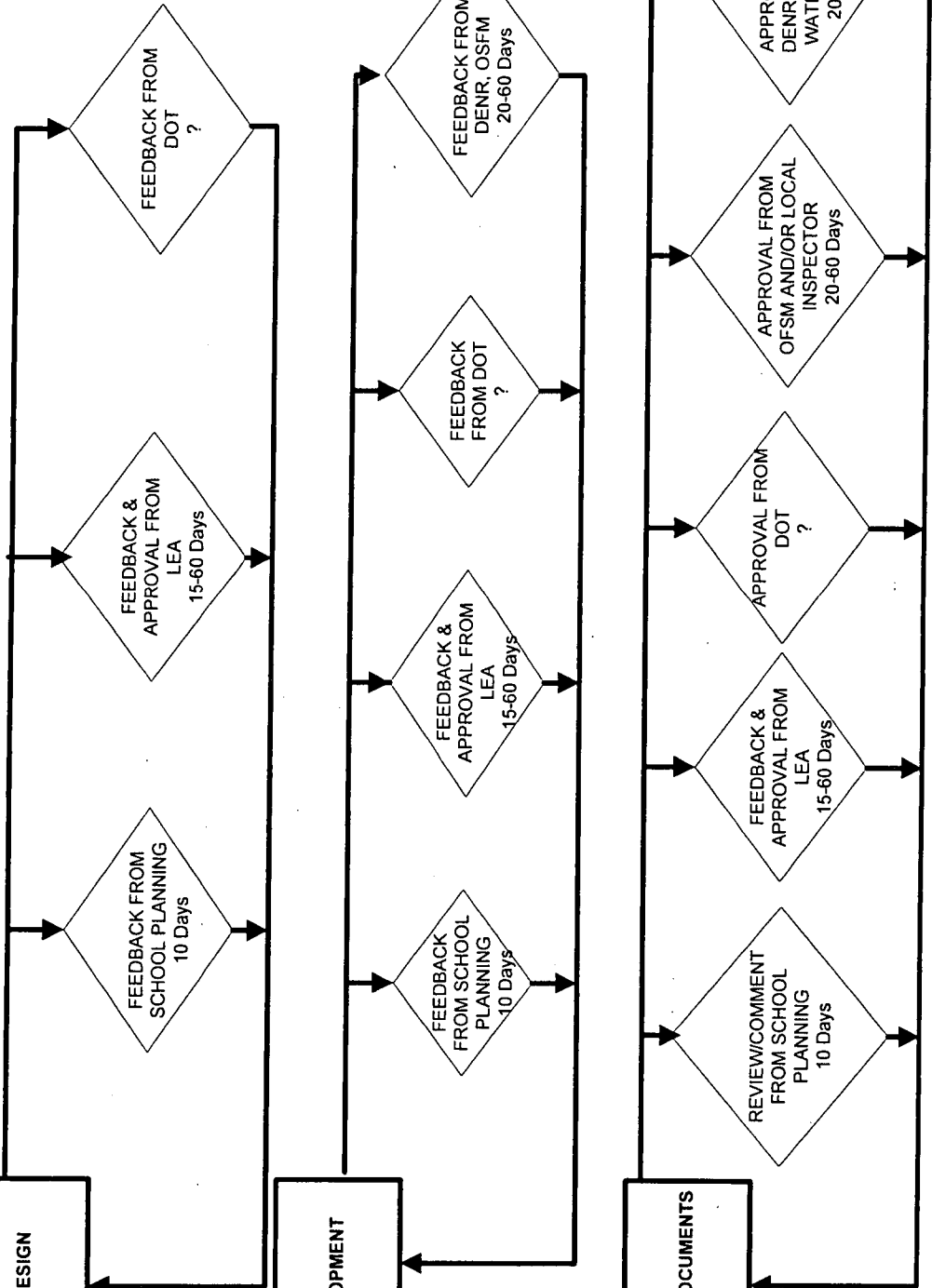
Begin Design

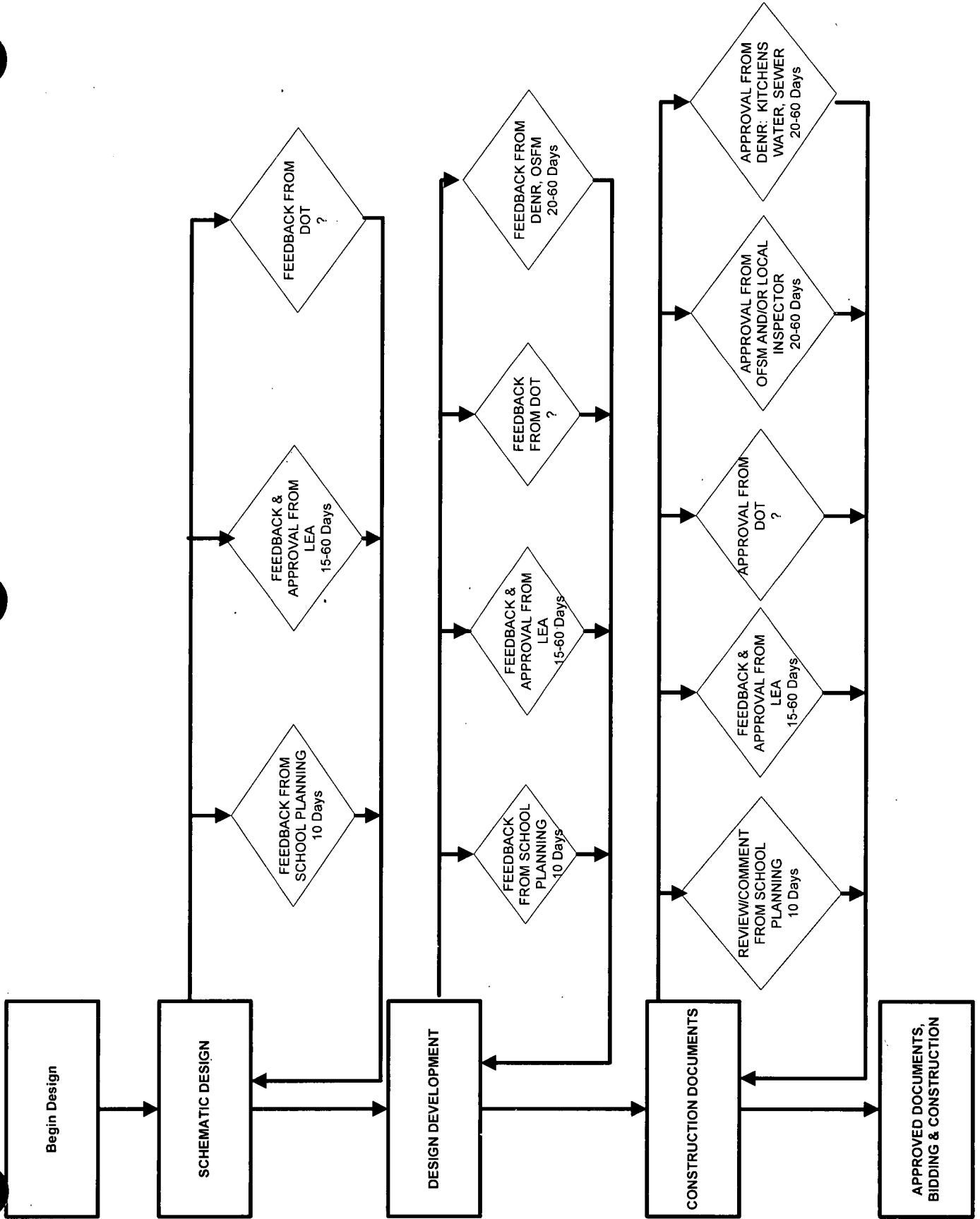
SCHMATIC DESIGN

DESIGN DEVELOPMENT

CONSTRUCTION DOCUMENTS

APPROVED DOCUMENTS,
BIDDING & CONSTRUCTION





Public School Constructions Funding Options in North Carolina

Y. Canaan Huie
Legislative Drafting Division
House Select Committee on Public School Construction
October 26, 2006

Public Schools Facility Needs

- The State Board of Education and Department of Public Instruction estimate public school facility needs every five years
- In 2006, they estimated those needs to be at least \$9.7 billion over the next five years
- Every county had at least \$1 million in needs
- Wake County had the highest need with \$1.448 billion
- Ten school districts account for approximately 50% of the statewide needs

Funding for School Construction

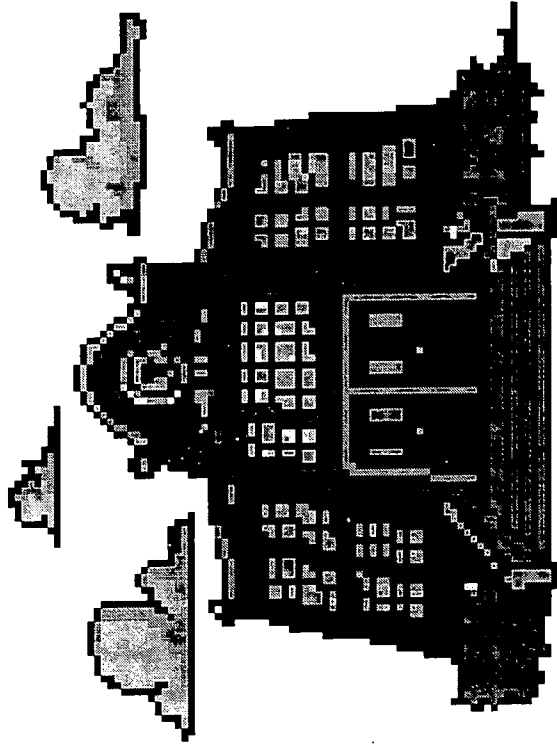
- Current State Funding Sources
- Current Local Funding Sources Generally Available
- Current Local Financing Sources Generally Available
- Current Local Funding Sources Authorized for Certain Areas
- Possible New Options

Current State Funding Options

- Public School Building Capital Fund

- Funded by corporate income tax and North Carolina Education Lottery

- Funds are allocated differently based on whether they are corporate tax receipts or lottery proceeds



State Funding Options

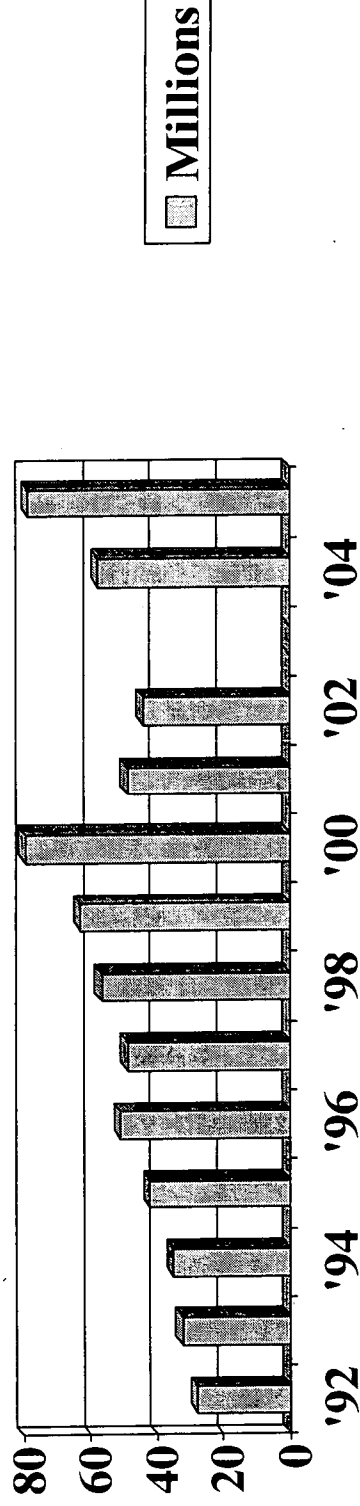
Corporate Income Tax

- In 1987, the General Assembly voted to increase the corporate income tax rate from 6% to 7%
- One-half of that increase was dedicated to the Public School Building Capital Fund
- The tax rate was increased to 7.75% in 1991, and then lowered to 6.9% over a period of four years beginning in 1997
- Despite changes in the overall tax rate, an amount equivalent to $\frac{1}{2}$ percentage point of corporate taxable income was still contributed to the Public School Building Capital Fund

State Funding Options

Corporate Income Tax

- Amounts transferred to the Public School Building Capital Fund have varied with overall collections of corporate tax
- Amount transferred in 2004-2005 was \$78.4 million
- Total amount transferred between 1991-92 and 2004-05 was \$665 million



Public School Building Capital Fund

Corporate Tax Receipts

- All funds are allocated based on average daily membership (ADM)
- Requires a 1/3 local match
- Allocations that are not used in one year accrue to the benefit of the school district along with interest
- Funds may be used for the following:
 - Purchase of land
 - Planning/design fees
 - Construction
 - Renovation
 - Enlargement
 - Repair
 - School technology

State Funding Options

North Carolina Education Lottery

- The North Carolina Education Lottery was enacted in 2005 and began operations in 2006
- Net proceeds (at least 35% of gross revenues) from the lottery are allocated to the Education Lottery Fund for various educational purposes
- Forty percent (40%) of the net proceeds allocated to the Education Lottery Fund are then further allocated to the Public School Building Capital Fund

State Funding Options

North Carolina Education Lottery

- The first transfer of lottery proceeds to the Education Lottery Fund occurred on October 18, 2006
- That transfer totaled \$95 million, 40% of which (\$38 million) was allocated to the Public School Building Capital Fund
- Estimated transfers to the Education Lottery Fund for 2006-2007 are \$425 million (\$170 million for the PSBCF)
- Neither the executive nor legislative branch has changed those estimates

Public School Building Capital Fund Lottery Proceeds

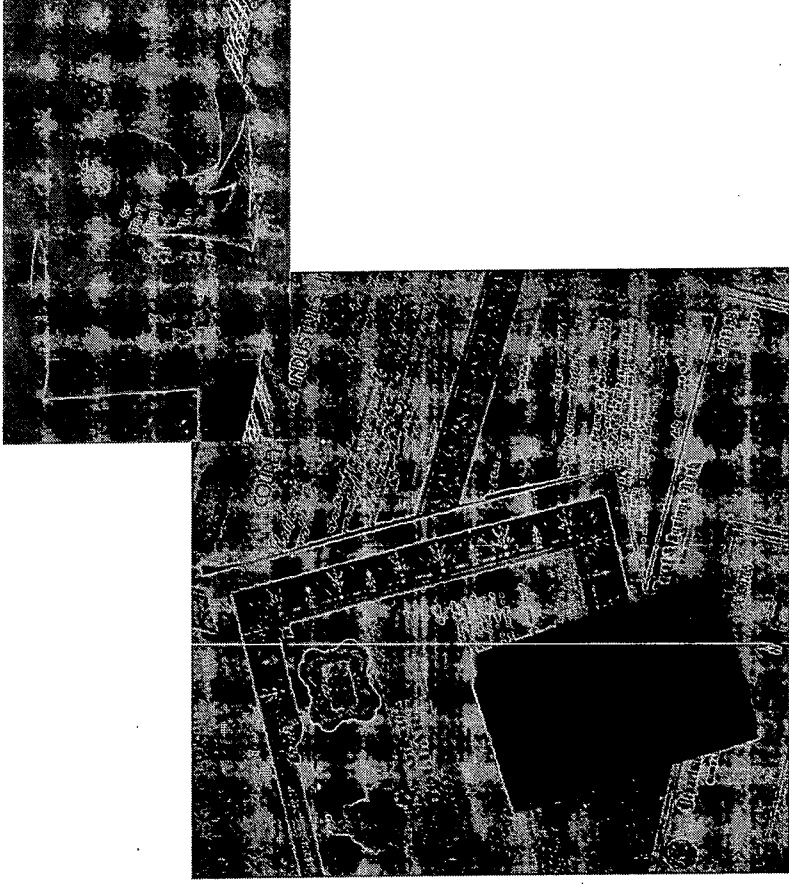
- 65% of proceeds distributed based solely upon ADM
- 35% of proceeds reserved for school districts in counties in which the effective county tax rate is higher than the State average effective tax rate – these proceeds are then distributed based on ADM
- Matching funds are not required for these funds
- Funds may be used to pay for school construction projects or to retire indebtedness incurred for that purpose after 1/1/2003
- Funds may not be used for school technology needs

Funding for School Construction

- Current State Funding Sources
- Current Local Funding Sources Generally Available
- Current Local Financing Sources Generally Available
- Current Local Funding Sources Authorized for Certain Areas
- Possible New Options

Current Local Funding Sources Generally Available

- Property Taxes
- Supplemental School Taxes
- Local Sales Taxes
- General Obligation Bonds
- Special Indebtedness



Local Funding Sources

Property Taxes

- All counties are authorized to levy property taxes for the support of public schools
- No limitation as to rate or amount of the property taxes imposed to provide for the county's share of kindergarten through post-secondary education
- For 2006-2007, nominal county property tax rates range from a low of 0.26% in Dare County to a high of 1.1% in Scotland County

Local Funding Sources

Property Taxes

- Effective tax rate takes into account not only the nominal tax rate, but the change in the value of the property since the last revaluation
- For 2006-2007, effective county property tax rates range from a low of 0.2154% in Dare County to a high of 1.005% in Scotland County
- On average, property taxes make up roughly 70% of a county's tax revenue and 38% to 55% of a county's budget

Local Funding Sources

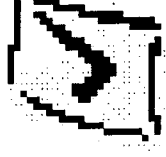
Supplemental School Tax

- Article 36 of Chapter 115C of the General Statutes provides for voted tax supplements for school purposes
- The tax is an additional property tax
- The tax rate may not exceed 0.5% (0.6% if the local school administrative unit has a population of at least 100,000)
- Local boards of education may petition the board of county commissioners for an election regarding the supplemental tax

Local Funding Sources

Supplemental School Tax

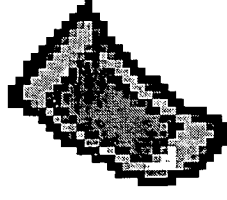
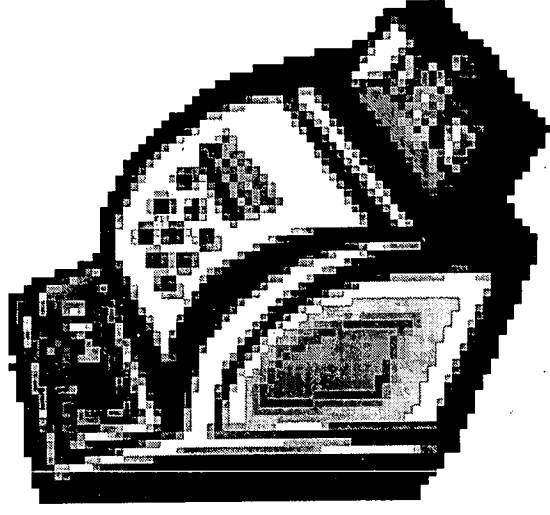
- Requires voter approval
- For most school administrative units, the tax must still be levied by the board of county commissioners
- Board of county commissioners is under no obligation to levy the tax



Local Funding Sources

Local Sales Taxes

- All counties are currently allowed to levy local sales and use taxes of up to 2.5% (additional levy authorized in some counties)
- The local sales and use taxes must be levied sequentially in specific increments – one levy of 1%, followed by up to three levies of 0.5% each – Articles 39, 40, 42, and 44 of Chapter 105
- Slight differences in administration between the taxes levied under the different Articles



Local Funding Sources

Local Sales Taxes

- Local sales and use taxes are divided between the county and its municipalities based on one of two methods selected by the county
- A portion of the county's proceeds for the taxes levied under Articles 40 and 42 may be used only for public school capital outlay purposes

Local Funding Sources

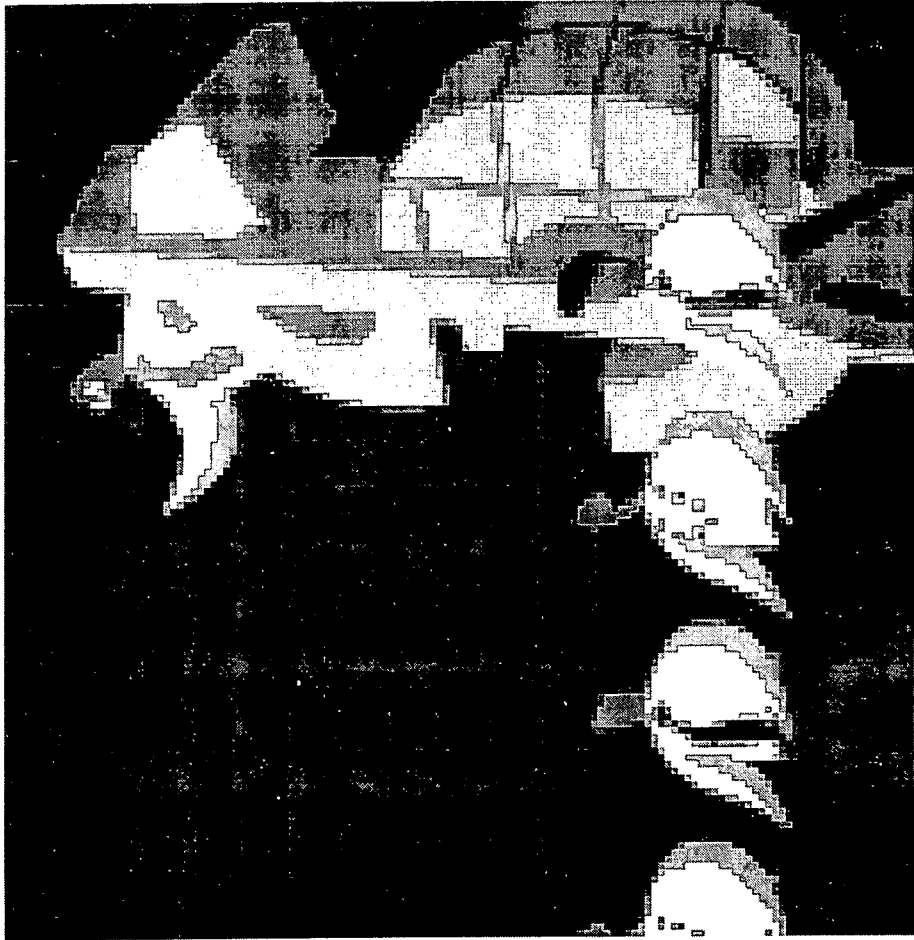
Local Sales Taxes

- For Article 40 (enacted in 1983), the following percentages of the county share must be used for public school capital outlay purposes
 - 40% for the first five fiscal years for which the tax is in effect
 - 30% for the next succeeding 23 fiscal years for which the tax is in effect
- For Article 42 (enacted in 1986), 60% of the county share must be used for public school capital outlay purposes for the first 25 fiscal years for which the tax is in effect

Local Funding Sources

Local Sales Taxes

- This is a significant source of funding for public school capital outlay purposes
 - For 2005-06, the earmarking from Article 40 equaled \$94.6 million
 - For 2005-06, the earmarking from Article 42 equaled \$175.4 million



Local Funding Sources

General Obligation Bonds

- General obligation bonds are a pledge of the full faith and credit of the jurisdiction issuing the bonds – in essence the jurisdiction is pledging its taxing power
- Subject to certain limitations, counties have authority to issue general obligation debt to cover needs such as public school construction
- General obligation bonds require approval by a referendum
- For local governments, general obligation bonds require approval by the Local Government Commission

Local Funding Sources

General Obligation Bonds

- Since 1995, 70 of 89 local general obligation bond referenda for schools have passed
- The 70 referenda passed authorized \$5.767 billion of debt
- However, several large referenda have failed
 - Charlotte Mecklenburg – \$427 million in 2005
 - Wake – \$650 million in 1999
- General obligation bond referenda in May 2006
 - Franklin – \$45 million defeated
 - Lenoir – \$50 million approved
- General obligation bond referenda in November 2006
 - Wake – \$970 million
 - Forsyth – \$250 million
 - Union – \$184.5 million
 - Hoke – \$20 million

Local Funding Sources

Special Indebtedness

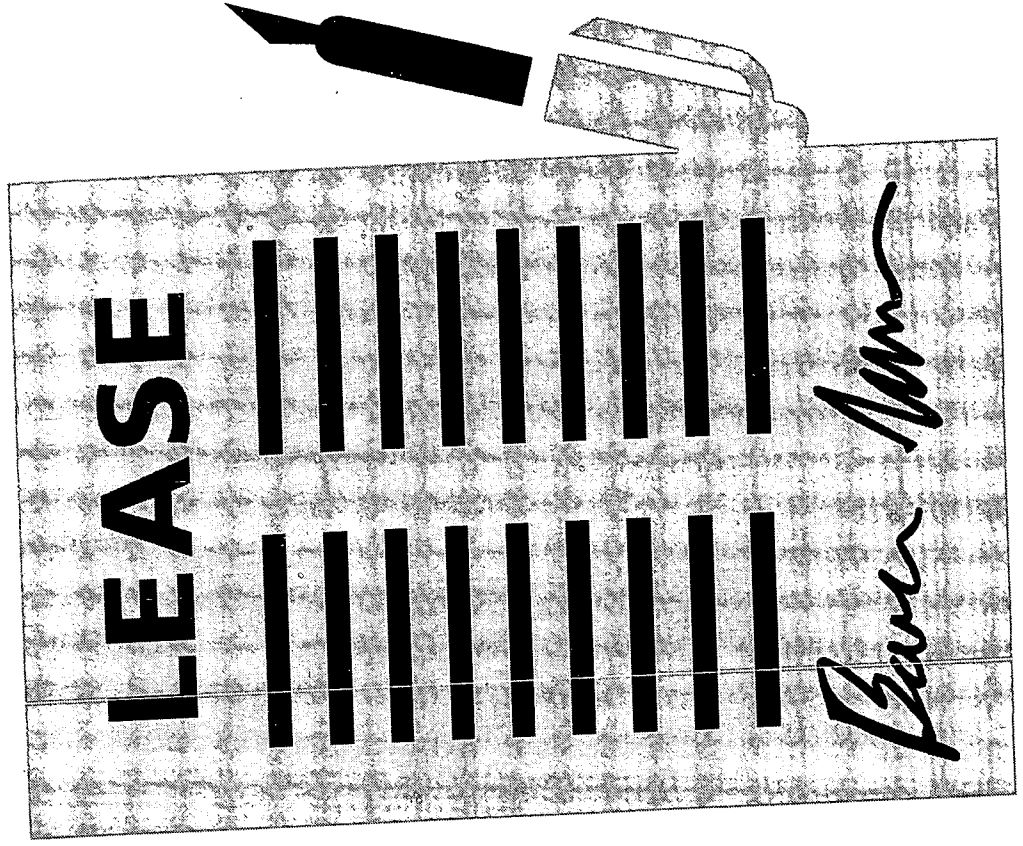
- Special indebtedness is a term used to describe various types of security interest indebtedness – Installment-purchase, Lease-purchase, and Certifications of Participation (COPs)
- Security interest indebtedness is indebtedness that is secured by an interest in the property
- Special indebtedness does NOT require approval by the voters in a referendum
- For a local government, approval by the Local Government Commission is required for special indebtedness
- Special indebtedness is more expensive than general obligation indebtedness

Funding for School Construction

- Current State Funding Sources
- Current Local Funding Sources Generally Available
- Current Local Financing Sources Generally Available
- Current Local Funding Sources Authorized for Certain Areas
- Possible New Options

Current Local Financing Sources Generally Available

- Operating Leases
- Capital Leases



Local Financing Sources

Operating Leases

- Since 1997, local boards of education have been explicitly authorized to enter into operating leases for public schools
- “Operating lease” is defined according to generally accepted accounting principles
 - Allows for use of the property without conveying rights similar to ownership
 - Does not meet any of the criteria of a capital lease

Local Financing Sources

Operating Leases

- If the operating lease is for a period of more than three years, the following are required
 - Approval by the board of county commissioners
 - The budget resolution must include an appropriation for the lease payment
 - An unencumbered balance remains in the appropriation sufficient to pay sums obligated by the lease
- Operating leases are subject to approval by the Local Government Commission if all of the following conditions are met
 - Last for at least 5 years
 - Obligates the unit to make payments to another entity
 - Obligates the unit to make payments of at least \$500,000 over the life of the lease

Local Financing Sources

Capital Leases

- In 2006, the General Assembly authorized local school administrative units to enter into capital leases
 - authority expires July 1, 2011
- “Capital lease” is defined according to generally accepted accounting principles and is a non-cancelable contract that satisfies any of these conditions
 - Transfers legal title to the property
 - Contains a nominal or marginal purchase option
 - Extends for at least 75% of the asset’s useful life
 - Present value of total payments under the lease are equal to at least 90% of the asset’s fair market value

Local Financing Sources

Capital Leases – Limitations

- Lease must contain a clause that states that the capital lease does not constitute a pledge of the full faith and credit or taxing power of the LEA or county
- Lease is treated as a continuing capital outlay and is, therefore, subject to approval by the board of county commissioners
- Subject to approval by the Local Government Commission under the same conditions as operating leases
- May not contain any clause relating to specific student assignment
- Subject to all laws relating to liens on private property

Local Financing Sources

Capital Leases – Build-to-Suit

- “Build-to-suit” capital leases are those where construction or renovation costs exceed \$300,000.
- The following special provisions apply to build-to-suit leases
 - Notice and competitive bidding
 - Minority business participation
 - Architectural and design services
 - Performance bonds

Funding for School Construction

- Current State Funding Sources
- Current Local Funding Sources Generally Available
- Current Local Financing Sources Generally Available
- **Current Local Funding Sources Authorized for Certain Areas**
- Possible New Options

Current Local Funding Sources

Limited Availability

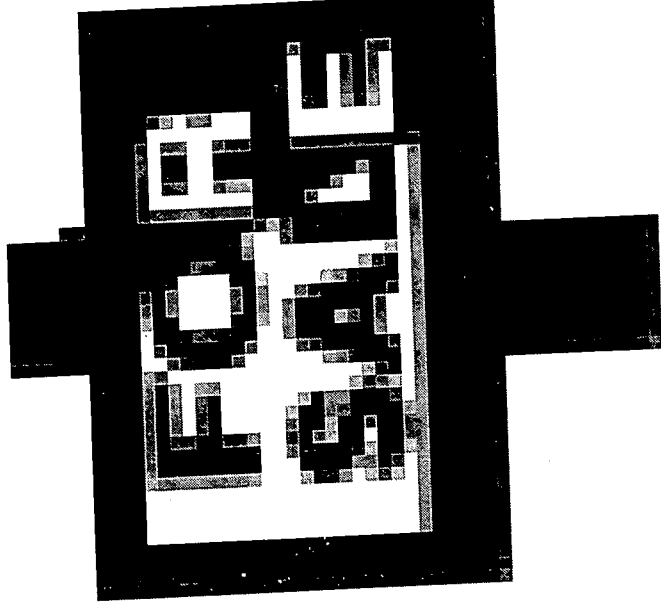
- Land Transfer Taxes
- Impact Fees
- Local Legislation Authorizing a School Board to Levy Property Taxes



Local Funding Sources

Transfer Taxes

- The transfer tax goes by a number of names, including deed tax and excise tax on conveyances
- The State imposes a transfer tax at the rate of 0.2% (\$1 per \$500 value)
- One-half of the proceeds of the State tax are retained by the counties



Local Funding Sources

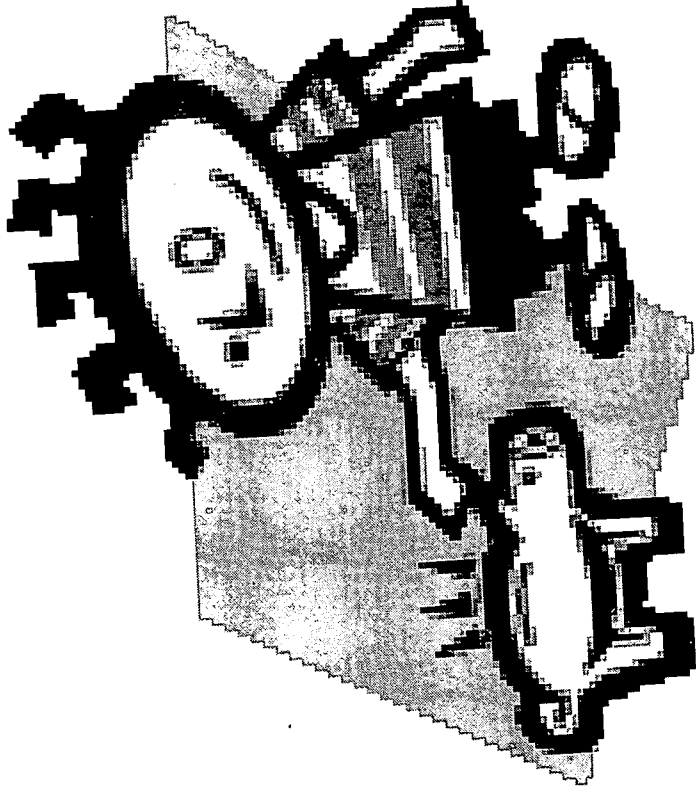
Transfer Taxes

- Seven counties have been authorized to levy local transfer taxes – Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, and Washington*
- Some variations in the authorized local taxes
- All seven authorizations require the proceeds to be spent on capital needs
- All seven authorizations authorize a tax rate of 1%
- No new local transfer tax has been authorized since

Local Funding Sources

Transfer Taxes

- Potentially a significant source of revenue.
- For the six counties that have the tax, net collections in 2004-2005 totaled slightly more than \$46 million
- Based on collections of the State tax, a local tax at the rate of 1% adopted statewide could yield around \$600 million annually



Local Funding Sources

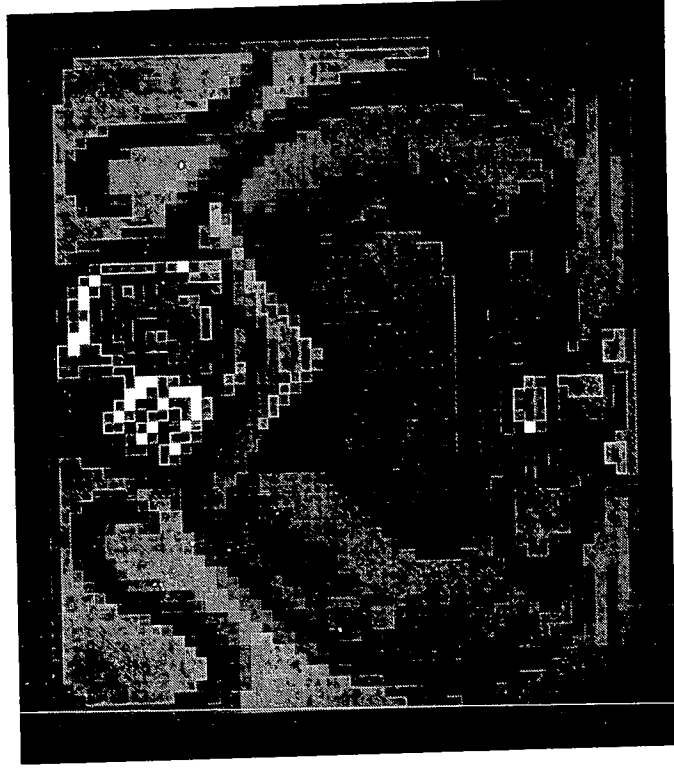
Impact Fees

- Impact fees are sometimes called development fees or facility fees
- Impact fees are generally assessed on developers to offset costs of providing services to the new developments
- In addition to schools, impact fees may be used to offset the costs of additional streets, water and sewer infrastructure, recreation facilities, etc.
- The fee must be based on the cost of the services provided to the new development

Local Funding Sources

Impact Fees

- Counties have no independent authority to impose an impact fee (see Durham Land Owners Ass'n v. County of Durham)
- Only 3 counties have been authorized to levy impact fees – Catawba, Chatham, and Orange
- 22 municipalities may levy impact fees
- No new impact fees have been authorized since 1991



Local Funding Sources

School District Property Taxes

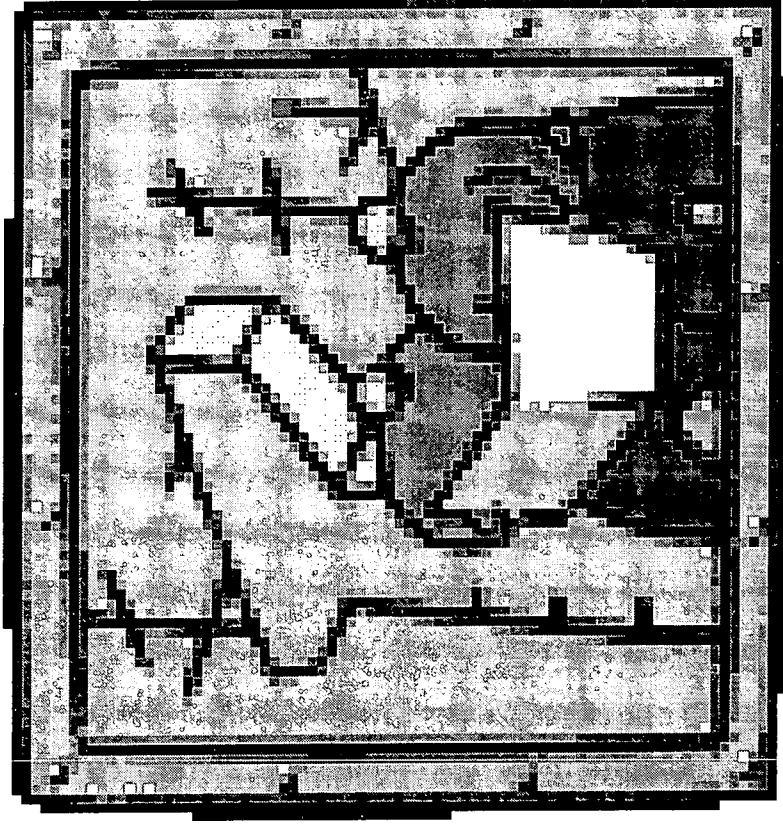
- Three school districts have authority to levy property taxes on their own
- This is the result of local legislation passed by the General Assembly
- Due to a provision of the North Carolina Constitution, all of these acts required that the levy of the taxes be approved by a referendum in the school district

Funding for School Construction

- Current State Funding Sources
- Current Local Funding Sources Generally Available
- Current Local Financing Sources Generally Available
- Current Local Funding Sources Authorized for Certain Areas
- Possible New Options

Possible New Options for Funding Public School Construction

- State general obligation bonds
- State special obligation bonds
- Local option impact taxes



Possible New Options

State General Obligation Bonds

- The State could issue general obligation bonds to provide funds to local school administrative units for capital outlay purposes
- Previously, the General Assembly has authorized State general obligation bonds for public school facilities in 1973 (\$300 million) and 1996 (\$1.8 billion)

Possible New Options

State General Obligation Bonds

- Allocation of 1996 general obligation bonds were based on the following factors
 - Small county school systems (\$30 million)
 - High growth rates (\$442.5 million)
 - Ability to pay (\$619.5 million)
 - Average daily membership (\$708 million)
- Included a matching requirement for the high-growth and ADM allocations
- Amounts not matched were subject to reallocation among other units

Possible New Options

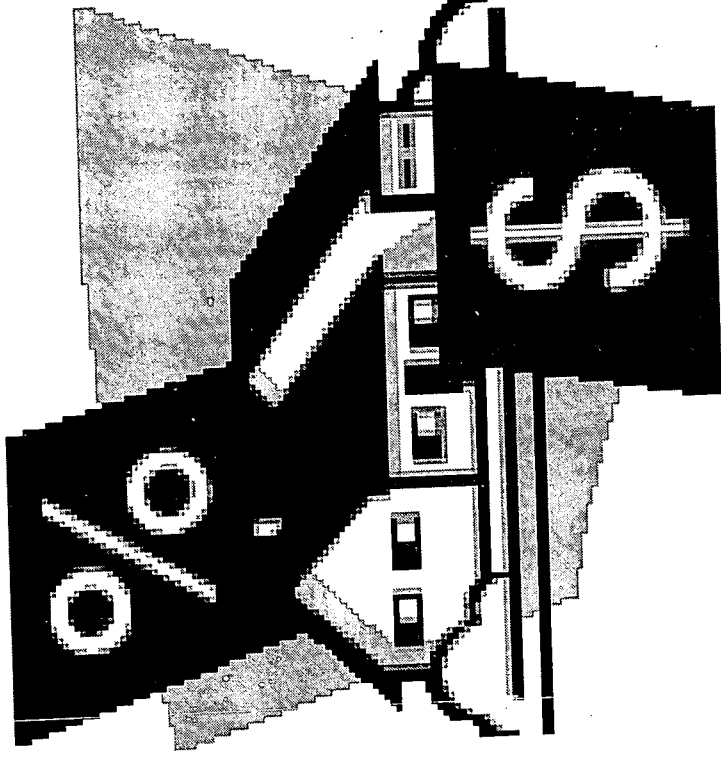
State Special Obligation Bonds

- Special obligation bonds are different from both general obligation bonds and special indebtedness
- Special obligation bonds are backed by a non-tax revenue source unrelated to the underlying debt and are not secured by an interest in property
- The 2006 Regular Session saw two proposals to issue special obligation bonds
- Both proposals would have issued bonds supported by a portion of the lottery proceeds

Possible New Options

Local Option Impact Taxes

- Impact taxes differ from impact fees in that they are not necessarily designed to offset the costs associated with development
- Could be based on other factors such as square footage



Five-Year Public School Facility Needs

Cost Summary by Unit

2005-06 Public Schools Facility Needs Assessment

	New Schools	Additions	Renovations	Furn/Eqpt	Land	Total
Alamance - Burlington Schools	0	9,569,809	61,190,442	803,181	0	\$71,563,432
020 Alexander County Schools	0	422,688	644,100	35,476	0	\$1,102,264
030 Alleghany County Schools	0	4,514,384	4,186,468	378,887	40,000	\$9,119,739
040 Anson County Schools	0	6,048,932	2,460,004	507,678	0	\$9,016,614
050 Ashe County Schools	0	1,279,488	1,855,094	107,386	0	\$3,241,968
060 Avery County Schools	7,548,030	2,513,280	4,004,820	963,957	0	\$15,030,087
070 Beaufort County Schools	9,064,128	11,281,658	2,493,750	1,816,984	0	\$24,656,520
080 Bertie County Schools	0	0	35,980,002	0	0	\$35,980,002
090 Bladen County Schools	0	31,991,468	45,973,725	3,960,603	0	\$81,925,796
100 Brunswick County Schools	36,176,313	1,567,373	1,352,496	3,583,384	3,000,000	\$45,679,566
110 Buncombe County Schools	0	4,226,880	0	354,756	0	\$4,581,636
111 Asheville City Schools	0	411,264	5,608,849	34,517	0	\$6,054,630
120 Burke County Schools	59,551,110	7,871,441	2,508,000	5,713,298	965,500	\$76,609,349
130 Cabarrus County Schools	159,607,253	9,617,866	10,717,425	14,881,970	17,000,000	\$211,824,514
132 Kannapolis City Schools	0	4,528,474	0	380,068	0	\$4,908,542
140 Caldwell County Schools	33,759,758	6,034,918	1,783,603	3,408,815	0	\$44,987,094
150 Camden County Schools	28,738,558	1,404,558	342,000	2,288,718	1,200,000	\$33,973,834
160 Carteret County Schools	0	13,092,970	35,192,089	1,251,275	0	\$49,536,334
170 Caswell County Schools	0	10,636,835	1,772,700	1,230,386	100,000	\$13,739,921
180 Catawba County Schools	24,547,722	37,129,828	6,050,550	6,004,955	0	\$73,733,055
181 Hickory City Schools	0	2,749,219	11,405,309	1,085,209	0	\$15,239,737
182 Newton Conover City Schools	9,359,557	14,206,265	6,229,945	2,568,038	0	\$32,363,805
Chatham County Schools	64,160,193	4,869,823	5,492,535	6,052,998	0	\$80,575,549
Cherokee County Schools	7,093,505	8,333,503	2,843,862	1,327,547	170,000	\$19,768,417
Chowan County Schools	0	10,827,896	8,200,590	1,238,770	0	\$20,267,256
220 Clay County Schools	0	3,292,473	0	276,332	0	\$3,568,805
230 Cleveland County Schools	0	39,198,410	67,794,359	3,439,867	0	\$110,432,636
240 Columbus County Schools	59,997,458	57,579,288	10,188,591	10,767,650	1,758,000	\$140,290,987
241 Whiteville City Schools	35,245,236	2,093,812	3,024,986	3,382,652	900,000	\$44,646,686
250 Craven County Schools	64,644,179	8,316,620	10,347,897	6,167,429	1,500,000	\$90,976,125
260 Cumberland County Schools	38,904,855	50,275,960	35,646,166	7,691,239	825,000	\$133,343,220
270 Currituck County Schools	24,282,893	0	0	2,179,366	0	\$26,462,259
280 Dare County Schools	14,431,220	5,620,608	0	1,707,167	3,150,000	\$24,908,995
290 Davidson County Schools	40,179,591	8,347,745	444,600	4,476,393	0	\$53,448,329
291 Lexington City Schools	11,252,528	3,692,084	5,236,499	1,377,869	0	\$21,558,980
292 Thomasville City Schools	0	6,126,691	3,593,543	664,205	0	\$10,384,439
300 Davie County Schools	44,351,596	1,323,813	2,846,125	3,893,956	0	\$52,415,490
310 Duplin County Schools	37,115,454	19,389,270	9,032,562	4,846,297	550,000	\$70,933,583
320 Durham Public Schools	138,631,188	7,919,420	154,595,911	37,893,862	9,000,000	\$348,040,381
330 Edgecombe County Schools	0	16,194,243	20,383,264	1,508,270	400,000	\$38,485,777
340 Forsyth County Schools	191,480,007	15,299,430	81,439,207	19,663,640	5,050,000	\$312,932,284
350 Franklin County Schools	44,768,754	8,554,291	5,491,850	4,645,193	250,000	\$63,710,088
360 Gaston County Schools	103,433,100	113,480,154	102,406,083	94,298,987	3,400,000	\$417,018,324
370 Gates County Schools	0	18,751,838	5,924,580	2,109,475	0	\$26,785,893
380 Graham County Schools	0	2,890,653	342,000	242,608	0	\$3,475,261
390 Granville County Schools	0	14,218,582	14,880,164	1,143,785	0	\$30,242,531
400 Greene County Schools	12,373,950	18,695,253	12,208,013	3,283,390	0	\$46,560,606
410 Guilford County Public Schools	134,370,726	75,101,266	239,057,645	21,299,599	5,000,000	\$474,829,236
Halifax County Schools	19,338,908	11,606,328	4,385,010	2,622,535	0	\$37,952,781
Roanoke Rapids City Schools	14,478,357	5,494,792	0	1,904,699	700,000	\$22,577,848
422 Weldon City Schools	16,387,290	0	5,388,485	1,506,043	150,000	\$23,431,818
430 Harnett County Schools	148,020,737	48,176,074	7,642,205	18,320,514	0	\$222,159,530

Five-Year Public School Facility Needs

Cost Summary by Unit

2005-06 Public Schools Facility Needs Assessment

	New Schools	Additions	Renovations	Furn/Eqpt	Land	Total
440 Haywood County Schools	0	8,047,218	10,060,500	2,623,890	0	\$20,731,608
450 Henderson Co Public Schools	22,450,862	15,340,375	2,513,757	3,998,321	0	\$44,303,315
460 Hertford County Schools	0	8,805,467	1,686,674	739,030	0	\$11,231,171
470 Hoke County Schools	85,983,619	2,095,923	0	7,479,368	0	\$95,558,910
480 Hyde County Schools	15,171,249	0	0	1,406,544	200,000	\$16,777,793
490 Iredell Statesville Schools	28,229,632	77,048,535	15,481,200	9,897,285	3,975,000	\$134,631,652
491 Mooresville City Schools	29,485,625	3,905,637	3,929,765	3,047,737	0	\$40,368,764
500 Jackson County Schools	0	6,724,928	199,500	564,413	0	\$7,488,841
510 Johnston County Schools	175,533,575	18,807,712	10,374,000	16,788,118	0	\$221,503,405
520 Jones County Schools	32,184,266	1,055,578	0	3,001,633	0	\$36,241,477
530 Lee County Schools	18,377,493	9,127,776	10,335,150	2,323,031	0	\$40,163,450
540 Lenoir County Public Schools	62,900,325	20,711,499	1,830,834	7,413,961	371,492	\$93,228,111
550 Lincoln County Schools	30,944,075	12,312,330	5,457,750	2,632,106	2,960,000	\$54,306,261
560 Macon County Schools	15,096,060	21,193,956	741,000	3,521,254	810,000	\$41,362,270
570 Madison County Schools	10,062,521	20,927,245	3,144,120	3,180,960	1,500,000	\$38,814,846
580 Martin County Schools	11,450,048	23,842,573	5,897,790	3,038,107	1,000,000	\$45,228,518
590 McDowell County Schools	0	2,298,052	769,500	192,872	0	\$3,260,424
600 Charlotte Mecklenburg Schools	395,445,324	246,163,091	180,237,529	62,483,485	25,680,000	\$910,009,429
610 Mitchell County Schools	0	2,562,784	0	215,090	0	\$2,777,874
620 Montgomery County Schools	28,681,188	21,064,409	31,226,339	4,993,190	240,000	\$86,205,126
630 Moore County Schools	0	65,804,820	10,162,806	6,147,539	0	\$82,115,165
640 Nash Rocky Mount Sch Adm Unit	9,057,637	24,144,189	92,214,496	5,670,910	0	\$131,087,232
650 New Hanover County Schools	0	44,375,233	52,776,129	6,046,933	0	\$103,198,295
660 Northampton County Schools	0	1,816,073	10,685,819	845,532	0	\$13,347,424
670 Onslow County Schools	25,445,467	125,998,103	86,950,461	14,390,227	495,000	\$253,279,258
680 Orange County Schools	0	0	15,834,600	2,800,000	0	\$18,634,600
681 Chapel Hill Carrboro Schools	55,002,999	0	9,280,467	4,735,084	4,438,417	\$73,456,967
690 Pamlico County Schools	0	4,229,957	1,550,616	797,085	0	\$6,577,658
700 Elizabeth City/Pasquotank Schools	9,194,623	3,026,880	23,629,944	1,867,838	100,000	\$37,819,285
710 Pender County Schools	35,762,764	15,851,942	2,562,951	4,929,570	1,140,000	\$60,247,227
720 Perquimans County Schools	0	13,139,413	9,052,170	1,104,845	0	\$23,296,428
730 Person County Schools	0	0	4,605,600	0	0	\$4,605,600
740 Pitt County Schools	41,543,218	98,029,832	32,049,048	11,596,920	2,200,000	\$185,419,018
750 Polk County Schools	0	3,332,686	2,320,470	279,707	0	\$5,932,863
760 Randolph County Schools	89,315,985	42,235,086	550,050	11,230,631	0	\$143,331,752
761 Asheboro City Schools	0	5,570,724	10,879,476	1,400,543	0	\$17,850,743
770 Richmond County Schools	13,301,788	38,665,280	16,451,915	5,211,274	102,000	\$73,732,257
790 Rockingham County Schools	33,326,214	18,487,315	10,067,308	5,014,730	600,000	\$67,495,567
800 Rowan Salisbury Schools	45,530,515	45,210,818	20,370,127	10,408,340	2,540,000	\$124,059,800
810 Rutherford County Schools	10,209,768	1,903,992	1,000,350	1,140,232	315,000	\$14,569,342
820 Sampson County Schools	86,527,608	16,683,769	2,687,265	9,060,669	1,764,000	\$116,723,311
821 Clinton City Schools	28,967,346	0	0	2,360,877	0	\$31,328,223
830 Scotland County Schools	0	41,982,040	20,841,294	5,339,588	0	\$68,162,922
840 Stanly County Schools	0	0	38,305,910	0	0	\$38,305,910
850 Stokes County Schools	22,594,585	15,070,018	7,662,567	3,474,634	675,000	\$49,476,804
860 Surry County Schools	24,806,874	8,220,254	7,358,351	3,210,028	350,000	\$43,945,507
861 Elkin City Schools	0	4,714,010	369,360	386,238	0	\$5,469,608
862 Mount Airy City Schools	0	2,550,903	1,373,102	642,571	0	\$4,566,576
870 Swain County Schools	7,994,044	4,808,438	1,730,805	1,772,765	800,000	\$17,106,052
880 Transylvania County Schools	0	3,059,804	5,048,300	298,804	80,000	\$8,486,908
890 Tyrrell County Schools	0	944,003	0	79,229	0	\$1,023,232
900 Union County Public Schools	119,311,581	44,012,166	38,467,125	15,172,746	14,750,002	\$231,713,620

Five-Year Public School Facility Needs

2005-06 Public Schools Facility Needs Assessment

Cost Summary by Unit

	New Schools	Additions	Renovations	Furn/Eqpt	Land	Total
Vance County Schools	29,969,012	12,715,293	857,302	3,956,087	300,000	\$47,797,694
920 Wake County Schools	789,388,627	170,554,689	293,050,367	128,815,902	66,150,000	\$1,447,959,585
930 Warren County Schools	0	8,673,406	4,476,935	727,948	0	\$13,878,289
940 Washington County Schools	23,226,501	0	0	1,915,645	0	\$25,142,146
950 Watauga County Schools	45,062,128	1,177,923	8,463,730	3,529,551	0	\$58,233,332
960 Wayne County Public Schools	97,555,846	30,837,083	77,101,973	10,875,712	2,388,000	\$218,758,614
970 Wilkes County Schools	0	3,427,200	0	287,640	0	\$3,714,840
980 Wilson County Schools	15,096,060	0	7,493,152	1,376,043	0	\$23,965,255
990 Yadkin County Schools	40,181,070	26,619,170	0	6,433,748	0	\$73,233,988
995 Yancey County Schools	7,448,309	7,449,514	703,591	1,348,097	300,000	\$17,249,511
State Totals:	\$4,301,110,585	\$2,244,127,032	\$2,273,459,443	\$757,514,735	\$191,332,411	\$9,767,544,206

Wake County Public Schools — Blueprint for Excellence

The Wake County Public School System gained 7,568 new students for 2006-07 – more than every man, woman and child in the Town of Knightdale.

Wake County & WCPSS estimates show WCPSS increasing by 40,000 students between 2005 and 2010, bringing total enrollment to more than 160,000 students.

The Blueprint for Excellence includes the construction of 17 new schools and land and design start up for 13 future schools. The maps show new school locations and where the 13 major renovations are planned.

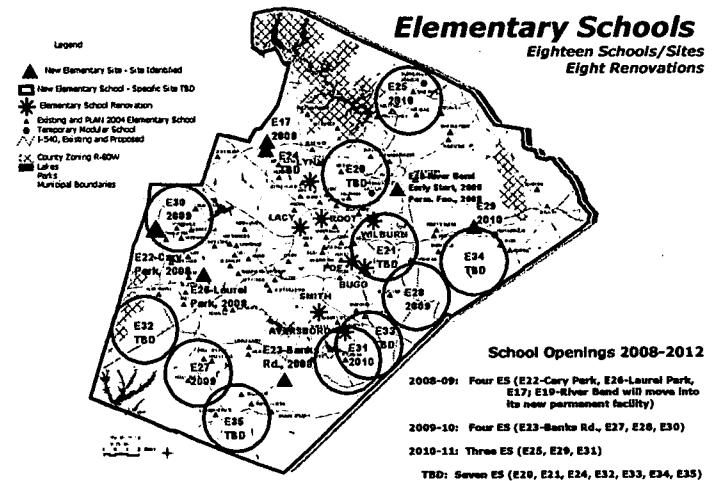
What is the tax implication of the bond?

A: The impact of the bond debt service is 2.7 cents per \$100 of assessed property value. The county also calculated a gradual 2.0-cent increase to pay for operating the new buildings. In 2008, the operating impact would be 0.9 cents, with the total impact by 2011 being 2.0 cents. So, in 2008, the owner of a \$150,000 home would pay \$54 more a year in property taxes.

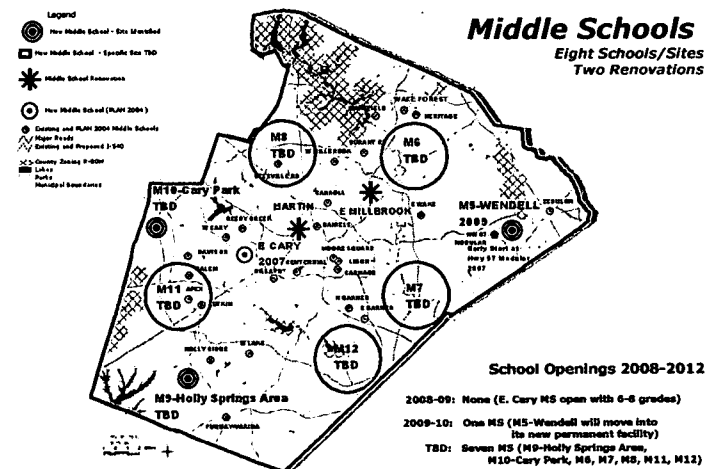
What about after this bond, 2010 to 2015?

A. Existing schools that have not been addressed during this bond funding cycle will need to be replaced or renovated. The growth rate is expected to remain steady. Current sources of revenue do not provide sufficient funds. Adequate new school facilities should be planned to match incoming growth using private partnerships and new sources of operating revenue along with existing methods.

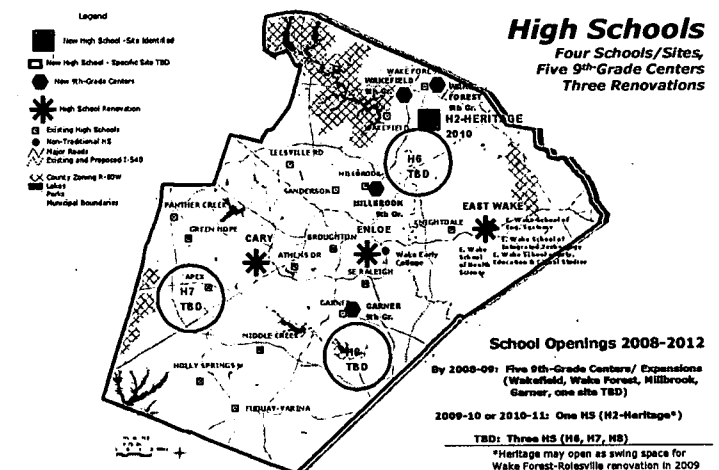
WAKE COUNTY PUBLIC SCHOOL SYSTEM Blueprint for Excellence 2006



WAKE COUNTY PUBLIC SCHOOL SYSTEM Blueprint for Excellence 2006



WAKE COUNTY PUBLIC SCHOOL SYSTEM Blueprint for Excellence 2006



**A Capital Improvement Plan (CIP) For 2007-2009
For Wake County Public Schools**

The CIP proposal requests county funding to:

- Provide adequate classroom space for teaching and learning to serve a 35% increase in enrollment over five years (from 120,504 students in September 2005 to 162,371 students in September 2010)
- Make some progress on deferred major renovation and life cycle projects at existing schools to protect student health and safety and maintain adequate instructional environments

Key features include:

- A building program that recognizes the fiscal and instructional accountability of the school system to our community
- Conversion of 19 single-track (traditional and modified calendar) elementary schools to 45/15 multi-track calendars to generate 2,700 additional seats for the 2007-08 school year, while maintaining single-track calendars for most elementary schools, most middle schools and all high schools
- Generation of 2,000 additional seats in middle schools by 2008-09 through conversion of 3 single-track middle schools to a 45/15 calendar and acquisition of additional mobile or modular classrooms
- Funding for opening 16 new schools in 2008, 2009, and 2010 (eleven multi-track elementary, three multi-track middle, and two high schools), and one new middle which will open in 2011
- Major renovations at 13 schools and address deferred life-cycle replacements (roofs, air conditioning systems, etc.) at nearly 100 campuses
- Funding for land and startup design of 13 more schools planned for 2011, 2012, and 2013 (seven multi-track elementary, four multi-track middle, and two high schools)
- Partial funding for establishment of 5 ninth-grade centers in 2007 and 2008 to serve the most overcrowded high schools for a 5-10 year period
- Funding for relocation of up to 100 mobile classrooms each year in 2007, 2008, and 2009 because district-wide space utilization will remain near 100%
- Funding for some of the initiatives identified by the Board of Education and Board of Commissioners in September 2005, including a five-year technology replacement program and a regular assessment of existing facilities
- Assumption of a 5% annual inflation rate through 2010. If inflation is greater than this amount, some projects may need to be deferred.

Objectives that are not achieved in this CIP:

- Sufficient progress toward the eight-year reduction in utilization rates called for in September 2005 planning guidelines
- Sufficient progress toward the five-year reduction in the use of mobile classrooms called for in September 2005 planning guidelines
- Sufficient progress toward the five-year elimination of the backlog in deferred major renovation projects and central support facility needs called for in September 2005 planning guidelines

Estimated cost of this CIP program using inflation rates approved in planning strategies:

New schools and crowding solutions.....	\$675,631,413
Most critical major renovation projects and district-wide needs.....	\$380,243,424
Total 2006 CIP request to the county.....	\$1,055,874,837

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

DECEMBER 13, 2006 MINUTES

The House Select Committee on Public School Construction met on Wednesday, December 13, 2006 at 9:00 a.m. Members in attendance were Chairman Doug Yongue, and Representatives Lucy Allen, Martha Alexander, Larry Bell, Becky Carney, Linda Coleman, Bob England, Dale Folwell, Bruce Goforth, Larry y Hall, Julia Howard, Marvin Lucas, Edd Nye, Garland Pierce, William Wainwright, W. A. Wilkins, and Vice-Chair, Representative Linda Johnson. The committee met in Room 1027 of the Legislative Building. See *attachments 1, 2, and 3* for attendance, agenda, and visitor's registration.

Chairman Yongue welcomed committee members to the second meeting and asked for a motion to approve minutes of the October 26, 2006 meeting. Representative Wilkins made a motion, and the minutes passed with unanimous approval. As the first order of business, Chairman Yongue invited the first of four state agency representatives to share with the committee their involvement in the approval process of public school construction.

Other Agencies' Participation in the School Construction Approval Process

Ms. Robin Smith, Assistant Secretary of Environment and Natural Resources, presented the permits and approvals required by the Department of Environment and Natural Resources (DENR) for constructing public schools in North Carolina. Storm water discharge regulations and water quality permitting are two of the necessary approvals, the first of which is a federal requirement. Permits may be needed, especially in rural areas, for on-site wastewater management and for drinking water wells if a public water source is not available. Local education agencies (LEAs) are all required to submit an erosion sedimentation plan during the construction process as well as a storm water control plan once the construction is complete. Ms. Smith stressed the need for careful site selection prior to construction and planning through the school design process in order to avoid an extended process. Following her presentation, Ms. Smith took questions from the committee. Representative Wilkins inquired about the typical timeframe. Ms. Smith explained that the process can take as few as three days or as long as one year, depending on site-selection. Wetlands can take considerably longer given the required 404 permit. Representative Lucas asked if DENR requires a certain amount of acreage. Ms. Smith answered saying DENR has no space requirement, emphasizing that quality is as important as quantity. Representative Goforth suggested that perhaps DENR should visit a site prior to the purchase of land given the time constraints in high growth areas. Ms. Smith agreed that a preliminary site inspection couldn't hurt.

Representative Wilkins asked if DENR has the necessary resources to perform preliminary site inspections from regional offices if this were mandated by the legislature in the future. Finally, Representative Coleman inquired about 404 permits and whether or not they apply to watershed areas. She then asked if DENR does follow-up and monitoring. Ms. Smith affirmed that watershed areas do require 404 permits in watershed areas as well as follow-up which require additional expenditures for maintenance.

Mr. Wayne Goodwin, former NC House Representative for Richmond County and current Assistant Commissioner of Insurance, presented the Department of Insurance's involvement in the process as required by G.S. 58-31-40. It is important to note that the Commissioner of Insurance also serves the state as Fire Marshall – two large roles in the process. He noted that the Department of Insurance (DOI) and Office of State Fire Marshall (OSFM) presently review about 37-40 school construction projects per month. The average plan review takes about 15 days. The departments are responsible for reviewing public construction projects of more than 10,000 square feet and private school construction projects of two-story height or over 20,000 square feet. The DOI and OSFM do not require reviews of the following: renovation projects to existing schools, additions of less than 10,000 square feet, and privately-owned schools in approved jurisdictions for local plan review. These reviews are often means of egress, location of building on-site, especially for emergency access, life safety equipment, fire-rated separations from hazardous locations, structural stability, handicapped accessibility, etc. DOI is the primary code enforcement body for school construction. Mr. Goodwin explained that DOI continues to update processes in order to streamline approvals. The department encourages sprinklers throughout buildings and frequently conducts express review meetings with designers to accelerate the review process. Codes are provided on-line, as well as, a checklist for consistency. Mr. Goodwin was joined by his fellow colleagues, Mr. Chris Noles, Deputy Commissioner, and Mr. Tim Morrison. They also presented differences in the reviews performed by DOI and the Department of Public Instruction (DPI). They gave the committee two suggestions – facilitate the use of prototype plans and appropriate more funding for a spike in volume should a statewide school bond arise in the future. Several members offered questions for clarity, including Representatives Goforth, Howard, and Folwell. Representative Allen asked about privately-owned and lease-back school buildings. Mr. Goodwin said that while there is no mandated review, they will perform courtesy reviews. Please see *attachment 5* for this presentation in its entirety.

Mr. Kevin Lacey, Department of Transportation (DOT) - State Traffic Engineer, cited G.S. 136-18 in presenting the DOT's role in the approval of public school construction plans. Mr. Lacey was joined by Mr. Joel Cranford and Mr. Tom Norman, Director of Bicycle and Pedestrian. According to G.S. 136-18, LEAs are required to submit plans at the onset – upon purchase of land and/or prior to construction. The DOT must review, evaluate, and make recommendations to ensure compliance with current DOT policy on street and driveway access, though LEAs are not required to follow the recommendations. The law also states that this process shall not exceed 60 days. The main objectives of the recommendations are to separate pedestrian and vehicle traffic, organize the student loading process, assign short-term "Visitor" parking, and encourage

the most efficient routes. See attached handouts (*Attachments 6 and 7*). With no further discussion, Mr. Lacey and Mr. Cranford were joined by Mr. Tom Norman, Director of Bicycle and Pedestrian Division, Department of Transportation. Mr. Norman provided a handout (*Attachment 8*). He spoke to the committee about the work of the Safe Routes to School program in North Carolina – designed to encourage bicycling, walking, and overall safety. This program ultimately seeks to reduce clogged traffic, increase safety, and encourage more physical activity through its efforts. This national program has been endorsed by Congress, where some funding is available to states. Following all discussion from the DOT representatives, they received questions from the committee.

In response to a question posed by Representative Coleman, Mr. Cranford confirmed that the DOT does consider traffic of nearby schools in planning for a new school construction project. Chairman Yongue asked if the department contracts out. Mr. Cranford suggested that the department contracts outside of the department as little as possible. There were no further questions.

Adequate Public Facilities Ordinances and Impact Fees

Mr. Dustin Reed, Esq., Center for Real Estate, UNC-Charlotte defined impact fees and adequate public facilities ordinances. In addition, Mr. Reed identified legal constraints limiting the use of these growth management tools, as he discussed both benefits and concerns. North Carolina presently uses impact fees in seven counties, though none have been approved since 1991 by the North Carolina General Assembly. An impact fee is one assessed on residential development by a local government to fund public services – including public schools. Adequate Public Facilities Ordinances (APFOs) are a growth management tool controlling the timing of residential development, implemented by a local government to ensure public infrastructure is in place. Mr. Reed explained that the current cost of the impact of development is calculated to be approximately \$7,200 per unit, while the actual cost to public schools per housing unit is approximately \$17,000. With the approval of the state legislature, only Orange and Chatham Counties assess impact fees earmarked for public schools. Cabarrus County is the only county to receive local authority to assess an APFO. APFOs, it is important to note, are different from impact fees in that they are voluntarily collected from developers. The North Carolina judiciary has not addressed local authority to impose impact fees. In regards to their constitutionality, North Carolina has not addressed whether impact fees and APFOs result in a regulatory taking.

The intended benefit of impact fees and APFOs is to facilitate orderly growth by slowing the pace of residential development, thus preserving quality public services. However, housing affordability may become a major concern in shifting some of the burden to new homebuyers. Please see PowerPoint presentation and paper entitled “The Effect of Growth Management Strategies: Adequate Public Facilities Ordinances and Impact Fees – A Review of Existing Research” in attachments (*Attachments 9 and 10*).

State and Local Debt Affordability

Mr. Vance Holloman, Deputy State Treasurer began by notifying members of the annual debt affordability report due on February 1, 2007. Mr. Holloman reviewed background information on debt affordability beginning with creation, by the legislature, of the Debt Affordability Advisory Committee in 2004. Debt affordability, he explained, is the amount of debt the state may authorize without endangering the credit of the state (AAA bond rating). As of June 30, 2005, net tax-supported debt for the state is \$5.6 billion. In the past five years, net tax-supported debt has nearly doubled. Higher education accounts for 63% of the debt, while public schools account for only 1%, with clean water, parks and recreation, prisons, and healthcare accounting for the remaining 36%. The General Assembly authorized \$719 million in new debt in 2006. Approximately \$503 million in general obligation bonds and \$760 million in special indebtedness is authorized, but unissued debt as of October 1, 2006. The 2006 debt affordability study indicated the state's ability to authorize \$214 million in debt based on a 4% guideline of debt service to revenues. Following the presentation, with no questions, the committee recessed at 12:15 p.m. for one hour.

Chairman Yongue reconvened the meeting at 1:15 p.m., inviting the next presenter.

Comparison of Spending Levels

Mr. Alex Hess III, School of Government, discussed a comparison of several benchmark states and counties in the areas of overall public school spending per capita, sources of funds, current public school expenditures per capita, capital outlay, and county debt service. In addition, he briefly reviewed and compared finance methods for school construction. Please see his attached presentation in its entirety (*Attachment 11*). There were no questions.

Comparison of State Funding Methods

Mr. Canaan Huie, Legislative Drafting Division, gave a recent history of state funding sources from 1995 to 2004. The various sources of funding included credit-enhancing, loan program, non-recurring, and annual funding sources, such as lottery proceeds. Please see attached PowerPoint presentation and comparative tables for his presentation in its entirety (*Attachments 12 and 13*).

Costs of Alternative Types of Construction

Mr. Guy Chamberlain of Charlotte-Mecklenburg Schools presented the present school construction needs of his LEA and highlighted the accomplished school construction projects since 1996. Construction during this period consisted of 7 new high schools, 8 new middle schools, 16 new elementary schools, 13 replacement elementary schools, and 42 comprehensive renovations completed. Capital funding during this period totaled over \$1 billion from a statewide bond, bond referendums in 1997, 2000, and 2002 and Certificates of Participation in 1999, 2004, 2005, and 2006. By 2016, projected enrollment will increase by 58,00 students requiring 39 new elementary schools, 13 new middle schools, 11 new high schools, and 72 major renovation projects.

Please see attached document for presentation in its entirety (*Attachment 14*). Following his presentation, Representative Goforth inquired about the use of prototype plans and value engineering in Charlotte-Mecklenburg. Mr. Chamberlain responded, saying that most of their plans are used 2 to 3 times. In addition, CMS does use value engineering. CMS is currently interviewing private developers and builders for several projects in order to take advantage of recently passed legislation on Public-Private Partnerships (S2009). With no further discussion, Chairman Yongue invited the next three presenters to share their experiences at the local level.

Experiences of Local School Administrative Units

Mrs. Leanne Winner of the North Carolina School Boards Association discussed the experiences of her member board members in dealing with local school construction needs. Ms. Winner shared some photos of schools requiring maintenance and renovation, considering the lack of funding available. She also commented on the hurdles faced with the DOT and multiple zoning ordinances. Ms. Winner advocated for a \$2 billion statewide bond package, realizing that there is no one-size fits all funding source. Please see attached handout (*Attachment 15*).

Mr. Tim Kinlaw of Cumberland County Schools thanked committee members for the opportunity to share the experience of this medium size, steady growth LEA. On the evening prior, he noted, Cumberland County became the first board of education to approve the utilization of the new public-private partnership legislation for design and development on a new elementary school. The major issues affecting school construction needs in Cumberland County have been population growth, class-size reductions, and program growth. Mr. Kinlaw's presentation can be viewed in its entirety in the attached handout (*Attachment 16*). Following his presentation, Mr. Kinlaw responded to questions from the following Representatives: Allen, Coleman, and Hall.

Ms. Anna McGinnis of Dare County Schools, a small school system with only eleven schools, explained their utilization of the land transfer tax since 1985. The land transfer tax has been successful source of revenue due to a real estate boom in the area with a great appreciation of property. This source of revenue spiked in 2005 when Dare County collected over \$15 million. Please see attached handout (*Attachment 17*).

With no further discussion, Chairman Yongue adjourned the meeting at 3:20 p.m.

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
AGENDA

Wednesday, December 13, 2006
Room 1027, Legislative Building
9:00 a.m.

- I. **Welcoming Remarks**
Rep. Doug Yongue
- II. **Approval of the Minutes from October 26**
- III. **Other Agencies Participation in the School Construction Approval Process**
 - Robin Smith, Assistant Secretary of Environment and Natural Resources
 - Wayne Goodwin, Assistant Commissioner of Insurance
 - Kevin Lacey, State Traffic Engineer, Department of Transportation
 - Tom Norman, Director of Bicycle and Pedestrian Division, Department of Transportation
- IV. **State and Local Debt Affordability**
Vance Holloman, Deputy State Treasurer
- V. **Adequate Public Facilities Ordinances and Impact Fees**
Dustin Read, Esq., Center for Real Estate, UNC- Charlotte
- VI. **Lunch Break**
- VII. **Comparison of Spending Levels**
Alex Hess, School of Government
- VIII. **Comparison of State Funding Methods**
Canaan Huie, Legislative Drafting Division
- IX. **Costs of Alternative Types of Construction**
Guy Chamberlain, Charlotte-Mecklenburg Schools
- X. **Experiences of Local School Administrative Units**
 - Leanne Winner, North Carolina School Boards Association
 - Tim Kinlaw, Cumberland County Public School System
 - Anna McGinnis, Dare County Schools

Future Meeting Date: Tuesday, January 9, 2007 (Room 544) at 10 a.m.

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction 12/13/2006

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Brian DeRuy

NBC 17

Ross Dubishy

Cap. Ad.

~~Greg~~ TA/NTC

DP1

Zhang Wilson

SBE

Rita L. Joyner

SBE

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction

12/13/2006

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Michael Houser

NCAE

Katherine Joyce

NCASA

Paul Harner

WCPS

Ben Matthews

NC DPI

Johanna Reese

DOT

Tom Workman

DOT

Joel Cranford

DOT

Kevin Lacy

DOT

Dustin Road

UNC Charlotte

Jennifer Willis

Wake County

Chris Nokes

NC DPI

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction

12/13/2006

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
TIMOTHY MORELSON	NC DEPT OF INSURANCE, 322 CHAPANOKES RD RALEIGH, NC 27602
Wayne Goodwin	NCDOT
Terry Stoops	John Locke Foundation
Dora Fazzini	Department of STATE Treasurer
VANCE HOLLOWAN	Department of State Treasurer
Alastair Macaulay	NCHBA
Rick Zechini	NC Assoc. of Realtors
John Alford	EM: Brown
PEYTON MAYNARD	gpm —
Laura Nimmo	NCSEA
Stula m'clery	DST

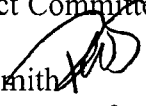


North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

TO: House Select Committee on Public School Construction

FROM: Robin W. Smith 
Assistant Secretary for Environment

DATE: December 13, 2006

RE: Environmental Permitting and School Construction Activities

This memorandum provides an overview of environmental rules that may affect school construction. For the most part, these requirements affect any large development project. Many of the permitting requirements and environmental standards have a foundation in federal statutes and rules, but are implemented by state agencies under a delegation of authority from the United States Environmental Protection Agency (EPA).

REQUIREMENTS AFFECTING DEVELOPMENT ACTIVITIES

The **Clean Water Act, 33 U.S.C. §§ 1251 *et seq.***, requires federal permits for discharges of pollution to surface waters (National Pollutant Discharge Elimination System or "NPDES" permits). NPDES permits are required for:

1. Wastewater systems that discharge to surface waters;
2. Storm sewer systems owned or operated by some public entities; and
3. Stormwater runoff from any construction site of more than 1 acre in size.

School construction always requires a construction stormwater permit. Under federal law, an NPDES construction stormwater permit is required for any project affecting more than one acre. In North Carolina, the NPDES construction stormwater permit is linked to compliance with the State's Sedimentation Pollution Control Act. DENR's Division of Water Quality has issued a general construction stormwater permit that covers construction activities carried out in compliance with a sedimentation and erosion control plan approved by either DENR or a local sedimentation program.

In some municipalities, school construction may also be required to comply with a local stormwater control ordinance. Federal rules require that the larger municipalities in North

Carolina (and certain other public entities) have an NPDES permit for their storm sewer system. To get the NPDES stormwater permit, the local government must implement a stormwater management program that includes stormwater controls for new development projects.

404 Permits/Section 401 Water Quality Certifications. Activities that result in debris, sediment or other material being placed in surface waters or wetlands require a permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. Activities that require a Section 404 permit also need a certification from the State of North Carolina that the activity will not result in a violation of any state water quality standard (a Section 401 certification). Section 401 certifications are issued by DENR's Division of Water Quality. State standards applied to filling of waters and wetlands are basically identical to federal standards.

Many construction projects result in some impact to stream or wetland areas. The U.S. Army Corps of Engineers has a number of Nationwide Permits for small impacts. Example: Nationwide Permit 18 (See attached) authorizes less than 25 cubic yards of fill as long as the fill affects less than 1/10 of an acre of wetlands and meets certain other conditions. DENR's Division of Water Quality has General Water Quality Certifications that correspond to most of the Corps of Engineers Nationwide Permits. Applications for coverage under a nationwide permit must be submitted to the COE. Activities that go beyond the scope of an applicable nationwide permit require an individual permit from the COE and a longer permit review. For projects that require individual permits, the applicant must show that the impacts to waters or wetlands cannot be avoided; the impacts have been reduced as much as possible; and that any unavoidable impacts have been mitigated. Mitigation can involve replacing or restoring an area similar to the waters or wetland being affected by construction.

Waters that receive special protection under Clean Water Act programs. Federal rulemaking priorities focus on issues of national significance, but each state has unique environmental issues based on its geography, natural resources, population and development patterns. North Carolina's water quality rules reflect the need to both provide additional protection for sensitive waters and to improve water quality in areas already polluted. Examples:

- **Trout streams** receive special protection under both federal and state environmental laws. The N.C. Sedimentation Pollution Control Act prohibits land-disturbing activity within a 25-foot buffer on either side of a trout stream, but allows for the issuance of waivers from the trout buffer if the impacts will be temporary and minimal.
- **Nutrient Sensitive Waters.** In 1996, the General Assembly set a very ambitious goal for reduction of nutrients in the Neuse River basin in response to extensive algae blooms and fish kills on the Neuse River. The statutory nutrient reduction goal led to state rules addressing both discharges of nutrients from wastewater treatment plants and runoff of

nutrients from agriculture, forestry and development activities. Since then, the Tar-Pamlico River Basin has also been designated as nutrient sensitive.

- **Water Supplies.** By statute, local governments in areas draining to designated water supplies (such as reservoirs) must have programs in place to limit the impacts of development on the safety and productivity of those water supplies. Those programs must meet minimum state standards adopted by the Environmental Management Commission. A primary focus of the water supply watershed rules is use of buffers, density limitations and other stormwater controls to reduce runoff of sediment, nutrients and other pollutants.

- **Shellfish waters.** Coastal waters that provide habitat for shellfish must meet very strict water quality standards for certain bacteria (set by the Food and Drug Administration) to ensure that the shellfish are safe to eat.

- **Waters that provide habitat for endangered species.** Nine mussel species found in North Carolina have been listed as endangered under the federal Endangered Species Act; another 11 mussel species have been identified as federal "species of concern". The U.S. Fish and Wildlife Service has the most direct authority to enforce the Endangered Species Act, but the U.S. Environmental Protection Agency has also required that North Carolina's water quality standards include specific management plans for waters that provide habitat for aquatic endangered species.

For each of these categories of waters, runoff of pollutants from agricultural, forestry and development activities is a major concern. As a result, each set of rules includes some versions of a streamside buffer requirement and stormwater controls. Schools constructed in areas near sensitive waters may need to pay special attention to site selection and design to meet development standards.

DRINKING WATER SYSTEMS

The federal Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*, sets standards and permitting requirements for public water systems. Under federal rules, "public water system" includes any system that provides water for human consumption and regularly serves at least 25 people. A school that supplies its own water from a well would be considered a public water system under federal rules. Construction of the water system cannot begin until the well site and water system plans have been reviewed and approved by the Public Water Supply Section in the Division of Environmental Health.

ON-SITE WASTEWATER SYSTEMS

In areas not served by a sewer system, the school may require permits for construction and operation of an on-site wastewater system. In most cases, these permits require an engineering review by the On-Site Wastewater Section in the Division of Environmental Health. Under G.S. 130A-338, no other construction-related permits can be issued until an authorization for construction of the wastewater system to serve the school has been

issued. Attached is a portion of an outline prepared by Mr. Steven Berkowitz in the On-Site Wastewater Section identifying some of the problems that schools have encountered with respect to permitting of on-site wastewater systems.

Subsurface Wastewater System Approval for Schools

Division of Environmental Health

On-Site Wastewater Section

Steven Berkowitz, Engineering Team Leader
Scott Greene, Regional Soil Specialist

G.S. 130A-338:

"Where construction ...is proposed to be done ...no permit required for electrical, plumbing, heating, air conditioning or other construction...activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued.."

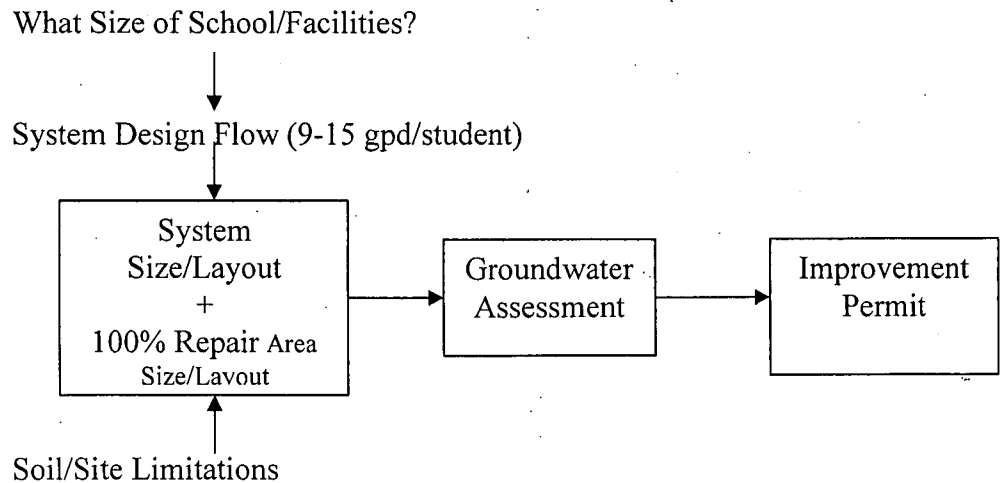
G.S. 130A-334(1):

"Construction" means any work at the site of placement done for the purpose of preparing ...for initial occupancy, or subsequent additions or modifications which increase sewage flow."

New Schools

Before Commitment to Buy:

Site Approval (Only after Improvement Permit Issued)



Actors:

- Design Engineer
- Private Soils/Hydrogeologic Consultant
- Local Health Department Environmental Health Specialist
- On-Site Wastewater Section Regional Soil Specialist
- On-Site Wastewater Section Review Engineer

Critical Mistakes:

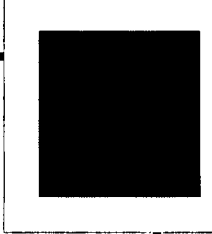
- Land purchased not approvable or large enough to handle proposed system
- Extensive architectural work done prior to and/or independent of wastewater system planning
- Wastewater system engineering firm has no on-site experience
- Designated field site not adequately protected \during site preparation

School Remodeling/Additions:

- Requires Health Department sign-off before construction start-up
- Impact on system components/designated repair area?
- Will school's design capacity increase?
- Location/Condition/Capacity/Operation and Maintenance/Compliance status of existing system
- Possible Scenarios:
 - Maintenance/Repair
 - Expand System
 - New System



DoI/OSFM Public School Reviews



Requirements

- ◆ GS 58-31-40 contains the following review guidelines that apply to Schools –
 - Public schools that are city or county owned when 10,000 sq ft or more
 - Private schools that are over 2 stories in height or over 20,000 square feet:
Examples are Charter Schools, Faith-based, Church-owned & operated

NORTH CAROLINA
DEPARTMENT OF INSURANCE



OFFICE OF STATE FIRE MARSHAL

Review not required for:

- ◆ Renovations to existing schools
 - Re-roofing, Window replacements, Rehabilitations, HVAC Improvements, HC accessibility upgrades
- ◆ Additions less than 10,000 sq ft
- ◆ Privately-owned schools in approved jurisdictions for local plan review

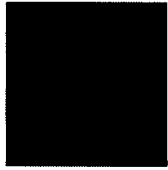
Review Scope

- ◆ When a school is submitted to our private review, the following items are included in the review:
 - Means of Egress (a safe path of travel) for all areas of the school, including bleachers and pressboxes.
 - Maximum allowable height and area, compared to the type of construction.
 - Location of the building on the site and access by emergency responders.
 - Equipment designed for life safety functions (i.e. fire alarms, sprinklers, door panic hardware, emergency egress windows).
 - Coordination between multiple trades on one project to prevent costly mistakes (the designer of record should do this-but often is not done).
 - Structural stability (i.e. correct live loads, snow, wind, earthquake)
 - Fire-rated separations from hazardous locations (i.e. boilers, wood shops, etc..)
 - Handicap Accessibility
 - Special requirements for schools –based on age of students

NORTH CAROLINA
DEPARTMENT OF INSURANCE



OFFICE OF STATE FIRE MARSHAL





Designers Assistance

- Encourage flexible use of spaces
 - Multi-Purpose rooms
 - Large classrooms for multiple programs (i.e. Band, Music, Physical Ed, Arts)
 - Vocational rooms for multiple subjects
 - “Cafeteriums” with Platforms
 - Large meeting rooms with divisible spaces
 - Encourage sprinklers for more flexibility in use

Other Agencies

- ◆ The review performed by the Department of Public Instruction is different from DoI by:
 - DoI review is focused on the Building structure & physical facilities rather than programs
 - DoI focus on Building & Fire Code requirements rather than security
 - DoI is the primary Code Enforcement body and it also provides oversight & interpretations to Local CEOs
 - DoI reviewers must be Q-Board Certified & maintain continuing education credits, familiar with code updates
 - DoI staff are Professional Engineers with experience in design, construction & fire protection
 - Additions to existing schools (very common) requires knowledge & some familiarity of previous codes

NORTH CAROLINA
DEPARTMENT OF INSURANCE



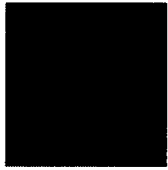
OFFICE OF STATE FIRE MARSHAL

Updated Processes

- ◆ We have recently incorporated a checklist for consistency
- ◆ Encourage sprinklers throughout buildings for more flexibility, more building area, simpler design
- ◆ Encourage & frequently conduct express review meetings with designers to accelerate project reviews
- ◆ Limit reviews to those required to be more thorough & provide faster turn-around
- ◆ Place interpretations and FAQs on website for public use & education
- ◆ Codes-on-line: www.ncbuildingcodes.com

Suggestions

- ◆ Facilitate the use of prototypes. The design of one building would only require one review with minor follow-ups based on the location.
- ◆ When the school bond for the Universities was passed, a large volume of drawings were submitted; slowing the State Property Plan Reviews. Plan review backlogs are being reduced with the introduction of three new plan reviewers. If the public school bond represents the same increase of volume, we would ask that three new plan reviewers be allocated to maintain our current turn-around time.



DEPARTMENT OF TRANSPORTATION TO EVALUATE THE LOCATIONS OF PROPOSED PUBLIC AND PRIVATE SCHOOLS TO ENHANCE TRAFFIC OPERATIONS AND SAFETY

SECTION 27.27. G.S.136-18 reads as rewritten:

“§ 136-18. Powers of Department of Transportation.

The said Department of Transportation shall be vested with the following powers:

- ...
- (29) The Department of Transportation may establish policies and adopt rules about the size, location, direction of traffic flow, and the construction of driveway connections into any street or highway which is a part of the State Highway System. The Department of Transportation may require the construction and public dedication of acceleration and deceleration lanes, and traffic storage lanes and medians by others for the driveway connections into any United States route, or North Carolina route, and on any secondary road route with an average daily traffic volume of 4,000 vehicles per day or more.
 - (29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State Highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation ‘Policy on Street and Driveway Access’. The Department shall provide the written evaluation and recommendations within a reasonable time, which shall not exceed 60 days. This subdivision shall not be construed to require the public or private entities planning schools to meet the recommendations made by the Department.”

Municipal and School Transportation Assistance

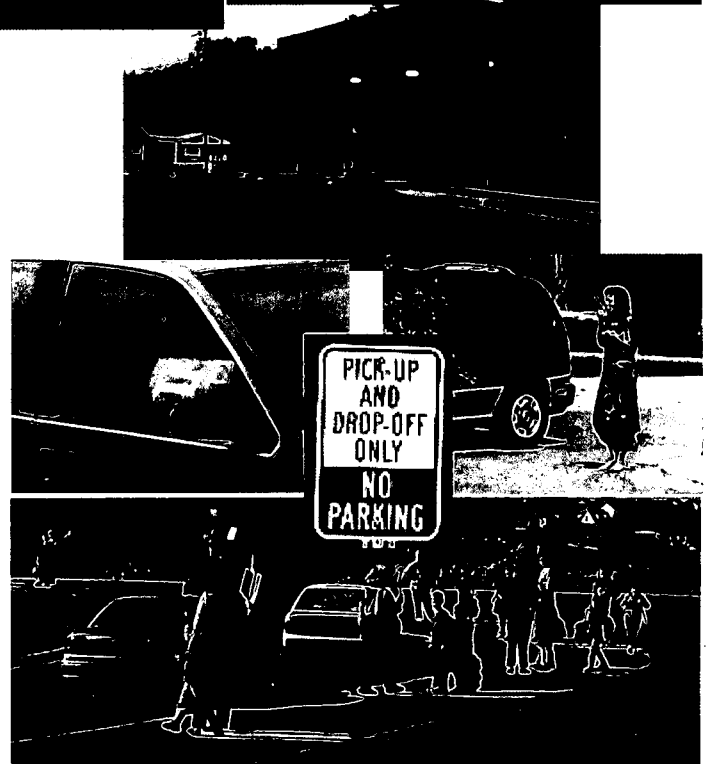
Helping a School Campus SOAR

Through the Student Loading Process

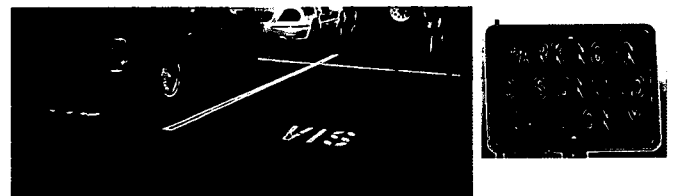
Separate pedestrians and vehicle types
Reduce pedestrian/vehicle conflicts by providing sidewalks and crosswalks and designing parking lots for vehicles and pedestrians.



Organize student loading process
Identify the student loading zone and educate everyone involved with the intended process. Utilize an Advanced Loading Process and implement a Student Safety Patrol system. Inform and educate students, parents, and staff of the process and enforce that process.



Assign short term "Visitor" parking
Provide assigned parking beyond the Student Loading Zone for parents requiring additional time to load. This area would identify the location where parents can park and walk to the school building when necessary.



Reduce student loading time and frustration of students, parents, and staff
Traffic engineering is very important on-campus and along nearby streets. Limiting driver's options and conflicts (possible crashes) not only reduces overall delays and frustration in the loading process but greatly improves traffic safety.



Municipal and School



Transportation Assistance

National statistics indicate that less than half of students ride a school bus. This means most students are riding in cars, walking, or riding a bicycle.

For elementary school children, darting out into the street and walking into the path of a vehicle backing up are two of the highest cause of pedestrian/vehicle crash. To help reduce the opportunity for this type accident to occur on-campus, students should not be permitted to load in undesignated areas.

Over the years North Carolina Department of Transportation has been called upon to address traffic concerns at a school campus driveway and/or nearby roadways. In many cases the cause of these concerns have been identified as being related to school traffic operations and/or the student loading process. The Municipal and School Transportation Assistance (MSTA) is a team of engineers who specialize in solving these type traffic-related problems.

When called upon MSTA will evaluate and provide recommendations to all public and private entities involved in planning and designing schools. By utilizing specialized analysis software, experience and training, including the MSTA School Traffic Calculator, engineers are able to more accurately determine traffic operations and appropriate designs to help maximize safety for pedestrians and motorists on the school campus and adjoining roadways.

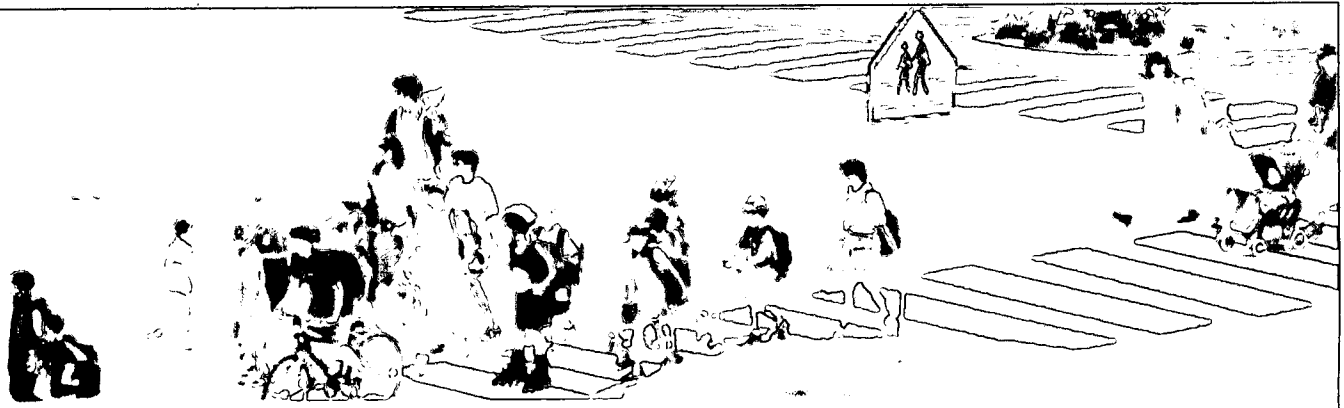
Addressing School Traffic Issues

- Identifying traffic and pedestrian safety concerns
- Designing more efficient traffic patterns to reduce delay
- Determining ways to reduce peak hour congestion
- Reviewing site plans for adequate student loading designs and operations
- Helping to reduce construction cost



Working together

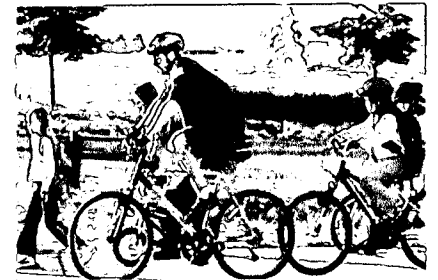
**to provide
Safe Roads to Safe Schools**



Children Deserve Safe Routes to School

and Communities are Making it Happen in North Carolina

Safe Routes to School (SRTS) programs use a comprehensive approach to make school routes safe for children to walk and bicycle. Community leaders, parents and schools are using these programs to better the lives of their children one step at a time.



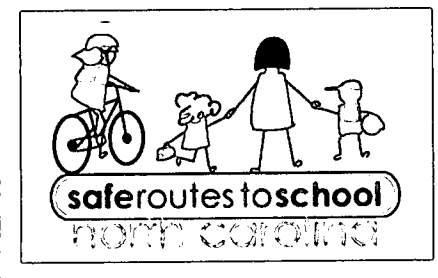
Issue	Why Safe Routes Works
Traffic clogs the roads around schools, creating a difficult and unsafe environment for walking and bicycling	Leaving the car at home reduces the traffic surrounding schools and improves air quality
Parents and children are walking and bicycling in unsafe conditions	Safety is the core component of all good SRTS programs
More children are becoming less physically active	Walking and bicycling to and from school can contribute towards the development of a lifelong habit of physical activity

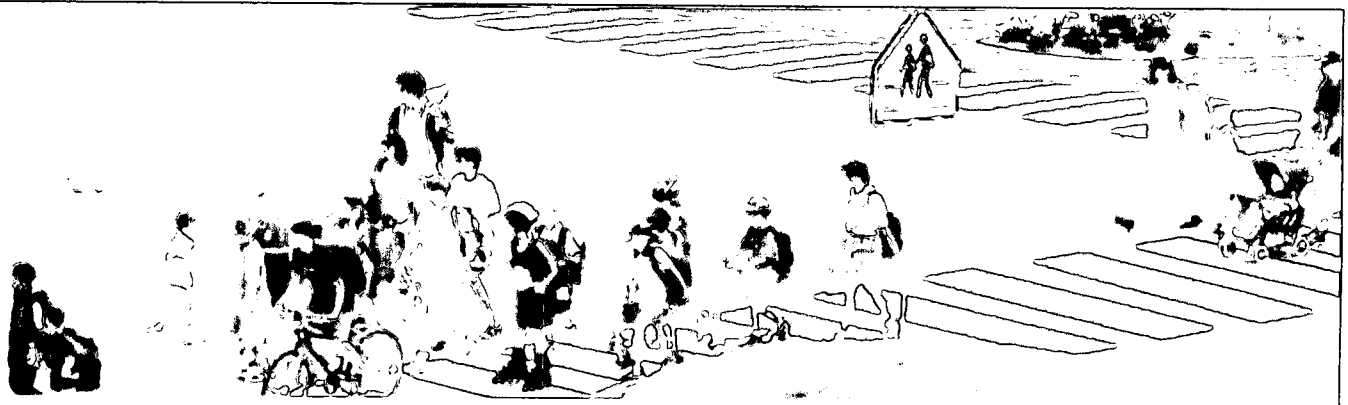
Start Now

New legislation has recognized the value of Safe Routes to School programs and is providing funding for States to establish programs. To learn more about how to set up a Safe Routes to School program, contact your State Safe Routes to School Coordinator:

Sarah Worth O'Brien
 919-515-8703
 skworth@ncsu.edu

Or visit the National Center for Safe Routes to School Web site at www.saferoutesinfo.org





Children Deserve Safe Routes to School

and Communities are Making it Happen in North Carolina

Safe Routes to School (SRTS) programs use a comprehensive approach to make school routes safe for children to walk and bicycle. Community leaders, parents and schools are using these programs to better the lives of their children one step at a time.

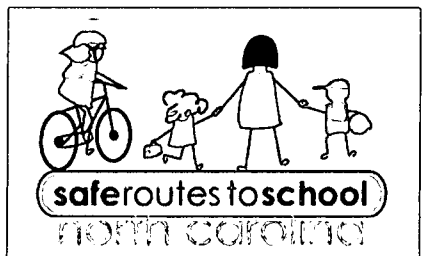
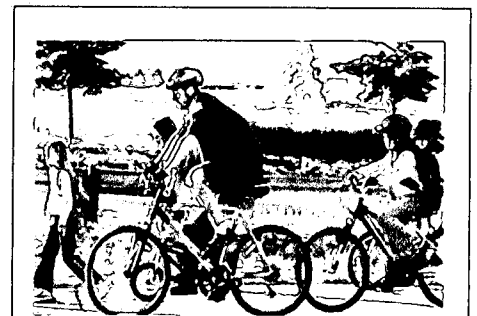
Issue	Why Safe Routes Works
Traffic clogs the roads around schools, creating a difficult and unsafe environment for walking and bicycling	Leaving the car at home reduces the traffic surrounding schools and improves air quality
Parents and children are walking and bicycling in unsafe conditions	Safety is the core component of all good SRTS programs
More children are becoming less physically active	Walking and bicycling to and from school can contribute towards the development of a lifelong habit of physical activity

Start Now

New legislation has recognized the value of Safe Routes to School programs and is providing funding for States to establish programs. To learn more about how to set up a Safe Routes to School program, contact your State Safe Routes to School Coordinator:

Sarah Worth O'Brien
 919-515-8703
 skworth@ncsu.edu

Or visit the National Center for Safe Routes to School Web site at
www.saferoutesinfo.org



North Carolina Department of Transportation

Programs »

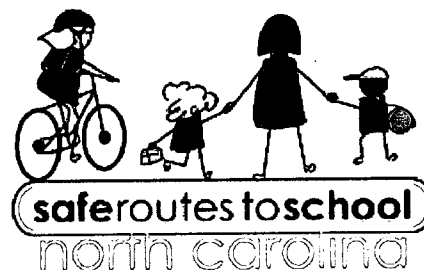
Safe Routes to School Program

Welcome to the North Carolina Safe Routes to School Web site! Safe Routes to School (SRTS) is a program that enables and encourages children to walk and bicycle to school; makes walking and bicycling to school a safe and more appealing transportation option, and facilitates the planning, development and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of school.

- [What is Safe Routes to School \(SRTS\)?](#)
- [Reasons for the SRTS Program](#)
- [SRTS Program Outcomes](#)
- [Initiating the SRTS Program](#)
- [Program Legislation](#)
- [Summary Points of the SRTS Grant Program](#)
- [Grant Guidelines and Application \(coming soon\)](#)
- [Walk to School Day Ideas](#)
- [Frequently Asked Questions](#)
- [Additional Links and Resources](#)
- [On-line Brochures and Handouts](#)



Click here to find out how your school can participate in International Walk to School Day on October 3, 2007



What is Safe Routes to School (SRTS)?

Safe Routes to School is a national and international movement to enable and encourage children, including those with disabilities, to walk and bicycle to school. SRTS programs are comprehensive efforts that look at ways to make walking and bicycling to school a safer and more appealing transportation alternative, thus encouraging a healthy and active lifestyle from an early age.

The NCDOT Safe Routes to School Program is a federally funded program that was initiated by the passing of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005, which establishes a national SRTS program to distribute funding and institutional support to implement SRTS programs in states and communities across the country. (See Program Legislation for more details)

SRTS programs facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools. SRTS programs consider infrastructure enhancements to provide a safe physical environment for bicycling and walking. These programs also emphasize non-infrastructure approaches to educate and encourage communities on how to safely take advantage of walking and bicycling opportunities in their neighborhoods.

Reasons for the SRTS Program

There are several reasons a community may have for starting a SRTS program. Traffic safety, roadway congestion, physical health issues such as obesity and asthma, and environmental health issues like air quality are all concerns that may be addressed through implementation of a SRTS program.

Most SRTS Programs want to reverse the decline in the numbers of children walking and biking to school and the correlating rise in obesity and physical inactivity. In 1969, approximately 50% of children walked or biked to school, and 87% of the children living within one mile of their school arrived under their own power. Today, fewer than 15% of school children walk or bike to school. As much as 26% of morning rush hour traffic can be attributed to parents driving their children to school.

Communities are struggling with congested roadways, motor vehicle emissions polluting the air, and children engaging in less physical activity. Many schools no longer provide daily physical education classes, and physical activity is no longer built in to our daily routines. Children who are less active are more likely to be overweight, which can lead to a whole host of other health problems. The Safe Routes to School Program provides an avenue to increase the activity levels of children as well as to create stronger communities that have good bicycle and pedestrian environments, with less traffic and less air pollution.

SRTS Program Outcomes

According to the guidance provided by the Federal Highway Administration, there are many possible outcomes of successfully implementing projects and activities through a SRTS program including:

Transportation Improvements

- Increased bicycle, pedestrian, and traffic safety
- More children walking and bicycling to and from schools
- Increased interest in bicycle and pedestrian accommodations throughout a community
- Improvements to the physical environment that increase the walkability and bikeability of a community
- Enhanced community accessibility

Community and Environmental Improvements

- Improved community safety and increased community security
- Decreased traffic congestion
- Reduced fuel consumption
- Improved air quality
- Increased community involvement
- Improved partnerships among schools, local municipalities, parents, and other community groups, including non-profit organizations

Health Improvements

- Improved childhood health
- Reduced childhood obesity
- Encouragement of healthy and active lifestyles

Initiating the SRTS Program

The SRTS program is unique in its comprehensive, cross-cutting approach. Community participation in the development and implementation of projects and activities is vital for the sustained success of this initiative. By involving the public, schools, local agencies, community leaders, key professionals, parents, teachers, and others in developing local SRTS programs, comprehensive and integrated solutions that improve conditions is likely to result and last beyond the life of any individual project.

While every community is unique, and each school will have different circumstances and barriers to overcome, there are some basic steps to follow when starting a local SRTS program.

1. **Bring the right people together.** Identify people who want to make walking and bicycling to school a safe and appealing transportation alternative. Provide a mechanism for a variety of community members to share concerns, interests, and knowledge, which will enable the group to tackle many different issues.
2. **Hold a kick-off meeting.** The kick-off has two goals: to create a vision for the SRTS program and to generate the next steps to take.
3. **Gather information and identify issues.** Specific barriers to address through the program will be identified by collecting useful information at the outset. This baseline data also provides a means by which the group can measure its success.
4. **Identify solutions.** Each issue identified will have a unique solution to address it. Comprehensive solutions will include a combination of engineering, education, encouragement, and enforcement strategies.
5. **Make a plan.** Every SRTS action plan should include the strategies and solutions identified through step 4 as well as a time schedule to implement them. Plans also should include a map of the area it covers and a process for evaluating and fine-tuning the program.

6. **Get the plan and people moving.** Some parts of the SRTS action plan can be implemented right away, with little to no funding - take advantage of these opportunities while waiting for other parts, and keep the big picture in mind.
7. **Evaluate, adjust, and keep going.** As the program is implemented, monitor the impact it is making and gauge the effectiveness of each strategy. Continue ones that are working well, and modify or redirect strategies that are not providing satisfactory outcomes.

Through the use of the "5 Es", engineering, education, enforcement, encouragement and evaluation, programs and projects can be developed to create a safe, appealing environment for walking and biking to school that will encourage a healthy and active lifestyle from an early age. More information about initiating a SRTS program can be found in the [SRTS Guide](#) developed by the National Center for Safe Routes to School's under [Steps to Creating a Safe Routes to School Program](#).

A Safe Routes to School Workshop is a great way to help initiate a Safe Routes to School Program within a community. This workshop helps communities develop programs based on their unique situations while providing basic strategies and useful resources to consider as they develop an action plan to overcome barriers identified. Anyone interested in improving the health of children and the community by making walking and bicycling to school safer, easier, and more enjoyable can be involved in a SRTS workshop. For more information please contact Sarah Worth O'Brien at 919-515-8703 or skworth.ncsu.edu.

Program Legislation

[SAFETEA-LU](#) the new federal transportation bill, became law on August 10, 2005. It includes a \$612 million appropriation for a new national Safe Routes to School program that will provide benefits in all 50 states. Through a competitive application process, communities may use this funding to construct new bike lanes, pathways, and sidewalks, as well as to launch Safe Routes education and promotion campaigns in elementary and middle schools. More information about the federal SRTS Program can be found at [here](#).

Summary Points of the SRTS Grant Program

An outline of the North Carolina grant program and funding information is shown below.

- Federal-aid funds are provided to State DOTs over five Federal fiscal years (FY 05-09). Projected North Carolina funds: \$1.00M (FY05), \$2.33M (FY06), \$3.13M (FY07), \$3.88M (FY08), \$4.85M (FY09)
- State usage: 70 to 90 percent for infrastructure projects, and 10 to 30 percent for non-infrastructure programs and activities
- No local funding match required: 100% federally funded
- Grant applications will be comprehensive in nature and will address infrastructure (engineering) and non-infrastructure (education, enforcement and encouragement) aspects.
- Eligible recipients include state, local and regional agencies, and non-profit organizations
- Jurisdictional levels for the grant are school level, school system or region-wide, and state-wide
- Primary beneficiaries must be K-8th grade students
- Infrastructure projects must be within two miles of a school and on public property or private land with legal public-access easements
- Funding is through a reimbursable grant process - not a "cash up front" process
- Competitive grant program administered by North Carolina Department of Transportation; grant application and selection details are coming soon
- Award recipients must comply with federal and state funding requirements

Grant Guidelines and Application (coming soon)

Coming soon...

Walk to School Day Ideas

If you think that your school cannot possibly host a Walk to School Day event, think again! The ideas listed below can help make it work.

Walking School Bus

The walking school bus addresses the needs of students and the concerns of parents. One or more adults, depending on the size of the group, accompany a group of students who pick up other students along a planned route, similar to the traditional school bus. They walk as a group on their commute to and from school.

Adults can take turns walking with students by having assigned days of duty. Children can be picked up at their homes or at "staging areas" where they "catch the bus". The staging areas should also have adult supervision. The bus participants can have fun with the idea by wearing a specific color, use a wagon for the backpacks, or hold a rope linking them all together. Adults can utilize the opportunity to teach pedestrian safety skills to students while walking to school as well. For more information on the walking school bus, see the **Additional Links and Resources** information below.

Bike Trains

Bike trains are similar to the walking school bus except that students ride their bikes to school in groups. These are usually utilized when older students are involved.

A bike safety workshop (sometimes called a bike rodeo) should be offered to teach students important safety habits, including the importance of wearing a bike helmet. Bike racks should be available to students to secure their bikes while at school. Bike trains need more adults to supervise bicyclists and adults should be good role models.

Walking Wednesdays

Another way to promote walking to school is to begin a "Walking Wednesday" program. Designate a weekly or monthly Wednesday as "Walking Wednesday". Encourage students to walk to school with their friends, family, caregivers, or as part of a walking school bus. To further encourage children to walk, use this program to reward individuals or classes that have the greatest percentage of students participating.

Alternative Drop Off

In situations where students are outside the walkable limits (1 to 1 ½ miles from the school), and are bused or are driven, finding an alternative drop-off location for walking to school is an option. This way these students can also participate in Walk to School Day. Buses and private vehicles can stop a few blocks away from the school in a parking lot that has facilities such as sidewalks connecting to the school. Students are greeted by adult volunteers who walk with the children the remaining way to school. Recruit volunteers before Walk to School Day and provide them with directions to the alternative drop-off.

In looking for an alternative drop-off lot, make sure that there is enough space for buses and other vehicles to stop, safely drop-off students and park so parents and community members can leave their vehicles and walk with students. Examples of alternative drop-off locations are shopping centers, community centers, parks, and places of worship.

Be sure to invite your school district transportation director and bus drivers to walk with students!

When Routes Are Not Safe or If Walking Is Not Possible

Even before walking and bicycling routes are improved, schools CAN hold Walk to School Day. Ways that schools have improvised Walk to School Day when walking routes are not improved or available include "Walk to School Day - at School". Students arrive by usual transportation mode, are greeted by walking buddies and walk the perimeter of the school property several times or the school track.

Parents and other community members are given direction on where to park and when students will arrive at school so they can walk with students on school property.

"Walk to School Day - at School" is an effective way to bring community attention to the lack of safe routes for walking and bicycling to school. It is also a great way to involve students who must be bused or driven to school on Walk to School Day. For a variety of reasons, it may not be possible for all students to walk to school; however, all students should be able to join the event and rewards.

Frequently Asked Questions

- Why does a school need to have a SRTS workshop?

These workshops are an important mechanism to generate interest and enthusiasm in a SRTS program for an area. The workshop is a vital tool that is used to bring the right people together to begin forming a team of potential partners who can provide resources, help build community support, and/or influence policies that will improve conditions for bicycle and pedestrian facilities. The goal of this workshop is to create a vision and develop an action plan for the next steps the team will take to meet that vision. NCDOT instructors will introduce

participants to some of the education, engineering, enforcement and encouragement tools that may be useful for their community.

- What are examples of projects and activities that the grant program funding can be used for?

The grant program funding can be used for any and all of the "5 E's". The 5 E's are as follows:

Engineering - Creating operational and physical improvements to the infrastructure surrounding schools to reduce speeds and potential conflicts with motor vehicle traffic, and establish safer and fully accessible crossings, walkways, trails and bikeways.

Examples of Engineering projects include sidewalk improvements; traffic calming and speed reduction improvements; pedestrian and bicycle crossing improvements; on-street bicycle facilities; off-street bicycle and pedestrian facilities; secure bicycle parking facilities; and traffic diversion improvements in the vicinity of schools.

Education - Teaching children about the broad range of transportation choices, instructing them in important lifelong bicycling and walking safety skills, and launching driver safety campaigns in the vicinity of schools.

Examples of Education include creation and reproduction of promotional and educational materials; bicycle and pedestrian safety curricula, materials and trainers; training, including SRTS training workshops that target school- and community-level audiences; safety and educational tokens that also advertise the program; pay for substitute teacher if needed to cover for faculty attending SRTS functions during school hours; mailing costs.

Enforcement - Partnering with local law enforcement to ensure traffic laws are obeyed in the vicinity of schools (this includes enforcement of speeds, yielding to pedestrians in crossings, and proper walking and bicycling behaviors), and initiating community enforcement such as crossing guard programs.

Examples of Enforcement include costs for additional law enforcement or equipment needed for enforcement activities; equipment and training needed for establishing crossing guard programs.

Encouragement - Using events and activities to promote walking and bicycling.

Examples of Encouragement include modest incentives for SRTS contests, and incentives that encourage more walking and bicycling over time.

Evaluation - Monitoring and documenting outcomes and trends through the collection of data, including collection of data before and after the intervention(s).

Examples of Evaluation include costs for data gathering, analysis, and evaluation reporting at the local project level.

- What is International Walk to School Day?

Please join communities around the state, country and world to celebrate International Walk to School Day in October.

Walk to School events work to create interest in safer routes for walking and bicycling and bring visibility to issues such as physical activity, pedestrian safety, traffic congestion, concern for the environment and building connections between families, schools and the broader community. These events can be as simple as a few children and parents meeting to walk to school or they can include organized walking routes, a press conference, participation by community leaders and more.

Some communities use Walk to School Day as a way to initiate interest and momentum to support safer opportunities to walk and bicycle to school. Many other communities use the Day as a way to kick-off a Safe Routes to School program. Safe Routes to School programs use a comprehensive approach to make school routes safer for children to walk and bicycle.

Find out more about Walk to School Day at www.walktoschool.org. Planning advice, ideas and a map of participating schools are available.

Additional Links and Resources

- National Center for Safe Routes to School (includes SRTS training programs)
<http://www.saferoutesinfo.org>
- Federal Highway Administration - Safe Routes to School
<http://safety.fhwa.dot.gov/saferoutes>
- National Highway Traffic Safety Administration (NHTSA)
Safe Routes to School Practice and Promise
<http://www.nhtsa.dot.gov/people/injury/pedbimot/bike/Safe-Routes-2004>
Safe Routes to School Toolkit
<http://www.nhtsa.dot.gov/people/injury/pedbimot/bike/Safe-Routes-2002>
- Pedestrian and Bicycle Information Center
<http://www.pedbikeinfo.org>
- Centers for Disease Control and Prevention (CDC)
<http://www.cdc.gov/nccdphp/dnps/kidswalk/>
- International Walk to School Day/Week/Month
<http://www.walktoschool-usa.org>
- Starting a Walking School Buss
<http://www.walkingschoolbus.org>
- North Carolina Department of Transportation - Division of Bicycle and Pedestrian Transportation
<http://www.ncdot.org/transit/bicycle/>
- North Carolina Department of Transportation - Municipal and School Transportation Assistance (provides traffic engineering assistance through the performance of comprehensive transportation studies to North Carolina schools, state agencies, and municipalities under 50,000 in population that do not have a traffic engineering staff.)
<http://www.ncdot.org/doh/preconstruct/traffic/congestion/CM/msta/default.htm>
- Institute for Transportation Research and Education (ITRE)
<http://www.itre.ncsu.edu/>
- National Center for Bicycling and Walking
<http://bikewalk.org/saferoutestoschool.php>
- Institute of Transportation Engineers (ITE) - Traffic Calming
<http://www.ite.org/traffic/index.html>

- Bikes Belong Coalition - Safe Routes to School National Partnership
<http://bikesbelong.org>
- League of American Bicyclists
<http://www.bikeleague.org/programs/saferoutes>
- Marin County (CA) Safe Routes to Schools Program (creators of the National Model Program)
<http://www.saferoutestoschools.org>

On-line Brochures and Handouts

- [School Flyer on SRTS](#)
- Guidelines for Bike Trains (coming Soon)

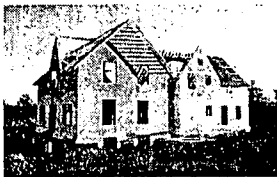
Financing the Construction of Public Schools in North Carolina with Impact Fees and APFOs

Dustin C. Road, Esq.
Ph.D. Program in Public Policy
Center for Real Estate at UNC Charlotte
704-332-5890
dcread@uncc.edu

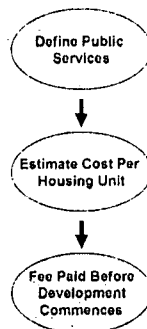
Objectives:

- Define impact fees and adequate public facilities ordinances.
- Identify legal constraints limiting their use in North Carolina.
- Discuss benefits and concerns raised by these growth management tools.

What is an Impact Fee?



- Fee assessed on residential development by a local government to fund public services and infrastructure needed to serve a new subdivision

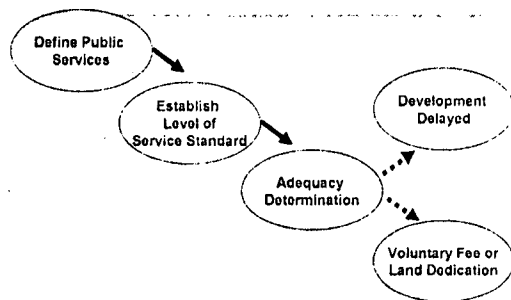


What is an APFO?

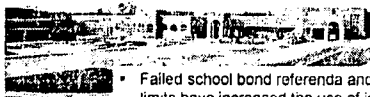
- Growth management technique controlling the timing of residential development
- Implemented by local governments to ensure public infrastructure is in place
- Commonly adopted in rapidly growing communities



Implementing an APFO



School Impact Fees and APFOs



- Failed school bond referenda and legislative debt limits have increased the use of impact fees and APFOs throughout the U.S.
- Augment funding provided by general obligation bonds or certificates of participation
- Primarily used in rapidly growing communities

School Impact Fees and APFOs in North Carolina

2006 Figures	Year Enacted	Estimated Fee Per Single-Family Lot	Estimated Fee Per Multi-Family Lot	Municipalities Currently Participating
Chatham County	1987	\$2,900	\$950	All
Orange County/ Chapel Hill-Carrboro	1987	\$3,000/ \$4,407	\$1,420/ \$1,979	All
Currituck County	1994	No Fee	No Fee	County has no municipalities
Caharras County	1998	\$4,034	\$1,333	All
Stanly County	2004	\$1,500	\$1,500	All Except Albemarle
Franklin County	2006	\$3,263	\$3,263	None
Union County	2006	\$14,953	\$7,024	Lake Park Hemby Bridge

Estimating the Impact of Development on Schools

	Elementary School	Middle School	High School
Construction Costs Per SF	\$125	\$135	\$150
SF Required Per Student	X 114	X 139	X 172
Total Cost Per Student	=\$14,250	=\$18,765	=\$25,800
Student Generation Rate	X .50	X .25	X .20
Cost Per Housing Unit:	=\$7,125.00	=\$4,691.25	=\$5,160.00
Total Cost of Public Schools Per Housing Unit: \$16,976.25			

Estimating the Impact of Development

Cost Per Unit:	\$16,976.25
Lottery Proceeds:	- 2,206.91
State Transfers:	- 2,546.44
Sales Taxes:	- 250.00
Net Impact Per Unit:	\$ 11,972.90
Payment:	X 60%
Impact Per Unit:	\$ 7,183.74

Adequacy Determination

- Development fees only come into play under an APFO if school facilities are inadequate.

- Decision based on capacity of facilities within the school district serving the proposed subdivision.
 - Examine capacity of each school type
 - Calculate average daily attendance
 - Consider students generated by permitted subdivisions
 - Determine students generated by the proposed subdivision

- Several options if school capacity is unavailable:
 - Wait
 - Agree to a phased development schedule
 - Voluntary pay the estimated impact fee or contribute land

Legal Considerations

- Do local governments have authority to enact an impact fee or APFO in North Carolina?

- Does an impact fee or APFO result in an unconstitutional regulatory taking?

- Does an impact fee or APFO violate Due Process and Equal Protection?

Legal Authority: Impact Fees

- North Carolina does not have enabling legislation specifically authorizing impact fees throughout the state

- A limited number of cities and counties have obtained local authority from the General Assembly... none since 1991

- Only Orange County and Chatham County have received specific authority for a school impact fee.

Legal Authority: Impact Fee

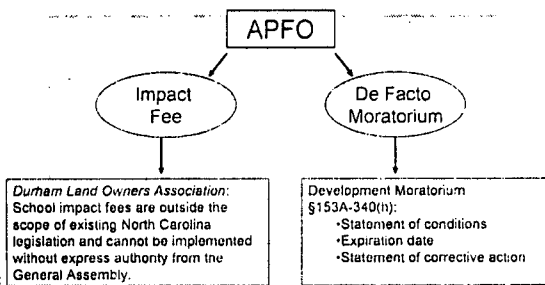
Durham Land Owners Association v. County of Durham.
360 N.C. 532 (2006).

- Durham County unilaterally imposed a school impact fee in 2004 without specific enabling legislation.
- Relied on a broad interpretation of N.C. Gen. Statutes:
 - §153A-102: Fees for County Services
 - §153A-121: General Police Powers
 - §153A-340: Zoning Authority
- North Carolina Court of Appeals held school impact fees are outside the scope of existing enabling legislation and Durham County did not have authority to enact the local ordinance.

Legal Authority: APFOs

- N.C. does not have enabling legislation specifically authorizing APFOs throughout the state.
- Only Cabarrus County has received local authority for an APFO
- Other counties have relied upon a broad interpretation of zoning authority provided in N.C. Gen. Stat. §153A-340.
- Differentiate from impact fees because exactions collected under an APFO are "voluntary"
- The N.C. judiciary has not yet addressed local authority to impose an impact fee

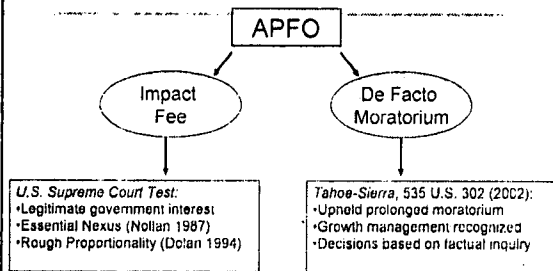
Legal Authority: APFO



Regulatory Taking

- U.S. Constitution prohibits the taking of private property for public use without just compensation
- Right inferred under the North Carolina Constitution's "Law of the Land Clause"
- Overly restrictive land use regulations can result in a "regulatory taking"
- The N.C. Judiciary has not yet determined whether impact fees or APFOs result in a regulatory taking.
- U.S. Supreme Court precedent provides guidance

Regulatory Taking



Due Process and Equal Protection

- Impact fees and APFOs limit private property rights and may treat property owners differently based on geographic boundaries.
- Rational Basis Review
 - Infrastructure provision is rationally related to a legitimate government interest
 - Land use regulation is a reasonable method of advancing the interest

Legal Conclusions

- Counties in North Carolina cannot impose a school impact fee ordinance without express authority from the General Assembly.
- The N.C. judiciary has not yet considered local authority to impose an APFO, but two cases are currently filed in Union County.
- N.C. has not addressed whether impact fees or APFOs result in a regulatory taking. However, several U.S. Supreme Court decisions provide guidance.
- Impact fees and APFOs are likely to withstand Due Process and Equal Protection challenges.

Benefits of Impact Fees and APFOs

- Facilitate orderly growth by slowing the pace of residential development
- Preserve quality of public services
- Residential development "pays its own way"

Concern: Housing Affordability

- Fee assessed through an impact fee or APFO may be absorbed by three parties:
 - 1 Homebuyers
 - 2 Residential Developers
 - 3 Owners of Undeveloped Land
- In a competitive housing market, residential developers will maintain a market rate of return by passing the fee forward or backward.

Empirical Research: Housing Affordability & Land Values

- Development fees are passed on to homebuyers
- Increase in housing prices may exceed the amount of the fee.
 - Housing market capitalizes benefits of public services provided by the fee
 - Restricted housing supply puts upward pressure on prices.
- Undeveloped land values fall
 - Uncertainty encourages developers to reduce land bids



Empirical Results: Existing Home Prices

- An increase in the price of new homes puts upward pressure on the price of existing homes in a competitive housing market.
- Homeowners already residing in the community before the regulation was enacted benefit from the appreciation
- The local government benefits from an expanded property tax base.

Economic Conclusions

- Infrastructure regulations slow residential development and provide additional funding for school construction
- Both techniques generally increase housing prices and may decrease undeveloped land values
- Existing residents benefit by shifting a portion of school development costs to homebuyers entering a community.

**The Effect of Growth Management Strategies:
Adequate Public Facilities Ordinances and Impact Fees
A Review of Existing Research**

Steven H. Ott
John Crosland, Sr., Distinguished Professor
of Real Estate and Development
Belk College of Business Administration
University of North Carolina-Charlotte
Charlotte, North Carolina 28223
704-687-2744
shott@email.uncc.edu

Dustin C. Read
Ph.D. Candidate in Public Policy
University of North Carolina Charlotte
Charlotte, North Carolina 28223
704-598-0505
dustinread@bellsouth.net

**A Center for Real Estate at UNC Charlotte Working Paper
January 2006**

The authors would like to thank both the National Center for Real Estate Research and the Foundation for the Carolinas for their funding for this research.

Executive Summary

Intense residential development has encouraged communities across the country to implement various growth management strategies. Adequate public facilities ordinances (APFOs) and impact fees have emerged as two of the main techniques designed to fund new infrastructure and control the timing and amount of new construction. These regulations and fees are enacted in an attempt to ensure needed public services are in place or funded before new development is allowed to move forward.

While a number of communities have implemented these regulations, the potential for negative economic and social outcomes have generated considerable policy debate. Affordable housing advocates question whether APFOs and impact fees will increase price levels and exclude low income families from entering a community. Some smart growth proponents have also suggested concurrency regulation can lead to urban sprawl and low density development patterns. Finally, APFOs and impact fees can potentially create windfall economic gains for local governments and existing homeowners within a community, while passing the financial burden of infrastructure on to third parties.

A review of the existing literature that has examined the effect of growth management regulations, such as impact fees and development moratoria, provides guidance to evaluate the validity of these concerns. Below is a summary of the current findings.

Regulatory Delays and Uncertainty

Existing research suggests regulatory delays caused by an APFO can potentially decrease undeveloped land values by preventing development from occurring at the optimal time. Land values continue to fall as the length of the regulatory delay increases. However, positive externalities associated with slower population growth may partially offset this effect and preserve property values. Additionally, a reduction in new housing supply caused by a development delay puts upward pressure on existing home prices. Participants in a dynamic land market often respond to increased regulatory risk by reducing land bids and/or accelerating the timing of new development before regulation enactment.

Impact Fees

Economic theory and empirical research provide a great deal of guidance as to the expected outcome of an impact fee. Empirically it is shown that impact fees often increase the cost of new housing in an amount greater than the fee. Therefore, new home buyers tend to absorb a large portion of the cost increase associated with an impact fee. Existing residents are likely to experience capital gains as property tax savings and benefits of improved infrastructure are capitalized into existing home values. Local governments experience windfall economic gains as increasing home prices expand the property tax base. While economic theory suggests the effect of impact fees on undeveloped land values is ambiguous, empirical studies show land values are likely to fall as a result of developer uncertainty about the future costs of impact fees.

The Evolution of Adequate Public Facilities Ordinances

Research shows APFOs tends to increase the cost of housing and encourage suboptimal development patterns. The results often occur because traditional APFOs control only the timing of new development, without regard for its location or design. However, a number of communities have structured APFOs to meet their individualized planning objectives. Creative strategies such as affordable housing carve-outs, controls on location of new development, and other smart growth initiatives have been used to try to increase the utility of APFOs. However, land use regulations designed to address negative externalities may still introduce further inefficiency into the market.

Conclusion

Adequate public facilities ordinances and impact fees provide rapidly growing communities with a management strategy intended to limit or fund the pace of residential development. However, existing literature supports many of the economic and social concerns identified by opponents of these tools. These planning techniques can potentially limit the availability of affordable housing, reduce undeveloped land values, encourage development in more remote locations, speed up development before regulation enactment, and provide existing residents and local governments with windfall economic gains. The characteristics of the housing market and the structure of the APFOs and impact fees determine the extent of these effects. Several communities have attempted to develop APFO structures intended to reduce negative impacts and achieve individual planning objectives.

I. Introduction

Many rapidly growing communities struggle to provide infrastructure and public services needed to support new residential development. Adequate public facilities ordinances (APFOs or Concurrency Regulations)¹ have emerged as one growth management strategy designed to control the timing of new projects. These ordinances limit new development until needed infrastructure can be provided. Requiring concurrency between new construction and public service capacity is intended to help communities address some of the problems associated with population growth.

Proponents of APFOs believe these regulations simply codify regulatory powers traditionally granted to local governments to ensure orderly growth.² However, landowners and real estate developers have questioned local government authority to implement concurrency regulations. Additionally, these regulations face legal challenges on state and federal constitutional grounds as violations of Due Process, Equal Protection, and the Just Compensation Clause, (Ott and Read, 2006). APFOs have overcome these challenges in some jurisdictions and are recognized as a legal land use planning mechanism. Despite their legality in these jurisdictions, the economic and social benefits of APFOs have been brought into question.

APFOs can potentially increase the cost of residential development, thereby increasing the cost of housing. Affordable housing advocates question whether the price increase will exclude low income families from entering a community.³ Some smart

¹ Adequate public facilities ordinances are often referred to as APFOs or concurrency regulations. These terms will be used interchangeably throughout the study.

² White, S. Mark, and Elisa L. Paster, 2003. Creating Effective Land Use Regulations Through Concurrency, 43 *Nat. Resources J.* 753, 756.

³ Pelham, Thomas G. 1992. Adequate Public Facilities Requirements: Reflections on Florida's Concurrency System for Managing Growth. 19 *Fla. St. U. L. Rev.* 974, 980. Connerly, Charles E. 1988.

growth proponents have also suggested concurrency regulation can lead to urban sprawl and low density development patterns.⁴ Finally, APFOs can potentially create windfall economic gains for local governments and existing homeowners within a community, while passing the financial burden of infrastructure on to third parties. These concerns have spurred a considerable amount of research examining the effects of growth control ordinances on housing cost, land values, and development timing.

The structure of a concurrency regulation influences the potential economic implications. If infrastructure capacity is unavailable and new construction is temporarily prohibited, an APFO operates in a manner similar to a development moratorium until the city can provide needed public services. Alternatively, many communities allow real estate developers to voluntarily pay for infrastructure improvements in order to accelerate the development process. These APFOs effectively act as an impact fee if the developer elects to pay for needed infrastructure. A significant amount of research has examined the economic implications of regulatory delays and impact fees. These studies provide guidance when evaluating the potential effects of an adequate public facilities ordinance.

II. Regulatory Delays and Uncertainty

When existing public services are insufficient to support new residential development and a local government does not have funds available to make the needed improvements, an adequate public facility ordinance may temporarily prohibit new development. Regulatory delays create uncertainty for real estate developers because

The Social Implications of Impact Fees. *Journal of the American Planning Association*. 54:1, 75-78. Connerly goes further, stating impact fees perpetuate racial segregation because of income differentials between white and black households.

⁴ White and Paster (2003). Increased development costs may encourage development in more remote areas where excess infrastructure capacity exists, resulting in urban sprawl.

they limit the private sector's ability to determine the appropriate timing of new development. The private sector's response to uncertainty can potentially influence future development timing and undeveloped land values.

Brueckner (1990) describes the relationship between growth control ordinances and land values as the net effect of two changes.⁵ First, the implementation of a growth control ordinance delays the point in time at which land can be developed, which lowers land value. Second, lowering a community's population growth path creates positive externalities by improving quality of life factors.⁶ The benefits of decreased traffic congestion, improved air quality, and reduced crime are capitalized into land values. Growth control measures can increase or decrease the value of undeveloped land due to these offsetting effects. Brueckner's model shows growth controls increase the value of all undeveloped land in the effected community when minimal delays occur in the development process. Values increase due to the positive externalities of a lower population growth path. Alternatively, continuous limitations on development may increase or decrease land values in complex spatial patterns.

Riddiough (1997) incorporates anticipated regulatory delays into a real-options model to determine the effect on vacant land value and development timing.⁷ He examines the effect of an anticipated regulatory taking, considering both the probability of a regulatory taking and the level of compensation received by the landowner. The analysis concludes investors require a greater expected rate of return to compensate for

⁵ Brueckner, J. K., 1990. Growth Controls and Land Values in an Open City, *Land Economics*, 66 pp 237-248.

⁶ Id. at 239. Within a closed-city, consumers are unable to relocate and are packed into a smaller area, which eliminates the positive externalities associated with limiting growth.

⁷ Riddiough, Timothy J. 1997. The Economic Consequences of Regulatory Taking Risk on Land Values and Development Activity, *Journal of Urban Economics*, 41 pp 56-77.

the risk of the taking, therefore reducing the amount they are willing to pay for vacant land. When a regulatory taking is expected in one year and no compensation is expected for the taking, the model depicts a 70% decrease in vacant land value. Under the same parameters, the study found the probability of development increases from 10% to 70% when a regulatory taking is imminent in a two year time period.

The second portion of Riddiough's study analyzes the effect of an interim regulatory taking after a land use regulation has temporarily prohibited development. In this scenario, land values decrease because the interim taking prohibits the investor from developing property at the optimal time. Assuming the property is ripe for development when the interim taking is implemented and the property generates no interim cash flows, land values decrease as the length of the interim taking period increases. Riddiough's example depicts a 14% loss in property value over a two year regulatory delay, 30% over five years, and a considerable 75% over a 20 year period.

Riddiough's results show regulatory delays can decrease the value of individual properties. However, the author acknowledges "demand-side amenity benefits" must be taken into account when analyzing a growth control ordinance affecting an entire community. APFOs are implemented to ensure necessary infrastructure is in place to support new development, presumably increasing a community's quality of life. If these benefits increase demand for property within a community, the negative effects of the growth control ordinance can be offset and property values may actually increase despite restrictions on development.

Turnbull (2004, 2005) acknowledges land use regulations may be justified to account for negative externalities associated with residential development.⁸ However, urban growth is a dynamic process in which market participants anticipate land use regulation and attempt to mitigate negative impacts.⁹ The proposed enactment of an APFO signals to market participants that future development may be denied approval on grounds of inadequate infrastructure capacity. Developers ultimately unaffected by the APFO still respond to the proposed regulation by reducing land bids and developing properties more rapidly than would otherwise be optimal without the perceived risk. This “efficiency gap” widens as the probability and duration of the regulatory delay increases.

Turnbull also considers capital density to apply the model to spatial land markets. He finds longer anticipated development moratoria decrease the planned capital density for land in locations where demanded density is increasing over time. Development is accelerated to avoid delays associated with the moratorium and the density of construction is chosen to reflect existing market conditions. The density of development may be suboptimal if demanded density is increasing over time. Conversely, the chosen density level may exceed future demand if demanded density is decreasing in the future. Under these conditions, temporary moratoria designed to address externalities may still induce inefficiency in the market because of regulatory risk.

Theoretical real options models evaluating growth management regulations have been supported by recent empirical work. Cunningham (2006a) addresses two key

⁸ Turnbull, Geoffrey K. 2005. The Investment Incentive Effect of Land Use Regulation. *The Journal of Real Estate Finance and Economics*. 31:4, 357-395. Turnbull, Geoffrey K., 2004. Development Moratoria, *Journal of Housing Economics*, 13, pp 155-169.

⁹ Turnbull (2005).

conclusions of real option theory applied to real estate markets.¹⁰ First, the existence of a real option should delay the timing of residential development because investors have an incentive to wait until additional market information becomes more available. Postponing development limits the risk of building at a suboptimal density level or converting raw land to residential use too early.¹¹ Second, the existence of a real option should increase the value of undeveloped land because it provides the developer with the ability to build at the optimal time and density level in the future. The delay in development timing and the economic value of the real option should increase with the amount of price uncertainty in the housing market.¹²

Cunningham tests for the existence of a real option in the Seattle housing market by determining if price uncertainty delays development or increases undeveloped land prices. Uncertainty in the housing market is calculated by using a hedonic regression model to estimate constant-quality home prices throughout the market for each quarter between 1982 and 2002.¹³ The price of a constant-quality home is then estimated for one year in the future. Uncertainty in the housing market is defined as the moving variance in the price residual in the preceding four quarters. A one-year period was chosen for the uncertainty calculation because it is the estimated time required to construct a new home.

A hazard model is then used to identify the variables influencing the amount of time a parcel of land remains undeveloped before a new home is constructed. The uncertainty variable is negative and statistically significant.¹⁴ The model shows a one

¹⁰ Cunningham, Christopher R. 2006. House Price Uncertainty, Timing of Development, and Vacant Land Prices: Evidence for Real Options in Seattle. *Journal of Urban Economics*. 59, 1-31.

¹¹ Id. at 3.

¹² Id.

¹³ Id. at 14-15.

¹⁴ Id. at 17.

standard deviation increase in the price uncertainty variable delays the timing of development by 10.7%. The impact of housing price uncertainty is then included in an OLS regression model to determine the impact on undeveloped land values. After estimating constant-quality undeveloped land prices in each market segment, the model found a one standard deviation increase in price uncertainty increased undeveloped land prices by 1.6%. When housing prices were examined according to distance from the CBD, a more substantial price increase of 9.1% was found 12-16 miles from the central business district. The identified relationship between price uncertainty, development timing, and undeveloped land prices in the Seattle housing market supports the existence of real options.

Cunningham (2006b)¹⁵ next examines the impact of a growth management regulation on development timing by considering an urban growth boundary (UGB) imposed in Seattle. Within a real options framework, land use regulations can limit future alternatives and reduce the incentive to postpone development. Dummy variables were included in the previously developed hazard model to reflect the implementation of the UGB and the location of undeveloped parcels inside or outside of the boundary.¹⁶ The findings show the regulation would have reduced development by 42-48% without the existence of a real option. However, the regulation only reduces development by 28-39% when the real option is considered because the regulation limits future options, therefore accelerating development. The study of Seattle's UGB provides insight into the potential effects of other types of growth management regulations, such as APFOs, on development timing.

¹⁵ Cunningham, Christopher R. 2006. Growth Controls, Real Options and Land Development. Forthcoming.

¹⁶ *Id.* at 18-22.

The Economic Consequences of Regulatory Delays and Uncertainty

Existing research suggests regulatory delays caused by an APFO can potentially decrease undeveloped land values by preventing development from occurring at the optimal time. Land values continue to fall as the length of the regulatory delay increases. However, positive externalities associated with slower population growth may partially offset the effect and preserve property values. Unfortunately, land use regulations designed to address externalities may still introduce inefficiency into the market. Participants in a dynamic land market respond to regulatory risk by reducing land bids and accelerating the timing of new development. The impact on land values and capital density differs at various locations throughout the market.

III. Impact Fees

Adequate public facilities ordinances often allow a developer to avoid lengthy regulatory delays by voluntarily funding infrastructure improvements needed to support new development. In these situations an APFO operates as an impact fee. An impact fee can be defined as a charge required by a local government from a developer to provide infrastructure for a development or to contribute to larger scale infrastructure expansion.¹⁷ The use of impact fees has increased dramatically in recent years as communities struggle to increase local property taxes.¹⁸ Voluntary impact fees provide an alternative source of revenue to fund infrastructure and public service improvements required by an APFO.

¹⁷ Levine Jonathan C., 1994. Equity in Infrastructure Finance: When Are Impact Fees Justified, *Land Economics*, 70(2), p 210.

¹⁸ Altshuler, Alan A. and Jose A. Gomez-Ibanez, 1993. Regulation for Revenue: The Political Economy of Land Use Exactions, *The Brookings Institute*, Washington, D.C. pp 18-20. In the period before 1960 until the mid 1980's, the use of exactions increased from 10% of communities to 90%.

Impact fees are often considered an equitable public finance method because they presumably shift the cost of residential development to new residents responsible for the increase in infrastructure demand.¹⁹ The justification is based on the assumption infrastructure costs outweigh the increase in property tax revenues generated by new residential development.²⁰ Impact fees can also be justified as a means of addressing greenspace and fiscal externalities associated with low density development patterns.²¹ Forcing homebuyers and developers to consider these externalities may limit residential construction to an economically efficient level.²² However, Levine (1994) articulates the concern posed by many opponents of impact fees: "For the most part the fees have arisen more out of fiscal necessity than economic rationale; legal and political constraints against traditional property tax financing of infrastructure, sometimes coupled with anti-growth sentiment, have multiplied."²³ Rather than fully considering economic implications, existing residents within a community may use regulatory powers to retain benefits funded by the community at large, while shifting the burden of future growth to other parties.²⁴ These concerns have resulted in a number of studies examining the economic benefits and burdens of impact fees.

¹⁹ Anderson, John E. 2005. Taxes and Fees as Forms of Land Use Regulation. *The Journal of Real Estate Finance and Economics*. 31:4, 413-427.

²⁰ Skidmore, Mark and Michael Peddle, 1998. Do Development Impact Fees Reduce the Rate of Residential Development?. *Growth & Change*. Vol. 29, Issue 4, p 1. The costs and benefits of real estate development continue to be debated. See the following articles for competing positions: Walden, M. (1998) "Economic Impacts of Residential Construction," Study prepared for the Homebuilders Association of Raleigh-Wake County, North Carolina State University. Renkow, M. (2001) "The Cost of Community Services in Wake County," Report prepared for the Wake County and the Triangle J Council of Governments, North Carolina State University.

²¹ Turnbull, Geoffrey K. 2004. Urban Growth Controls: Transitional Dynamics of Development Fees and Growth Boundaries. *Journal of Urban Economics*. 55, 215-237.

²² Brueckner, Jan K., 1997. Infrastructure Financing and Urban Development: The Economics of Impact Fees, *Journal of Public Economics*, Vol. 66, Issue 3, pp 383-407.

²³ Levine (1994).

²⁴ Turnbull (2005).

Huffman et al. (1988) provide a theoretical framework to analyze the potential effects of an impact fee.²⁵ Impact fees shift the cost of infrastructure development from the community at large (via property tax revenues) to owners of developable land and buyers of new homes. The characteristics of the housing market dictate how these additional costs are distributed. If the demand for new housing is relatively inelastic, a large portion of the impact fee is passed forward to the homebuyer in the form of an increase in new home prices. Alternatively, if the demand for housing is relatively elastic developers will reduce land bids passing the cost of the impact fee backward to owners of developable land. In a competitive housing market, developer profits are unaffected by the impact fee because it is absorbed by landowners and/or homebuyers.²⁶

Communities with impact fees are often presumed to have relatively inelastic demand for new housing because a limited number of close substitutes are available.²⁷ Additionally, new housing supply is generally presumed to be elastic due to the mobility of real estate developers. These conditions allow developers to pass a large portion of an impact fee on to buyers of new homes. The result suggests impact fees may succeed in shifting the burden of infrastructure to those responsible for growth. However, the work of Yinger (1998), Ihlanfeldt and Shaughnessy (2004) rejects the assumption of inelastic housing demand. Their analysis assumes mobile households and a competitive construction industry.²⁸ Household mobility limits a developer's ability to pass the

²⁵ Huffman, Forrest E., Arthur C. Nelson, Marc T. Smith, and Michael A. Stegman. 1988. Who Bears the Burden of Development Impact Fees? *Journal of the American Planning Association*, Winter, 54:1, 49-55.

²⁶ Developers are only affected to the extent they currently own undeveloped land or hold an inventory of existing homes. Additionally they could be affected in the long-term due to a reduction in housing demand.

²⁷ Singell, Larry D. and Jane H. Lillydahl, 1990. An Empirical Examination of Impact Fees on the Housing Market, *Land Economics*, v 66, n 1, pp 82-92.

²⁸ Yinger, John, 1998. The Incidence of Development Fees and Special Assessments, *National Tax Journal*, v 51, i 1, pp 23-42. Ihlanfeldt, Keith R. and Timothy M. Shaughnessy, 2004. An Empirical

expense of impact fees on to the consumer because a homebuyer can move to a jurisdiction without an impact fee. Therefore, price increases only occur to the extent infrastructure improvements or property tax savings are capitalized into new housing prices.²⁹ Since homebuyers do not directly bear the burden of impact fees and development profits remain stable in a competitive market, owners of undeveloped land will bear the burden of impact fees if the new infrastructure does not create a benefit equal to the cost.³⁰

The analysis presented by Yinger, Ihlanfeldt and Shaughnessy provides an explanation for “over-shifting” of impact fees. Infrastructure improvements can potentially provide a benefit greater than their cost of construction. In this case, the price of housing would increase in an amount greater than the impact fee as the improvements are capitalized into housing values. Developer profits remain stable in a competitive market, therefore bids for undeveloped land increase. The situation results in a windfall gain for owners of undeveloped land as infrastructure benefits funded by impact fees are capitalized into land values.

Impact fees may also create windfall economic gains for existing home owners and a local government. In a competitive housing market, impact fees should be capitalized into the price of existing housing throughout the jurisdiction. Delaney and

Investigation of the Effect of Impact Fees on Housing and Land Markets, *Regional Science and Urban Economics* 34, pp 639-661.

²⁹ Id. at 219.

³⁰ Id. at 231. Yinger concludes undeveloped land prices may fall by approximately 25% even if the cost and benefit of infrastructure are equal. Even when the cost of new infrastructure equals the benefits and the benefits are capitalized into new housing prices, the developer is not fully compensated for the cost of the fee. Full compensation would require the present value of the housing price increase to equal the amount of the impact fee, therefore, the price change falls short of the fee amount under the cost-benefit assumption. Ihlanfeldt and Shaughnessy (2004) reject Huffman et al.'s argument that impact fees are generally not passed backwards because landowners will not sell their land below a reservation price. Depressed residential construction will eventually result in a decline in land values.

Smith (1989b) outline the reasons for this effect.³¹ Impact fees reduce future property tax payments by shifting the cost of infrastructure development to new residents. Improved infrastructure may also provide spillover benefits to existing homes. These direct benefits are capitalized into the price of existing homes throughout the market. Impact fees also indirectly influence the price of existing housing by increasing development costs. The increase in cost reduces the supply of new units. The reduction in the supply of new housing puts upward pressure on demand for existing homes. Since the supply of existing homes is fixed, increased demand results in an increase in price. The indirect effect can flow through to other communities throughout the housing market depending on the substitutability of housing units.

A community implementing an impact fee ordinance may observe a notable increase in new and existing housing prices if market factors prevent the fee from being capitalized throughout all communities in the housing market. This may occur if the community is considered a superior alternative to other surrounding locations.³² Imperfect market information, limited mobility, and transaction costs may also prevent residents from moving to alternative locations where infrastructure costs are paid by the community at large.³³ In these situations, existing residents and the community implementing the impact fee experience windfall economic gains. Existing homeowners benefit from capital gains as the value of their home increases. The value increase in both new and existing homes provides the local government with increased property tax revenues without a corresponding increase in public services.

³¹ Delaney, Charles J. and Marc T. Smith, 1989b. Pricing Implications of Development Exactions on Existing Housing Stock, *Change and Growth*, 20, pp 1-12.

³² Delaney, Charles J. and Marc T. Smith. 1989a. Impact Fees and the Price of New Housing: An Empirical Study, *American Real Estate and Urban Economics Association Journal*. 1989. pp 41-54.

³³ *Id.* at 50-52.

The economic implications of an impact fee become even more complex when the dynamic nature of an urban land market is included in the analysis. Dynamic models consider adjustments market participants make in anticipation of policy change. (Turnbull 2005)³⁴ Impact fees are generally thought to slow development timing and reduce housing supply in the long-run. However, developers may anticipate the imposition of a fee and speed up development in the short-run.³⁵ This market adjustment may lead to sub-optimal development timing and economically inefficient growth.

Economic theory shows the potential consequences of an impact fee are more complex than a mere shift of infrastructure costs to new home buyers. Existing residents, developers, landowners, and local governments are all influenced by the public finance technique. To further explore the topic, empirical studies have been conducted across North America to analyze the effects of impact fees on housing prices, land values, and housing supply.

The Effect of Impact Fees on Housing Prices and Land Values

Delaney and Smith (1989a) examined the effect of a development impact fee on both new and existing housing prices in two studies conducted in Pinellas County, Florida. The first study focused on a \$1,150 impact fee imposed in 1974 and assessed against all new, single-family housing in Dunedin, Florida.³⁶ Annual constant-quality price indices were created for Dunedin and three other cities in Pinellas County for the period between 1971 and 1982. The cities of Clearwater, Largo, and St. Petersburg were selected because they did not impose an impact fee and were considered part of the same

³⁴ Turnbull, Geoffrey (2005).

³⁵ Singell and Lillydahl (1990).

³⁶ Delaney and Smith (1989a).

housing market. The indices were created by regressing the sale price of new housing units on several independent variables selected to represent physical characteristics, location, and neighborhood characteristics of the housing stock.³⁷ The estimated price of a constant-quality home in Dunedin was then compared with the estimated price in each of the other three cities. The sales price ratios were then regressed on a dummy variable representing the impact fee to determine if the fee resulted in a significant increase in the price of new housing in Dunedin.³⁸ The impact fee resulted in a statistically significant increase in housing prices in Dunedin compared to Clearwater and St. Petersburg in the period between 1973 and 1978. The regression coefficients reflected an estimated new housing price increase in Dunedin more than three times greater than the amount of the impact fee.³⁹

Delaney and Smith's findings are consistent with several aspects of economic theory. Inelastic demand in Dunedin's new housing market allowed impact fees to be passed forward to buyers of new homes in the short-run. The authors offer several possible reasons why the impact fee was not quickly capitalized throughout surrounding communities. Home buyers may have perceived an increase in infrastructure quality associated with the fee and capitalized the anticipated benefit into purchase prices. Imperfect information and transaction costs may have also prevented the impact fee from filtering through to other communities. The difference in new housing prices dissipated after 1978, suggesting the fee was eventually capitalized throughout the housing market as information gaps were corrected or infrastructure improvements failed to materialize.

³⁷ Id. Independent variables included conditioned living space in SF, Lot size in SF, and land cost per square foot.

³⁸ Id. at 51.

³⁹ Id.

Dunedin's housing price increase in the year before the impact fee was imposed also supports a dynamic view of urban land markets. The price increase may have resulted from homebuyers anticipating the imposition of the impact fee and increasing their demand for housing before the fee went into effect.

Delaney and Smith's (1989b) second study implemented a similar hedonic price model to examine the effect of Dunedin's impact fee on existing housing prices in both Dunedin and Clearwater.⁴⁰ In the period between 1973 and 1978, the study found Dunedin's estimated new housing price exceeded the city's existing housing price by \$2,633, which was more than twice the amount of the impact fee.⁴¹ Dunedin's existing housing price exceeded Clearwater's existing housing price by \$1,643.⁴² These results suggest the impact fee increased the cost of new housing in Dunedin relative to existing housing and increased the cost of existing housing in Dunedin relative to a comparable community without an impact fee.⁴³ Economic theory suggests impact fees should be capitalized into new and existing housing prices throughout the market. The authors once again suggest imperfect information may have prevented the impact fee from being fully capitalized into the price of existing housing. Delaney and Smith also note increased carrying costs associated with the impact fee may partially explain why the fee has a greater price effect on new housing.

Singell and Lillydahl (1990) examined the effect of an impact fee on new and existing housing prices in Loveland, Colorado.⁴⁴ The study regressed the log of home

⁴⁰ Delaney and Smith (1989b).

⁴¹ Id. at 9. The results were statistically significant at the .05 level.

⁴² Id. The results were statistically significant at the .05 level.

⁴³ Id. The authors note the capitalization of impact fees into the price of existing housing lagged that of new housing by at least one year.

⁴⁴ Singell and Lillydahl 1990.

values on the log of five independent variables selected to represent the physical characteristics of the housing stock. The interest rate, age of the house, a time trend, and an impact fee dummy variable were also included in the regression.⁴⁵ Their results show a \$1,182 increase in the impact fee resulted in a \$3,800 increase in the estimated price of new homes.⁴⁶ The authors conclude the burden of the impact fee is shifted to buyers of new homes and provide three explanations for the “over-shifting” of fees.⁴⁷ Developers could potentially be adding carrying costs associated with the fees or passing through other development costs. The price increase could also exceed the amount of the impact fee if builders improved the quality of new homes. The study found the impact fee increased existing home prices by \$7,000.⁴⁸ The increase in the price of existing homes was expected as “spill-over” benefits of improved infrastructure and reduced property tax rates were capitalized into the price.⁴⁹

An increase in the price of new and existing housing is expected after the imposition of an impact fee as infrastructure benefits are capitalized throughout the housing market. However, the large difference in the price increase between new and existing housing found in Singell and Lillydahl’s study was not anticipated. Ihlanfeldt and Shaughnessy (2004) attempt to improve upon existing models by removing limitations generating results inconsistent with economic theory⁵⁰ Their study estimating the effect of impact fees on single-family homes and undeveloped land prices in Dade County, FL. Constant-quality indices were created for new and existing housing,

⁴⁵ Id. at 89.

⁴⁶ Id.

⁴⁷ Id. at 89.

⁴⁸ Id. at 90.

⁴⁹ Id.

⁵⁰ Ihlanfeldt and Shaughnessy (2004).

as well as undeveloped residential land, using both hedonic price and repeat-sales models.⁵¹ The price indices were then regressed on impact fees and a set of control variables representing the metropolitan housing market.⁵² The results of the hedonic model show each additional dollar of impact fees increases the estimated new home price by \$1.64 and the estimated existing home price by \$1.68.⁵³ The similar price increase in new and existing homes is consistent with economic theory, in which price increases are capitalized throughout the housing market.

The study also found the impact fee resulted in a reduction in undeveloped land values by approximately 8%.⁵⁴ Economic theory suggests undeveloped land prices need not fall when the capitalized benefits of new infrastructure exceed the impact fee. The authors explain the decrease in land values as a function of developer uncertainty at the time the land was purchased. If developers anticipated future impact fees to increase, current land bids would decrease in light of the uncertainty. This reflects the dynamic nature of the land market.

Ihlanfeldt and Shaughnessy's empirical research examining the effect of impact fees on residential land values furthered previous work conducted by Skaburskis and Qadeer, which analyzed the price of developed lots in suburban Toronto between 1977

⁵¹ Id. at 649. Hedonic and repeat-sales models were estimated for existing housing. However, only a hedonic model was estimated for new housing and only a repeat sale model was estimated for vacant land. The hedonic model includes independent variables representing structural, neighborhood, and locational characteristics of the house. Distance from employment centers and the time period of the sale were also included in the analysis.

⁵² Id. at 651. A stock flow model of the housing market is used for the second stage of the analysis.

⁵³ Id. at 656. The results of the existing housing OLS regression analysis are statistically significant at the .05 level and are nearly identical to the results of the repeat sales model, which shows a price increase of \$1.67 for each dollar of impact fees. The results of the new housing regression are significant at the .01 level.

⁵⁴ Id. at 657.

and 1986.⁵⁵ The study regressed the sale price of vacant lots against development impact fees, location factors, and various development costs. The results show a \$1.00 increase in development fees increased vacant lot prices by \$1.88. The authors explain the short-run price increase resulted from reduced supply of developed lots created by the impact fee. When a population growth premium was included in the regression analysis the price increase fell to \$1.23 for each \$1.00 increase in impact fees. The effect of impact fees was less substantial in rapidly growing communities because price increases associated with increased demand quickly covered the cost of the fee. Despite the short-run price increase in lot values, Skaburskis and Qadeer anticipated a long-run decline in the value of undeveloped land as anticipated impact fees are capitalized into undeveloped land bid.

Two recent studies have expanded the empirical analysis of impact fees and their effect on housing prices, developed lots and undeveloped land values. Mathur, Waddell and Blanco (2004) examined the effect of impact fees on the cost of housing at various price points.⁵⁶ Three housing price indices were created; the first model reflecting all new homes in the market, the second lower-quality homes, and the third reflecting higher-quality homes. After regressing the indices on the impact fee dummy variable, each \$1 increase in impact fees resulted in a \$1.66 increase in the mean price of homes, a \$.63 increase in lower-quality homes, and a \$3.58 increase in higher-quality home prices.⁵⁷ The authors explain the large increase in the price of higher-quality homes

⁵⁵ Skaburskis, Andrejs, and Mohammad Qadeer, 1992. An Empirical Estimation of the Price Effects of Development Impact Fees, *Urban Studies*, v 29, n 5, pp 653-667.

⁵⁶ Mathur, Shishir, Paul Waddell, and Hilda Blanco, 2004. The Effect of Impact Fees on the Price of New Single-Family Housing, *Urban Studies*, v 41, n 7, pp 1303-1312.

⁵⁷ *Id.* at 1308. The mean price for all new homes was \$246,000, lower-quality homes \$166,000, and higher-quality homes \$291,000.

occurred because the benefit created by the infrastructure was greater than the amount of the impact fee.⁵⁸ The small price increase in lower-quality housing is explained by elasticity of supply or demand in the affordable housing sub-market.⁵⁹

Evans-Cowley, Forgey and Rutherford (2005) analyzed developed lots and undeveloped land values in 43 communities throughout Texas.⁶⁰ Their regression analysis found only 31% of impact fees were capitalized into developed lot values, suggesting owners of developed lots can only pass on a portion of the fee to lot purchasers. The study also found impact fees resulted in a 4.7% decrease in undeveloped land prices. Based on the results, the authors conclude some of the cost of impact fees accrues to landowners throughout the community.

Impact Fees and Housing Supply

The economic literature acknowledges impact fees can increase the price of housing by increasing demand and by restricting supply. Impact fees increase development costs, thereby reducing the supply of new housing. Development fees can also increase demand for new housing within a municipality by reducing property taxes and providing needed infrastructure. Skidmore and Peddle's (1998) research isolates these factors to determine the effect impact fees have on the delivery of new housing units.⁶¹ Their study modeled the number of new homes constructed in DuPage County,

⁵⁸ Id. at 1311. The authors also suggest the increase in higher-quality housing prices could have resulted from additional developer costs associated with processing time or other development exactions present in the community.

⁵⁹ Id. The authors propose greater elasticity in the lower-quality sub-market may lead developers or consumers to shift to multi-family housing.

⁶⁰ Evans-Cowley, Jennifer S., Fred A. Forgey, and Ronald Rutherford, 2005. The Effect of Development Impact Fees on Land Values, *Growth and Change*, v 36 n 1, pp 100-112.

⁶¹ Skidmore and Peddle (1998).

Illinois between 1977 and 1992 as a function of municipal attributes and impact fees.⁶² Their results found property tax reductions associated with impact fees increased the rate of residential development by 4%. However, increased costs reduced the supply of residential development by 29%. The authors conclude the net effect of impact fees can reduce the rate of new residential development by approximately 25%.⁶³

Mayer and Somerville (2000) also examined the impact of land use regulations on new housing supply.⁶⁴ Their study focused on both impact fees and regulations which increase the amount of time necessary to develop land. Forty-four metro areas throughout the United States were examined between 1985 and 1996.⁶⁵ The study found heavily regulated communities may have as many as 45% fewer new residential construction starts than less regulated markets. While these results suggest government regulations clearly impact the development of new housing, the study found impact fees had little effect on the level of new residential construction. Mayer and Somerville found regulations influencing the timing of new development proved to be more detrimental to the delivery of new housing units. These results suggest regulatory uncertainty may be more detrimental to housing production than regulatory costs.

The Economic Consequences of an Impact Fee

Economic theory and existing empirical research provide a great deal of guidance as to the expected outcome of an impact fee. Impact fees often increase the cost of new housing in an amount greater than the fee. Therefore, new home buyers may absorb a

⁶² Id. at 1.

⁶³ Id. at 7.

⁶⁴ Mayer, Christopher J., and C. Tsuril Somerville, 2000. Land Use Regulation and New Construction. *Regional Science and Urban Economics*, v 30 i 6, pp 639-662.

⁶⁵ Id. at 640.

large portion of the cost increase associated with an impact fee. Existing residents are likely to experience capital gains as property tax savings and benefits of improved infrastructure are capitalized into existing home values. A reduction in new housing supply may also put upward pressure on existing home prices. Local governments experience windfall economic gains as increasing home prices expand the property tax base. While economic theory suggests the effect of impact fees on undeveloped land values is ambiguous, empirical work shows land values are likely to fall as a result of developer uncertainty regarding the cost of impact fees in the future.

IV. Evolving APFO Structures

The potential economic consequences of an APFO justify many of the concerns brought forth by social policy advocates. Empirical evidence demonstrates an APFO can potentially increase housing prices throughout a market and reduce the availability of affordable units.⁶⁶ An APFO may also encourage urban sprawl if mobile developers build in more remote locations after finding market conditions will not allow impact fees to be passed on to homebuyers or landowners. Finally, the possibility of windfall economic gains for existing residents and local governments, coupled with losses for landowners, questions the fairness of this growth management strategy. Although APFOs in their most basic form influence only the timing of new development, a number of communities have structured APFOs to address these social issues.

Communities have structured APFO regulations in a number of ways to increase their utility and create a more complete growth management tool. The number of

⁶⁶ All of the empirical studies in the literature review examining housing prices found impact fees increase the cost of housing units. The studies do not address APFOs, but the findings are useful because impact fees are a common finance technique included in concurrency regulations.

services included in the ordinance often varies across communities. The established level of service standard and type of development effected by the APFO may also vary. Concurrency regulation may strictly prohibit development until necessary infrastructure is developed or provide exceptions to prevent APFOs from interfering with other smart growth objectives. Additionally, the source of funding for infrastructure improvements may change from community to community. The flexibility of these factors depicts how APFO regulations have evolved to accomplish a number of objectives in the city and regional planning framework.

Services Included in an APFO

The number of public services included in an APFO regulation varies greatly across communities. Some ordinances provide for a single public service, while others cover a wide range of services and infrastructure types. The disparity can be observed by examining various APFO regulations enacted in the state of Maryland. Somerset County's ordinance requires concurrency only for roads. Alternatively, Montgomery County requires concurrency for schools, roads, water, sewer, emergency services, and health care clinics.⁶⁷ The distinction is notable because communities including a greater number of public services in their APFO regulation are more likely to require regulatory delays or development fees. Communities can reduce negative economic externalities by limiting the number of services included in the ordinance or ensuring an effective public finance plan is in place to develop the identified services.

⁶⁷ Maryland Association of Counties, APFO Survey, March 2005.

Level of Service Standards and Type of Development

The level of service (LOS) a community deems appropriate for different types of public services naturally varies between municipalities. LOS standards are often uniform within a municipality, but some communities vary the LOS by geographic location. The APFO enacted in Davidson, North Carolina applies a tiered system, in which three LOS standards are implemented for urban, suburban and rural areas of the jurisdiction.⁶⁸ Changing the required LOS can encourage or discourage growth in particular geographic areas, giving a community greater control over the location of development and the ability to prevent leapfrog development patterns. Structuring APFO regulations in this way increases their flexibility and helps prevent interference with other community objectives.

APFO regulations may also apply differently to residential and commercial development. A large number of communities apply concurrency regulations only to residential development. The distinction is based on an assumption that tax revenues generated by residential development do not cover the cost of infrastructure stress created by new residents. On the other hand, Cabarrus County, North Carolina and Queen Anne's County, Maryland apply concurrency regulations to commercial development if the project places demand on infrastructure similar to residential units.⁶⁹ Including commercial development in an APFO regulation may help prevent accusations that concurrency regulations are merely an attempt to prevent new residential development or to exclude affordable housing.⁷⁰ Unfortunately, many communities are unwilling to

⁶⁸ White and Paster at 773. Town of Davidson, Davidson Planning Ordinance, 18.0 Adequate Public Facilities Ordinance, 2003, p. 7.

⁶⁹ White and Paster at 773. Maryland Association of Counties, APFO Study, March 2005.

⁷⁰ Pelham at 980.

extend the regulations to commercial properties for fear of undermining economic development efforts.

Smart Growth and Concurrency Waivers

A community may be willing to waive the concurrency requirement to encourage development satisfying other public objectives. The APFO implemented in Hillsborough County, Florida specifically provides a concurrency waiver for infill development and pedestrian-oriented projects.⁷¹ Other APFOs utilize complex point systems in which proposed projects receive points for satisfying community objectives such as infill development and provision of affordable housing.⁷² These points are accumulated and used to offset concurrency requirements. Such provisions further enhance the flexibility of APFOs.

Funding Infrastructure Improvements

Developing an efficient APFO regulation requires a community to consider how funds will be generated to pay for necessary infrastructure improvements. Impact fees are a common public finance method used to fund concurrency. However, research suggests these fees may generate negative externalities for landowners or provide windfall gains to owners of existing homes. Problems occur when communities enact APFO regulations as an impulsive reaction to growth without any established plan for increasing public service capacity.⁷³ The lack of funds for new infrastructure can result

⁷¹ White at 774.

⁷² Id.

⁷³ Pelham at 978. Pelham cites several cities in California that implemented APFOs to slow growth, resulting in an extended development moratorium.

in extended development delays. Regardless of how a community decides to finance concurrency, a capital budgeting plan should be in place before the enactment of an APFO.

V. Conclusions

Adequate public facilities ordinances provide rapidly growing communities with a management strategy capable of limiting the pace of residential development. However, existing literature supports many of the economic and social concerns identified by opponents of APFOs. Concurrency regulations imposing temporary development moratoria or voluntary impact fees may produce a number of externalities. APFOs can potentially increase the cost of housing, reduce undeveloped land values, encourage development in more remote locations, and provide existing residents and local governments with windfall economic gains. The characteristics of the housing market and the structure of the APFO determine the extent of these effects. Several communities have developed creative APFO structures to reduce these impacts and achieve individual planning objectives.

Economic theory and existing empirical research show that impact fees often increase the cost of new housing in an amount greater than the fee. Therefore, new home buyers may absorb a large portion of the cost increase associated with an impact fee. Existing residents are likely to experience capital gains as property tax savings and benefits of improved infrastructure are capitalized into existing home values. A reduction in new housing supply may also put upward pressure on existing home prices. Local governments experience windfall economic gains as increasing home prices

expand the property tax base. While economic theory suggests the effect of impact fees on undeveloped land values is ambiguous, empirical work shows land values are likely to fall as a result of developer uncertainty regarding the cost of impact fees in the future.

References

- Altshuler, Alan A. and Jose A. Gomez-Ibanez. 1993. Regulation for Revenue: The Political Economy of Land Use Exactions. *The Brookings Institute*, Washington, D.C. 18-20.
- Anderson, John E. 2005. Taxes and Fees as Forms of Land Use Regulation. *The Journal of Real Estate Finance and Economics*. 31:4, 413-427.
- Brueckner, Jan K. 1990. Growth Controls and Land Values in an Open City. *Land Economics*. 66, 237-248.
- Brueckner, Jan K. 1997. Infrastructure Financing and Urban Development: The Economics of Impact Fees. *Journal of Public Economics*. 66: 3, 383-407.
- Connerly, Charles E. 1988. The Social Implications of Impact Fees. *Journal of the American Planning Association*. 54:1, 75-78.
- Cunningham, Christopher R. 2006a. House Price Uncertainty, Timing of Development, and Vacant Land Prices: Evidence for Real Options in Seattle. *Journal of Urban Economics*. 59, 1-31.
- Cunningham, Christopher R. 2006b. Growth Controls, Real Options and Land Development. Forthcoming.
- Delaney, Charles J. and Marc T. Smith. 1989a. Impact Fees and the Price of New Housing: An Empirical Study. *American Real Estate and Urban Economics Association Journal*. 41-54.
- Delaney, Charles J. and Marc T. Smith. 1989b. Pricing Implications of Development Exactions on Existing Housing Stock. *Growth and Change*. 20, 1-12.
- Evans-Cowley, Jennifer S., Fred A. Forgey, and Ronald Rutherford. 2005. The Effect of Development Impact Fees on Land Values. *Growth and Change*. 36:1, 100-112.
- Huffman, Forrest E., Arthur C. Nelson, Marc T. Smith, and Michael A. Stegman. 1988. Who Bears the Burden of Development Impact Fees? *Journal of the American Planning Association*. 54:1, 49-55.
- Ihlanfeldt, Keith R. and Timothy M. Shaughnessy. 2004. An Empirical Investigation of the Effect of Impact Fees on Housing and Land Markets. *Regional Science and Urban Economics*. 34, 639-661.
- Levine Jonathan C. 1994. Equity in Infrastructure Finance: When are Impact Fees Justified. *Land Economics*. 70:2, 210.

Maryland Association of Counties. APFO Survey, March 2005.

Mathur, Shishir, Paul Waddell, and Hilda Blanco. 2004. The Effect of Impact Fees on the Price of New Single-Family Housing. *Urban Studies*. 41: 7, 1303-1312.

Mayer, Christopher J., and C. Tsuric Somerville. 2000. Land Use Regulation and New Construction. *Regional Science and Urban Economics*. 30:6, 639-662.

Ott, Steven H. and Dustin C. Read. 2006. Adequate Public Facilities Ordinances in North Carolina: A Legal Review. A Center For Real Estate at UNC-Charlotte Working Paper.

Pelham, Thomas G. 1992. Adequate Public Facilities Requirements: Reflections on Florida's Concurrency System for Managing Growth. 19 *Fla. St. U. L. Rev.* 974, 980.

Renkow, M. 2001. "The Cost of Community Services in Wake County." Report prepared for the Wake County and the Triangle J Council of Governments. North Carolina State University.

Riddiough, Timothy J. 1997. The Economic Consequences of Regulatory Taking Risk on Land Values and Development Activity. *Journal of Urban Economics*. 41 pp 56-77.

Singell, Larry D. and Jane H. Lillydahl. 1990. An Empirical Examination of Impact Fees on the Housing Market. *Land Economics*. 66:1, 82-92.

Skaburskis, Andrejs, and Mohammad Qadeer. 1992. An Empirical Estimation of the Price Effects of Development Impact Fees. *Urban Studies*. 29:5, 653-667.

Skidmore, Mark and Michael Peddle. 1998. Do Development Impact Fees Reduce the Rate of Residential Development? *Growth & Change*. 29: 4, 1.

Town of Davidson, Davidson Planning Ordinance, 18.0 Adequate Public Facilities Ordinance, 2003, 7.

Turnbull, Geoffrey K. 2004. Development Moratoria. *Journal of Housing Economics*. 13, 155-169.

Turnbull, Geoffrey K. 2004. Urban Growth Controls: Transitional Dynamics of Development Fees and Growth Boundaries. *Journal of Urban Economics*. 55, 215-237.

Turnbull, Geoffrey K. 2005. The Investment Incentive Effect of Land Use Regulation. *The Journal of Real Estate Finance and Economics*. 31:4, 357-395.

Walden, M. 1998. "Economic Impacts of Residential Construction," Study prepared for the Homebuilders Association of Raleigh-Wake County, North Carolina State University.

White, S. Mark, and Elisa L. Paster. 2003. Creating Effective Land Use Regulations Through Concurrency. 43 *Nat. Resources J.* 753, 756.

Yinger, John. 1998. The Incidence of Development Fees and Special Assessments. *National Tax Journal.* 51:1, 23-42.

DEPARTMENT OF TRANSPORTATION TO EVALUATE THE LOCATIONS OF PROPOSED PUBLIC AND PRIVATE SCHOOLS TO ENHANCE TRAFFIC OPERATIONS AND SAFETY

SECTION 27.27. G.S.136-18 reads as rewritten:

“§ 136-18. Powers of Department of Transportation.

The said Department of Transportation shall be vested with the following powers:

- ...
- (29) The Department of Transportation may establish policies and adopt rules about the size, location, direction of traffic flow, and the construction of driveway connections into any street or highway which is a part of the State Highway System. The Department of Transportation may require the construction and public dedication of acceleration and deceleration lanes, and traffic storage lanes and medians by others for the driveway connections into any United States route, or North Carolina route, and on any secondary road route with an average daily traffic volume of 4,000 vehicles per day or more.
 - (29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State Highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation ‘Policy on Street and Driveway Access’. The Department shall provide the written evaluation and recommendations within a reasonable time, which shall not exceed 60 days. This subdivision shall not be construed to require the public or private entities planning schools to meet the recommendations made by the Department.”

Municipal and School Transportation Assistance

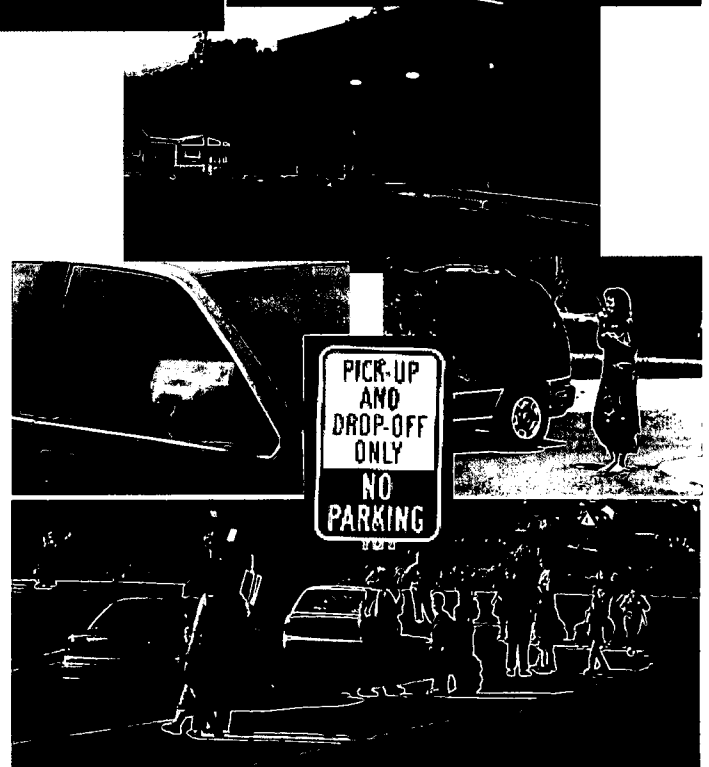
Helping a School Campus SOAR

Through the Student Loading Process

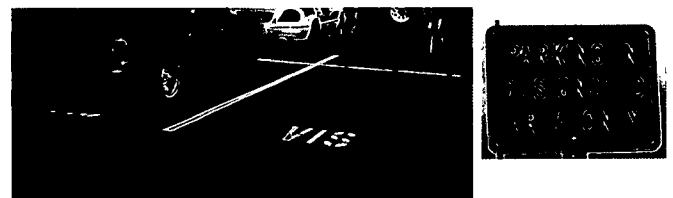
Separate pedestrians and vehicle types
Reduce pedestrian/vehicle conflicts by providing sidewalks and crosswalks and designing parking lots for vehicles and pedestrians.



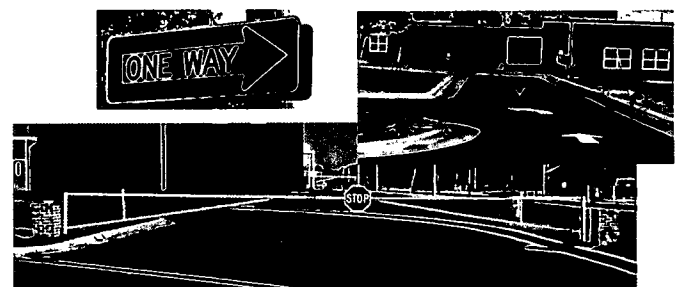
Organize student loading process
Identify the student loading zone and educate everyone involved with the intended process. Utilize an Advanced Loading Process and implement a Student Safety Patrol system. Inform and educate students, parents, and staff of the process and enforce that process.



Assign short term "Visitor" parking
Provide assigned parking beyond the Student Loading Zone for parents requiring additional time to load. This area would identify the location where parents can park and walk to the school building when necessary.



Reduce student loading time and frustration of students, parents, and staff
Traffic engineering is very important on-campus and along nearby streets. Limiting driver's options and conflicts (possible crashes) not only reduces overall delays and frustration in the loading process but greatly improves traffic safety.



Municipal and School



Transportation Assistance

Addressing School Traffic Issues

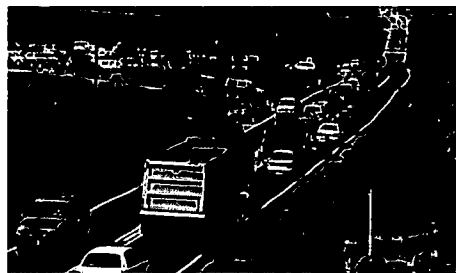
- Identifying traffic and pedestrian safety concerns
- Designing more efficient traffic patterns to reduce delay
- Determining ways to reduce peak hour congestion
- Reviewing site plans for adequate student loading designs and operations
- Helping to reduce construction cost

National statistics indicate that less than half of students ride a school bus. This means most students are riding in cars, walking, or riding a bicycle.

For elementary school children, darting out into the street and walking into the path of a vehicle backing up are two of the highest cause of pedestrian/vehicle crash. To help reduce the opportunity for this type accident to occur on-campus, students should not be permitted to load in undesignated areas.

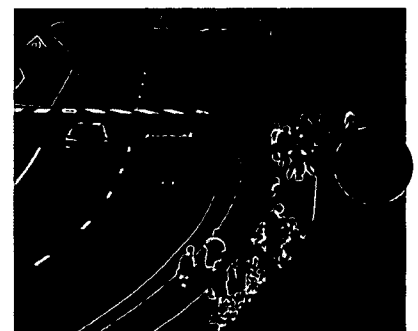
Over the years North Carolina Department of Transportation has been called upon to address traffic concerns at a school campus driveway and/or nearby roadways. In many cases the cause of these concerns have been identified as being related to school traffic operations and/or the student loading process. The Municipal and School Transportation Assistance (MSTA) is a team of engineers who specialize in solving these type traffic-related problems.

When called upon MSTA will evaluate and provide recommendations to all public and private entities involved in planning and designing schools. By utilizing specialized analysis software, experience and training, including the MSTA School Traffic Calculator, engineers are able to more accurately determine traffic operations and appropriate designs to help maximize safety for pedestrians and motorists on the school campus and adjoining roadways.



Working together

to provide
Safe Roads to Safe Schools



**Overview of Debt Affordability and the 2006
Recommendations of the Debt Affordability
Advisory Committee**



*Presentation to the House Select Committee on
Public School Construction Funding*

December 13, 2006

T. Vance Holloman
Deputy Treasurer

NORTH CAROLINA
Debt Affordability Advisory Committee



**Debt Affordability Advisory Committee -
Background**

- Legislation adopted in 2004 created the Committee and directed it to:
 - Annually advise the Governor and the General Assembly of the estimated debt capacity of the State for the upcoming ten years.
 - Recommend other debt management policies it considers desirable and consistent with the sound management of the State's debt.
 - Report due annually by February 1.
 - Study makes no recommendations regarding the use of available debt capacity.

2

NORTH CAROLINA
Debt Affordability Advisory Committee



**Members of the Debt Affordability Advisory
Committee**

Richard H. Moore
State Treasurer

David McCoy
State Budget Officer

Robert Powell
State Controller

James V. Porto
House Appointee

E. Norris Tolson
Secretary of Revenue

Leslie W. Merritt, Jr.
State Auditor

Christopher Henson
Senate Appointee

3

NORTH CAROLINA
Debt Affordability Advisory Committee

Review
What is Debt Affordability?

- The amount of debt that may be prudently authorized and issued in a given period of time without negatively affecting the credit position of the issuer.
 - The amount of debt that is affordable ("capacity") is finite
 - Capacity can be measured and compared
 - Issuance beyond a prescribed level can erode credit ratings
 - A balance between capital needs and the ability to repay debt must be achieved

4

NORTH CAROLINA
Debt Affordability Advisory Committee

Preliminary Outstanding Net Tax-Supported Debt by Type at June 30, 2006 (millions)

Total GO Bonds	\$ 5,735
Less: Highway T.F.-Supported	(757)
Net Tax-Supported GO Bonds	\$4,978
Special Indebtedness (COPs, Lease Revenue Bonds)	\$709
Less: Health/Wellness T.F.-Supported	(58)
Plus: Installment purchase/leases ¹	16
Net Tax-Supported Special Indebtedness	\$667
Total Net Tax-Supported Debt	\$5,645

¹ As of 6/30/05

5

NORTH CAROLINA
Debt Affordability Advisory Committee

State Debt - Background

- The amount of net tax-supported debt outstanding has nearly doubled since 2001 and totaled \$5,645 million at 6/30/06

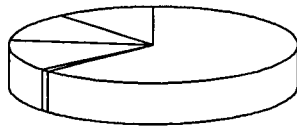
Year	Debt in \$ millions
2001	~2,800
2002	~3,200
2003	~3,800
2004	~4,200
2005	~4,800
2006	5,645

6



State Debt -Background

Uses of New General Fund Debt Issued 2002 - 2006



- Higher Ed 63%
- Public Schools 1%
- Clean Water 13%
- Prison & Youth 12%
- Parks & Rec, R&R, Gas, Healthcare 11%

7



**2006 GA Session
New Debt Authorizations**

- Psychiatric Hospitals \$328.3
 - Correctional Facilities 132.2
 - University Projects 45.8
 - Youth Facilities (supp) 7.0
 - Parks and Land 20.0
 - State Projects 185.9
- (Art Museum, Parking Deck, Public Health/Med Examiner, Data Center)

Issuance			
Limitations by FY (rounded)			
2007	2008	2009	2010
\$226	\$211	\$105	\$177

TOTAL (millions) \$719.2

8




**Authorized but Unissued Debt* as of
October 1, 2006**

	General Obligation		Special Indebtedness	
Total Amount	\$502.8 million		\$760.3 million	
By Use (millions)	Univ.	\$324.2	R&R	\$ 75.0
	Comm. Coll.	\$ 79.3	Psych. Hosp.	\$ 321.1
	Clean Water	\$ 99.3	Parks	\$ 10.0
			Corr. Facilities	\$ 175.1
			State & other	\$ 179.1

*Excludes \$331.5 million special indebtedness supported by non-tax/trust funds. 9

NORTH CAROLINA
Debt Affordability Advisory Committee




NC Debt Affordability Model Guidelines

- GF Debt Service as a % of GF Revenues
 4% Guideline 4.75% Ceiling
- Other Measures Evaluated
 Debt to Personal Income Payout Ratio
 Level of GF Unreserved Fund Balance
- Net General Fund Tax-Supported Obligations

Excludes:
 Trust Fund Debt (Highway & Other)
 Obligations supported by non-tax revenues
 Guarantee energy performance contracts

10

NORTH CAROLINA
Debt Affordability Advisory Committee




NC Debt Affordability Model Highlights

- 10-Year Calculation Horizon
- All Authorized but Unissued Obligations Incorporated
- Repayment of Existing Debt Incorporated
- Results Provided on Aggregate and Smoothed Basis
- Conservative Assumptions

11

NORTH CAROLINA
Debt Affordability Advisory Committee



February 1, 2006 Debt Affordability Study Results (in Millions)

4 %	2006	2007	2008	2009	2010
Total Capacity	\$374.5	\$42.4	\$277.8	\$399.7	\$330.8
Annual Capacity	214.4	214.4	214.4	214.4	214.4

4.75%	2006	2007	2008	2009	2010
Total Capacity	\$2,016.8	\$78.2	\$299.9	\$105.9	\$165.4
Annual Capacity	525.9	525.9	525.9	525.9	525.9

12



LGC Application Process

- LGC staff analyzes financial statements of the unit and prepares current and pro forma ratios to determine repayment ability
- Preliminary conference scheduled to consider proposed bond issue and determine feasibility
- LGC staff advises the unit whether or not to proceed at the close of the conference
- Application must be filed with and accepted by LGC prior to beginning legal process for referendum
- Bond Counsel guides the unit through legal steps involved with filing the application and holding the referendum (approximately 90 day process)
- Formal LGC approval received prior to the referendum

13



LGC Findings

- Proposed bond issue is necessary or expedient
- Amount proposed is adequate and not excessive for proposed purpose
- Unit's debt management procedures and policies are good
- Increase in taxes, if any, will not be excessive
- Proposed bonds can be marketed at reasonable rates of interest

14



Ratios of Outstanding General Government Debt

Counties (Population)	Appraised Property Valuation %		
	Low	Average	High
250,000 and Over	1.184	1.943	2.487
100,000 to 249,999	0.070	1.372	3.000
50,000 to 99,999	0.167	0.847	1.801
25,000 to 49,999	0.170	0.786	2.779
10,000 to 24,999	0.042	0.404	1.576
Under 10,000	0.130	0.701	1.928
All Counties	0.042	1.352	3.000

15

Public School System Finances - 2001-02 (dollar amounts are in thousands)

Geographic Area	Population July 1, 2001	Elementary-secondary revenue					Elementary-secondary expenditure	Gross Domestic Product - 2001	Total Elementary-Secondary Revenue % of GDP	State & Local Revenue % of GDP	Elementary-Secondary Expenditure % of GDP		
		Total	From Federal Sources	Total From State & Local Sources	From State Sources	% From State Sources (Federal \$ Excluded)						From Local Sources	% From Local Sources (Federal \$ Excluded)
United States	285,107,923	419,797,506	32,703,469	387,094,037	207,374,637	53.57%	179,719,400	46.43%	435,314,714	10,058,168,000	4.17%	3.85%	4.33%
California	34,526,660	53,033,838	5,084,409	47,949,429	31,005,317	64.66%	16,944,112	35.34%	55,068,983	1,301,050,000	4.08%	3.69%	4.23%
Florida	16,350,565	18,538,739	1,762,460	16,776,279	8,542,871	50.92%	8,233,408	49.08%	19,051,049	497,423,000	3.73%	3.37%	3.83%
Georgia	8,415,600	13,033,876	904,826	12,134,050	6,361,710	52.43%	5,772,340	47.57%	12,676,587	299,442,000	4.35%	4.05%	4.23%
Illinois	12,518,506	18,562,363	1,438,287	17,124,076	6,808,150	39.76%	10,315,926	60.24%	20,084,491	476,461,000	3.90%	3.59%	4.22%
Maryland	5,379,591	8,424,902	527,311	7,897,591	3,133,775	39.68%	4,763,816	60.32%	8,381,273	192,659,000	4.37%	4.10%	4.35%
Minnesota	4,984,621	7,811,595	409,915	7,401,680	4,771,002	64.46%	2,630,678	35.54%	8,443,445	190,231,000	4.11%	3.89%	4.44%
New Hampshire	1,258,546	1,819,692	85,440	1,734,252	943,592	54.41%	790,660	45.59%	1,850,639	44,279,000	4.11%	3.92%	4.18%
New Jersey	8,504,864	17,470,524	720,470	16,750,054	7,336,383	43.80%	9,413,671	56.20%	17,642,412	362,987,000	4.81%	4.61%	4.86%
North Carolina	8,198,279	9,699,590	777,970	8,921,620	5,929,203	66.46%	2,992,417	33.54%	9,882,399	285,651,000	3.40%	3.12%	3.46%
Texas	21,333,606	32,674,518	2,941,562	29,732,956	12,930,564	43.49%	16,802,392	56.51%	35,565,417	762,247,000	4.29%	3.90%	4.67%
Virginia	7,191,941	9,761,048	624,507	9,136,541	4,002,347	43.81%	5,134,194	56.19%	10,074,886	276,762,000	3.53%	3.30%	3.64%

Population figures from U.S. Census Bureau - National and State Population Estimates 2000 to 2005 (Annual Population Estimates of the Population for the United States and States, and for Puerto Rico: April 1, 2000 to July 1, 2005) - <http://www.census.gov/popest/states/NST-ann-est.html> (Release Date: December 22, 2005).

Revenue and Expenditure figures from U.S. Census Bureau - Federal, State, and Local Governments - 2002 Census of Governments - Volume 4, No. 1, Public Education Finances - Table 1, Summary of Public School System Finances for Elementary-Secondary Education by State: 2001-02 - <http://www.census.gov/prod/2004pubs/gc024x1.pdf> (Issued September 2004).

Gross Domestic Product figures from Bureau of Economic Analysis - Regional Economic Accounts - Gross Domestic Product by State - Interactive Tables - All States and Regions - 2001 - <http://www.bea.gov/bea/regional/gsp/> (Last revised: October 26, 2006).

2004-05 Current Expense Expenditures by Source of Funds												
Geographic Area	County/State Population - July 1, 2004	Amounts Expended by Source										
		State	State Per Capita	Federal	Federal Per Capita	Local	Local Per Capita	Total	Total Per Capita	% State	% Federal	% Local
Alamance	138,462	93,558,857	676	14,600,488	105	34,695,277	251	142,854,622	1,032	65.5%	10.2%	24.3%
Ashe	25,224	18,549,991	735	3,527,324	140	4,682,835	186	26,760,150	1,061	69.3%	13.2%	17.5%
Buncombe		115,395,235		16,219,996		46,806,415		178,421,646		64.7%	9.1%	26.2%
Asheville		19,105,322		3,931,934		15,649,144		38,686,400		49.4%	10.1%	40.5%
Buncombe- Asheville	215,680	134,500,557	624	20,151,930	93	62,455,559	290	217,108,046	1,007	61.9%	9.3%	28.8%
Carteret	62,034	39,657,667	639	6,239,034	101	20,005,916	322	65,902,617	1,062	60.2%	9.4%	30.4%
Catawba		76,068,803		9,080,890		25,626,053		110,775,746		68.7%	8.2%	23.1%
Hickory		20,678,944		3,510,324		7,510,558		31,699,826		65.2%	11.1%	23.7%
Newton-Conover		13,898,435		3,302,856		5,538,789		22,740,080		61.1%	14.5%	24.4%
Catawba-Hickory- Newton-Conover	149,466	110,646,182	740	15,894,070	106	38,675,400	259	165,215,652	1,105	67.0%	9.6%	23.4%
Forsyth	320,919	220,861,325	688	29,407,403	92	108,813,113	339	359,081,841	1,119	61.5%	8.2%	30.3%
Montgomery	27,501	23,732,723	863	6,070,793	221	7,104,402	258	36,907,918	1,342	64.3%	16.4%	19.3%
Northampton	21,624	19,109,444	884	5,190,073	240	4,443,623	205	28,743,140	1,329	66.5%	18.0%	15.5%
Robeson	126,469	120,878,099	956	30,315,430	240	21,002,566	166	172,196,095	1,362	70.2%	17.6%	12.2%
Wake	719,520	500,847,014	696	57,777,761	80	263,442,090	366	822,066,865	1,143	60.9%	7.0%	32.1%
North Carolina	8,541,221	6,295,926,901	737	1,051,335,357	123	2,413,150,687	283	9,760,412,945	1,143	64.5%	10.8%	24.7%

1994-95 Current Expense Expenditures by Source of Funds

Geographic Area	County/State Population - July 1, 1994	Amounts Expended by Source										% Local
		State	State Per Capita	Federal	Federal Per Capita	Local	Local Per Capita	Total	Total Per Capita	% State	% Federal	
Alamance		36,518,242		3,517,930		10,105,442		50,141,614		72.8%	7.0%	20.2%
Burlington		20,961,028		2,192,244		7,613,560		30,766,832		68.1%	7.1%	24.8%
Alamance-Burlington	113,571	57,479,270	506	5,710,174	50	17,719,002	156	80,908,446	712	71.0%	7.1%	21.9%
Ashe	23,108	13,240,899	573	1,589,000	69	2,772,270	120	17,602,169	762	75.2%	9.0%	15.8%
Buncombe		79,686,805		6,616,782		29,397,108		115,700,695		68.9%	5.7%	25.4%
Asheville		16,323,415		4,236,293		10,465,381		31,025,089		52.6%	13.7%	33.7%
Buncombe-Asheville	185,785	96,010,220	517	10,853,075	58	39,862,489	215	146,725,784	790	65.4%	7.4%	27.2%
Carteret	56,057	26,503,339		2,937,078	52	9,278,303	166	38,718,720	691	68.5%	7.5%	24.0%
Catawba		43,521,118		3,053,303		14,270,702		60,845,123		71.5%	5.0%	23.5%
Hickory		14,055,427		1,610,078		5,439,212		21,104,717		66.6%	7.6%	25.8%
Newton-Conover		10,438,949		949,636		3,739,718		15,128,303		69.0%	6.3%	24.7%
Catawba-Hickory-Newton-Conover	124,280	68,015,494	547	5,613,017	45	23,449,632	189	97,078,143	781	70.1%	5.8%	24.2%
Forsyth	277,804	126,547,465	456	10,849,026	39	69,024,891	248	206,421,382	743	61.3%	5.3%	33.4%
Montgomery	23,485	14,868,093	633	2,129,422	91	3,011,944	128	20,009,459	852	74.3%	10.6%	15.1%
Northampton	20,882	13,910,743	666	2,657,509	127	2,595,869	124	19,164,121	918	72.6%	13.8%	13.6%
Robeson	110,439	77,986,905	706	14,836,073	134	14,586,860	132	107,409,838	973	72.6%	13.8%	13.6%
Wake	494,366	239,214,943	484	17,021,563	34	103,957,412	210	360,193,918	729	66.4%	4.7%	28.9%
North Carolina	7,060,959	3,824,151,607	542	432,585,497	61	1,277,834,616	181	5,534,571,720	784	69.1%	7.8%	23.1%

Population figures from U.S. Census Bureau - Population Estimates - Archives - 2000's, 1990, s - <http://www.census.gov/popest/archives/> - Annual Estimates of the Population for Counties of North Carolina: April 1, 2000 to July 1, 2004 (Release Date: April 14, 2005); County Population Estimates and Demographic Components of Population Change: Annual Time Series, July 1, 1990 to July 1, 1999 (Internet Release Date: March 9, 2000)

Expenditure figures from Statistical Profile of North Carolina Schools - 2006 edition (for 2004-05 figures) online at <http://www.ncpublicschools.org/fbs/resources/data/> - 1994-95 figures from 1996 edition.

Geographic Area	Population - July 1, 2004	Expenditures for Education - Selected N.C. Counties - 2004-05				Education - Public School Current Expenditures Per Capita	Education - Public School Capital Outlay	Education - Public School Capital Outlay Per Capita	Total Expenditures - 2004-05	Education - Public School Current Expenditures as % of Total Expenditures
		Education - Public School Current Expenditures	Education - Public School Current Expenditures Per Capita	Education - Public School Capital Outlay	Education - Public School Capital Outlay Per Capita					
Alamance	137,126	25,121,359	183	2,450,860	18	119,563,609	21.01%			
Ashe	25,104	2,967,876	118	656,584	26	24,213,216	12.26%			
Buncombe	215,112	41,366,605	192	12,249,377	57	263,537,920	15.70%			
Carteret	61,870	16,956,993	274	1,432,104	23	73,902,703	22.95%			
Catawba	147,789	27,192,375	184	24,663,035	167	204,613,168	13.29%			
Forsyth	320,764	87,747,516	274	46,899,560	146	376,708,590	23.29%			
Montgomery	27,153	5,043,009	186	678,280	25	27,980,897	18.02%			
Northampton	21,566	3,180,500	147	1,932,872	90	30,409,278	10.46%			
Robeson	126,554	12,089,012	96	5,152,231	41	119,463,866	10.12%			
Wake	723,708	233,570,793	323	141,994,818	196	995,310,056	23.47%			
North Carolina	8,541,263	1,895,217,052	222	893,993,802	105	10,827,933,126	17.50%			

Expenditures for Education - Selected N.C. Counties - 1994-95

Geographic Area	Population - July 1, 1994	Expenditures for Education - 1994-95					Education - Public School Current Expenditures as % of Total Expenditures
		Education - Public School Current Expenditures	Education - Public School Current Expenditures Per Capita	Education - Public School Capital Outlay	Education - Public School Capital Outlay Per Capita	Total Expenditures - 2004-05	
Alamance	113,670	13,357,104	118	8,115,523	71	64,772,595	20.62%
Ashe	22,924	1,880,000	82	777,607	34	10,852,599	17.32%
Buncombe	185,810	26,997,753	145	15,059,144	81	156,008,944	17.31%
Carteret	56,624	7,326,291	129	4,395,442	78	41,753,631	17.55%
Catawba	123,913	17,920,468	145	15,859,617	128	103,411,426	17.33%
Forsyth	276,172	60,723,675	220	10,060,357	36	216,213,671	28.09%
Montgomery	23,684	2,155,710	91	302,028	13	14,579,671	14.79%
Northampton	20,611	2,264,577	110	616,423	30	17,430,279	12.99%
Robeson	109,876	10,434,060	95	2,516,848	23	67,335,501	15.50%
Wake	496,578	95,019,404	191	68,058,312	137	449,843,012	21.12%
North Carolina	7,121,975	1,016,492,300	143	491,513,100	69	5,598,151,900	18.16%

2004-05 figures from North Carolina Dept. of State Treasurer - State & Local Government Finance Division - North Carolina County and Municipal Financial Information - Counties - <http://www.nctreasurer.com/lgc/units/unitlists.htm> (Last updated 11/8/06). 1994-05 figures from Fiscal Summary of North Carolina Counties for the Fiscal Year ended June 30, 1995 (Prepared by the North Carolina Association of County Commissioners and the North Carolina Department of the State Treasurer).

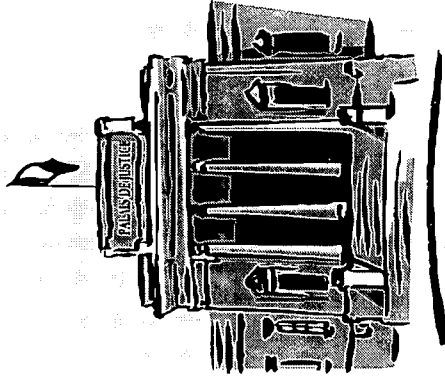
Expenditures for Debt Service - Selected N.C. Counties - 2004-05 and 1994-95						
Geographic Area	2004-05			1994-95		
	Population - July 1, 2004	Expenditures for Debt Service	Expenditures for Debt Service Per Capita	Population - July 1, 1994	Expenditures for Debt Service	Expenditures for Debt Service Per Capita
Alamance	137,126	6,281,281	46	113,670	3,397,611	30
Ashe	25,104	1,969,358	78	22,924	740,108	32
Buncombe	215,112	22,183,500	103	185,810	18,036,944	97
Carteret	61,870	6,709,003	108	56,624	3,431,638	61
Catawba	147,789	30,337,372	205	123,913	5,396,101	44
Forsyth	320,764	37,166,967	116	276,172	17,806,992	64
Montgomery	27,153	1,673,455	62	23,684	1,733,261	73
Northampton	21,566	1,677,313	78	20,611	1,289,688	63
Robeson	126,554	4,223,673	33	109,876	4,894,707	45
Wake	723,708	115,866,734	160	496,578	34,157,256	69
North Carolina	8,541,263	961,541,500	113	7,121,975	418,019,400	59
2004-05 figures from North Carolina Dept. of State Treasurer - State & Local Government Finance Division - North Carolina County and Municipal Financial Information - Counties - http://www.nctreasurer.com/lgc/units/unitlists.htm (Last updated 11/8/06). 1994-05 figures from Fiscal Summary of North Carolina Counties for the Fiscal Year ended June 30, 1995 (Prepared by the North Carolina Association of County Commissioners and the North Carolina Department of the State Treasurer).						

North Carolina Department of State Treasurer - Financial Information - Counties - 7/1/2005 - 6/30/2006 - Cash, Investments, and Financing - Property Tax Assessed Valuation Statistics										
Geographic Area	Population 7/1/2005	Latest year of Revaluation	January 1, Prior Year Assessed Valuation (2005)	January 1, Prior Year Assessed Valuation (2005) per capita	Tax Rate	Assessment - to-Sales Ratio	Assessed Valuation - adjusted for Assessed to Sales Ratio	Tax Rate Adjusted	Assessed Valuation adjusted for Assessed to Sales Ratio per capita	
Alamance	138,572	2001	9,914,522,051	71,548	0.5625	94.91	10,446,235,435	0.5339	75,385	
Ashe	25,500	1998	1,995,075,036	78,238	0.6100	58.95	3,384,351,206	0.3596	132,720	
Buncombe	216,738	2002	18,925,154,140	87,318	0.5900	82.61	22,909,035,395	0.4874	105,699	
Carteret	62,760	2001	8,143,029,955	129,749	0.4200	77.79	10,467,964,976	0.3267	166,794	
Catawba	149,032	2003	12,984,699,748	87,127	0.4900	96.47	13,459,831,811	0.4727	90,315	
Forsyth	326,340	2005	28,383,368,962	86,975	0.6660	100.00	28,383,368,962	0.6660	86,975	
Montgomery	27,359	2004	2,099,419,662	76,736	0.5800	83.25	2,521,825,420	0.4829	92,175	
Northampton	21,568	2001	1,222,319,688	56,673	0.8800	71.23	1,716,018,093	0.6268	79,563	
Robeson	127,695	2005	5,187,491,891	40,624	0.8000	97.30	5,331,440,792	0.7784	41,751	
Wake	755,034	2000	74,602,470,725	98,807	0.6040	89.16	83,672,578,202	0.5385	110,820	
North Carolina	8,682,094	N/A	718,605,832,500	82,769	0.6504	91.33	786,823,423,300	0.5941	90,626	
Figures from North Carolina Dept. of State Treasurer - State & Local Government Finance Division - North Carolina County and Municipal Financial Information - Counties - http://www.nctreasurer.com/lgc/units/unitlistjs.htm (Last updated 11/20/06).										

Personal Income						
Geographic Area	Population - 7/1/2004	Personal Income - 2004	Per Capita Personal Income - 2004	Per capita personal income, percent of US	Personal income, percent change (average annual growth rate - 1969-2004)	
Alamance	138,452	3,740,467,000	27,016	82	7.2	
Ashe	25,287	618,298,000	24,451	74	8.2	
Buncombe	215,705	6,047,658,000	28,037	85	7.8	
Carteret	61,812	1,803,484,000	29,177	88	9.2	
Catawba	149,474	4,159,651,000	27,829	84	7.6	
Forsyth	320,780	10,770,332,000	33,575	102	7.7	
Montgomery	27,261	643,768,000	23,615	71	7.5	
Northampton	21,504	539,191,000	25,074	76	7.4	
Robeson	126,263	2,477,349,000	19,621	59	7.8	
Wake	719,733	26,403,048,000	36,685	111	10.4	
North Carolina	8,540,468	250,426,537,000	29,322	89	8.3	

Figures from Bureau of Economic Analysis - Regional Economic Accounts - Local Area Annual Estimates - Interactive Tables - Personal Income, Population, Per Capita Personal Incomes - 2004 - <http://www.bea.gov/bea/regional/reis/default.cfm?catable=CA1-3§ion=2> (Estimates for 2004 released on April 25, 2006.)

**Financing Public Elementary &
Secondary Education
in North Carolina**



**State and Local Fiscal Modernization
Committee**

North Carolina General Assembly

A. John (Jack) Vogt

Alex L. Hess III

School of Government, UNC-CH

Overview

Financing N. C. Public Schools*

- **Importance & issues**
- **Shared responsibilities**
- **Key legal provisions**
- **Public school financing**
 - Overall public school financing: N. C. & selected states
 - Sources of financing: state, local (county), & federal
 - Per capita school spending for current expenses, capital outlay, & county debt service
- **Financing methods for public school construction**

*Public Elementary & Secondary Education

Importance and Issues

Financing N. C. Public Schools

- Need to compete globally
- Disparities in student performance: individually, across counties, by race, etc.
- "Leandro"
- State growth requiring construction of many new schools and issuance of debt, e. g. Wake County \$960 million bond authorization
- Recruiting & retaining teachers, e. g. Bill Gates--we must pay teachers more

Shared Responsibilities

Financing N. C. Public Schools

- **Joint state-local responsibility**
 - State contributes about 65% of total funds, mainly for instruction & current expense
 - Counties provide about 30% (not counting school bond debt service) , mainly for buildings & plant.
 - Federal government contributes about 5%, more in lower income counties
- **At local level, school board and board of county commissioners (both elected) share responsibility**
 - School board sets local educational policy
 - County Commissioners fund local share of that policy
 - If school board & commissioners disagree, statutes provide for mediation. If that fails, court decides.

Key Legal Provisions

Financing N. C. Public Schools

- **N. C. Constitution, Art. 9, Sec. 2:** “The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students
- **School Budget & Fiscal Control Act, Article 31, Chapter 115C of General Statutes**
 - G. S. 115C-426 Uniform Budget Format for school systems
 - G. S. 115C-429 “commissioners’ action” on (school) budget
 - G. S. 115C-431 Resolving budget dispute between commissioners and board of education
- **Many other legal provisions**

Introduction: Public School Spending & Sources of Funding

- **Comparative benchmark states**
- **N. C. counties selected for comparative purposes**
- **Overall public school spending per capita**
- **Sources of funds for public schools**
- **Spending per capita for public school current expenses, capital outlay & county debt service**
- **Finance methods for school construction**

Comparing N. C. with Benchmark States

	Population	Rationale/Inclusion
California	34,526,660	Large, Growing
Florida	16,350,565	Southern, Growing
Georgia	8,415,600	Southern, Growing
Illinois	12,518,506	Midwestern, Large
Maryland	5,379,591	Mid-Atlantic
Minnesota	4,984,621	Progressive
New Jersey	8,504,864	Similar in size
North Carolina	8,198,279	
Texas	21,333,606	Large, Growing
Virginia	7,191,941	Mid-Atlantic

N. C. Counties Selected for comparative Purposes

Counties	2004 Pop	Rationale/Inclusion
Wake	719,520	Large, Rapid Growth, Wealthy
Forsyth	320,919	Large, Good Growth/Wealth
Buncombe	215,680	Medium-size, Mountain
Alamance	138,462	Medium-size, Piedmont
Catawba	149,466	Medium, Piedmont
Carteret	62,034	Medium-small, Coastal
Ashe	25,224	Small, Mountain
Montgomery	27,501	Small, Piedmont, Lower Income
Northampton	21,624	Small, East, Lower Income
Robeson	126,469	Medium, East, Lower Income

Overall Public School Spending: N. C. & Benchmark States

- N. C. spends less per capita* for public schools, relative to state personal income, than most other benchmark states (Slides 10, 11, and 12).
- N. C. spends less per capita for public schools, as % of state GDP, than any other benchmark state (Slides 13 and 14).

*Per state population

Public School Spending Per Capita N. C. & Benchmark States, 2001-02

New Jersey:	\$2,074
Minnesota:	\$1,694
Texas:	\$1,667
Illinois:	\$1,604
California:	\$1,595
Maryland:	\$1,558
Georgia:	\$1,507
Virginia:	\$1,401
North Carolina:	\$1,205
Florida:	\$1,165

Per Capita State Personal Income

N. C. & Benchmark States 2001

New Jersey:	\$39,148
Maryland:	\$35,627
California:	\$32,882
Minnesota:	\$32,616
Illinois:	\$32,532
Virginia:	\$32,505
Florida:	\$29,273
Texas:	\$29,045
Georgia:	\$28,592
North Carolina	\$27,493

Per Capita Public School Spending As % of Per Capita Personal Income

Texas:	5.74%
New Jersey:	5.30%
Georgia:	5.27%
Minnesota:	5.19%
Illinois:	4.93%
California:	4.85%
North Carolina:	4.38%
Maryland:	4.37%
Virginia:	4.31%
Florida:	3.98%

*Spending for 2001-02 and income for 2001

State Gross Domestic Product Per Capita, N. C. & Benchmark States 2001



New Jersey:	\$42,680
Virginia:	\$38,482
Minnesota:	\$38,164
Illinois:	\$38,061
California:	\$37,682
Maryland:	\$35,813
Texas:	\$35,730
Georgia:	\$35,586
North Carolina	\$34,843
Florida:	\$30,422

Public School Spending As % of State GDP, N. C. & Benchmark States

New Jersey:	4.86%
Texas:	4.67%
Minnesota:	4.44%
Maryland:	4.35%
Georgia:	4.23%
California:	4.23%
Illinois:	4.22%
Florida:	3.83%
Virginia:	3.64%
North Carolina:	3.46%

*2001-02 spending and 2001 GDP

Sources of Funding: N. C. Benchmark States & Selected N. C. Counties

- State revenue sources account for a higher portion of public school funding in N. C. than in any other benchmark state (Slide 16). Local sources account for a lower portion of public school funding in N. C. than any benchmark state (Slide 17).
- State sources account for about 65%, County sources 25% & Federal sources 10% of Public school current expense funding (Slide 18).
- In N. C. county revenues have increased more than state revenues to finance public school per capita current expenses, 1994-95 to 2004-05 (Slide 18).
- County sources account for a relatively higher portion (around 30%) of public school current expense funding in larger, wealthier counties. Federal sources are more important in lower income counties (Slide 19).

% of Public School Revenues From State Sources (2001-02)

North Carolina:	66%
California:	65%
Minnesota:	64%
Georgia:	52%
Florida:	51%
Virginia:	44%
New Jersey:	44%
Texas:	43%
Illinois:	40%
Maryland:	40%

% of Public School Revenues From Local Sources (2001-02)

Maryland:	60%
Illinois:	60%
Texas:	57%
New Jersey:	56%
Virginia:	56%
Florida:	49%
Georgia:	48%
Minnesota:	36%
California:	35%
North Carolina:	34%

N. C. Per Capita Public School Current Expenses By Funding Source

Sources 1994-5 2004-5 % 04-05 % Chg 95-05

State:	\$542	\$737	65%	36 %
Local:	\$181	\$283	25%	56%
Federal:	\$61	\$123	10%	102%
Total:	\$784	\$1,143	100%	46%

U.S. Census Bureau, Public
Schools of NC, Office of the State
Superintendent

Public School Current Expense Funding By Source, Selected Counties, 2004-05

County	State %	Local %	Federal %
Wake	61 %	32 %	7 %
Forsyth	62 %	30 %	8 %
Buncombe	62 %	29 %	9 %
Alamance	66 %	24 %	10 %
Catawba	67 %	23 %	10 %
Carteret	60 %	31 %	9 %
Ashe	69 %	18 %	13 %
Montgomery	64 %	19 %	16 %
Northampton	67 %	16 %	18 %
Robeson	70 %	12 %	18 %

U.S. Census Bureau, Public
Schools of NC, Office of the State
Superintendent

Current Expense, Capital Outlay & County Debt Service Spending for Public Schools

- It is difficult to discern differences in per capita school current expense spending or changes in such spending among different size counties (Slide 21).
- Per capita county appropriations for school capital outlay has over time, reflecting varying needs from year to year (Slide 22).
- Per capita county spending for debt service, including school bonds, has grown greatly, reflecting state growth. Generally, debt service per capita has increased more in larger than smaller counties (Slide 23).

Per Capita Public School Current Expenses By County

<u>County</u>	<u>1994-5</u>	<u>2004-5</u>	<u>\$ Change</u>	<u>% Change</u>
Wake	\$729	\$1,143	\$414	57%
Forsyth	\$743	\$1,119	\$376	51%
Buncombe	\$790	\$1,007	\$217	27%
Alamance	\$712	\$1,032	\$320	45%
Catawba	\$781	\$1,105	\$324	41%
Carteret	\$691	\$1,062	\$371	54%
Ashe	\$762	\$1,061	\$299	39%
Montgomery	\$852	\$1,342	\$490	58%
Northampton	\$918	\$1,329	\$411	45%
Robeson	\$973	\$1,362	\$389	40%

U.S. Census Bureau, Public
Schools of NC, Office of the State
Superintendent

Per Capita County Appropriation for School Capital Outlay

<u>County</u>	<u>1994-95</u>	<u>2004-05</u>
State-wide	\$69	\$105
Wake	\$137	\$196
Forsyth	\$36	\$146
Buncombe	\$81	\$57
Alamance	\$71	\$18
Catawba	\$128	\$167
Carteret	\$78	\$23
Ashe	\$34	\$26
Montgomery	\$13	\$25
Northampton	\$30	\$90
Robeson	\$23	\$41

NC Department of State
Treasurer, State and Local
Government Finance Division

Per Capita County Expenditures for Debt Service, Including school bonds

<u>County</u>	<u>1994-95</u>	<u>2004-05</u>	<u>%Change</u>
State-wide	\$59	\$113	92%
Wake	\$69	\$160	132%
Forsyth	\$64	\$116	81%
Buncombe	\$97	\$103	6%
Alamance	\$30	\$46	53%
Catawba	\$44	\$205	366%
Carteret	\$61	\$108	77%
Ashe	\$32	\$78	144%
Montgomery	\$73	\$62	-15%
Northampton	\$63	\$78	24%
Robeson	\$45	\$33	-27%

NC Department of State
Treasurer, State and Local
Government Finance Division

Financing Methods for Public School Construction

- **Mainly county responsibility:** Shows up in county appropriations for school capital outlay & in county debt service. County is responsible for repaying debt issued for local public school construction.
- **Sources of capital financing:**
 - County G. O. bonds, approved by voters
 - County certificates of participation (COPs)
 - State public school fund money
 - State lottery proceeds
 - Other: impact fees in Orange & Chatham counties, etc.

Public School Construction Funding in Other States

Y. Canaan Huie
Legislative Drafting Division
House Select Committee on Public School
Construction Funding
December 13, 2006

Public School Construction Funding in Other States

- *Recent History of
School Funding*
- Sources of Funding
for School
Construction



Recent History of School Funding

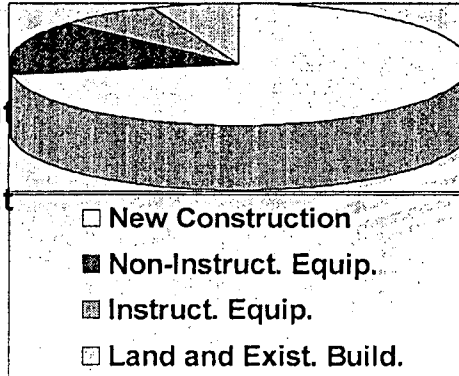
- **1995, U.S. Government Accounting Office (GAO) report**
 - 25 million children attended schools with at least one unsatisfactory condition
 - One-third of all public school (about 25,000) were in a serious state of disrepair
 - Estimated cost of bringing all schools into good condition was \$112 billion (\$163 billion in 2005 dollars)
- **2000, National Educational Association report**
 - \$322 billion was needed to repair existing schools and build new schools with adequate technology

Recent History of School Funding

- Those estimates proved to be too low
- According to the U.S. Census of Governments, between 1995 and 2004, school districts report having spent \$504 billion on capital expenditures
- In this time frame, school districts spent an additional \$85 billion in interest costs

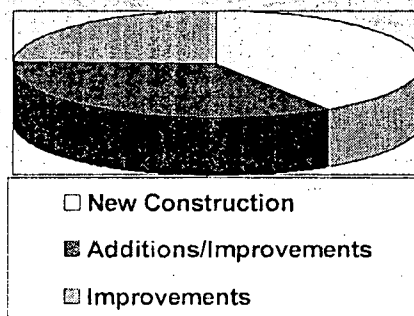
Recent History of School Funding

- \$363 billion for new construction
- \$73 billion for non-instructional equipment
- \$36 billion for instructional equipment
- \$31 billion for land and existing structures



Recent History of School Funding

- Most school construction funding goes for new schools
 - \$124 billion new school construction
 - \$105 billion additions and improvements to existing schools
 - \$74 billion improvements to existing schools



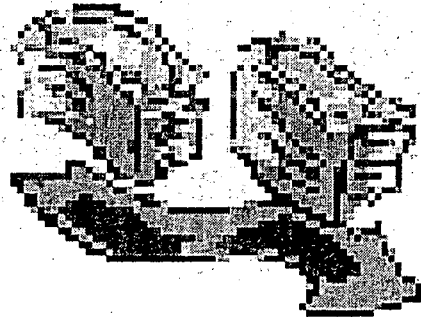
Recent History of School Funding

- Per student spending varied greatly from state to state between 1995 and 2004
 - Highest was Alaska -- \$12,842 per student
 - Lowest was Montana -- \$2,004 per student
 - National Average -- \$6,519 per student
 - North Carolina was in the middle of the pack at \$6,595 per student

#s are cumulative

Public School Construction Funding in Other States

- Recent History of School Funding
- Sources of Funding for School Construction



Sources of Funding for School Construction

- Most states have generally considered school construction funding to be a local responsibility
- Most often, local governments have used general obligation bonds to finance school construction
- Bonds were generally paid off from property tax proceeds
- Increasing enrollments due to migration or the Baby Boom Echo have led many states to take a more active role

Sources of Funding for School Construction

- State involvement in capital spending has taken a number of forms
 - Credit enhancement programs
 - Loan program
 - Non-recurring funding options
 - Annual funding programs

Credit Enhancement Programs

- 29 states have some form of credit enhancement program
- Lower the costs of borrowing for local governments by reducing perceived risk of default
- Most common form of credit enhancement involves a state guarantee of local general obligation bonds

Credit Enhancement Programs

- Divert state aid to bond payments (MO)
- Revenue bonds based on State assistance (MS)
- Permanent state fund (ID and WA)
- Annual appropriations (MN and WV)



Loan Programs

- 10 states allow local governments to borrow from the state to finance school construction
- All 10 of these states also have credit enhancement programs
- Usually involve a specific fund set aside for this purpose

Loan Programs

- Some states (MN and IN) restrict the loan program to low-wealth areas, some states (CO, ND, and VA) provide better interest rates to low-wealth areas, and some states (AR, MI, MS, MT, UT) offer loans to all areas at the same rates
- Maine has a revolving renovation fund to encourage replacement of leased spaces with permanent structures and, by statute, forgives 30% to 70% of the loans

Non-recurring State Funding

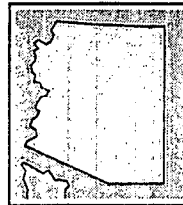
- **Numerous states have passed statewide bond initiatives**
 - California – More than \$70 billion in State bonds for school facilities (\$10.4 in 2006, but this amount also supports universities and community colleges)
 - New Jersey -- \$8.6 billion in 2000
 - North Carolina -- \$1.8 billion in 1996

Non-recurring State Funding

- **Numerous states have made other one-time appropriations for school construction**
 - GA appropriated \$468 million in 2001 to help districts meet state-mandated class size reductions
 - NH had a 7-year, \$43 million matching grant of 75% to encourage local governments to provide kindergarten facilities

Annual Funding Programs

- 40 states have some form of annual funding program to address school facilities needs
- AZ and HI have policy goals of meeting all facility needs with state money



Annual Funding Programs

- Earmarked tax receipts
 - North Carolina's use of a portion of corporate income tax receipts is a good example
 - Arizona dedicates 0.6 percentage points of its sales tax to school facilities needs
- Numerous states devote resources from state lotteries to public education needs
 - North Carolina devotes 40% of net proceeds to school construction
 - Florida legislature allocated \$2.7 billion in lottery revenue over 20 years exclusively for school construction purposes

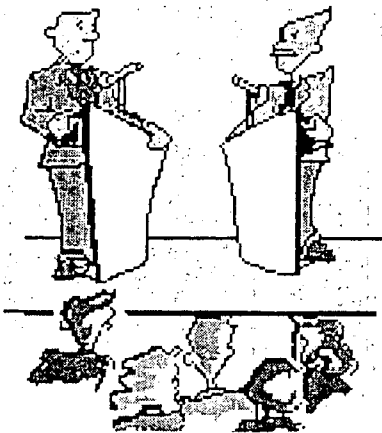
Annual Funding Programs

- **General Fund appropriations**

- GA appropriates \$200 million annually for school construction which is allocated based on needs as a percentage of statewide need
- GA appropriates an additional \$100 million annually for high-growth districts



Questions



Charlotte Mecklenburg Schools Construction Costs

Presented to
House Select Committee on Public
School Construction Funding



December 13, 2006

Summary

- I. Recent Capital Funding
- II. CMS Construction 1996 – Present
- III. Ten Year Capital Needs
- IV. New Construction Costs
- V. Renovation Construction Costs
- VI. Adaptive Reuse
- VII. Mobile Construction Costs
- VIII. Renovate vs Replace
- IX. Square Foot Comparison
- X. Recent Legislation

Capital Funding 1996 - 2006

'96 State Bond	\$119,830,058
'97 Bond Referendum	\$415,000,000
'99 COPs	\$50,000,000
'00 Bond Referendum	\$275,500,000
'02 Bond Referendum	\$224,000,000
'04 COPs	\$98,500,000
'05 COPs	\$73,900,000
'06 COPs	\$123,164,532
Total	\$1,379,894,590

● ● ●

Construction Summary 1996 - Present

- 7 New High Schools
- 8 New Middle Schools
- 16 New Elementary Schools
- 13 Replacement Elementary Schools
- 42 Comprehensive Renovations

Ten Year Capital Needs (2016)

- Enrollment to increase by 58,000
- 39 New Elementary Schools
- 13 New Middle Schools
- 11 New High Schools
- 72 Major Renovations

Cost/Seat Comparison

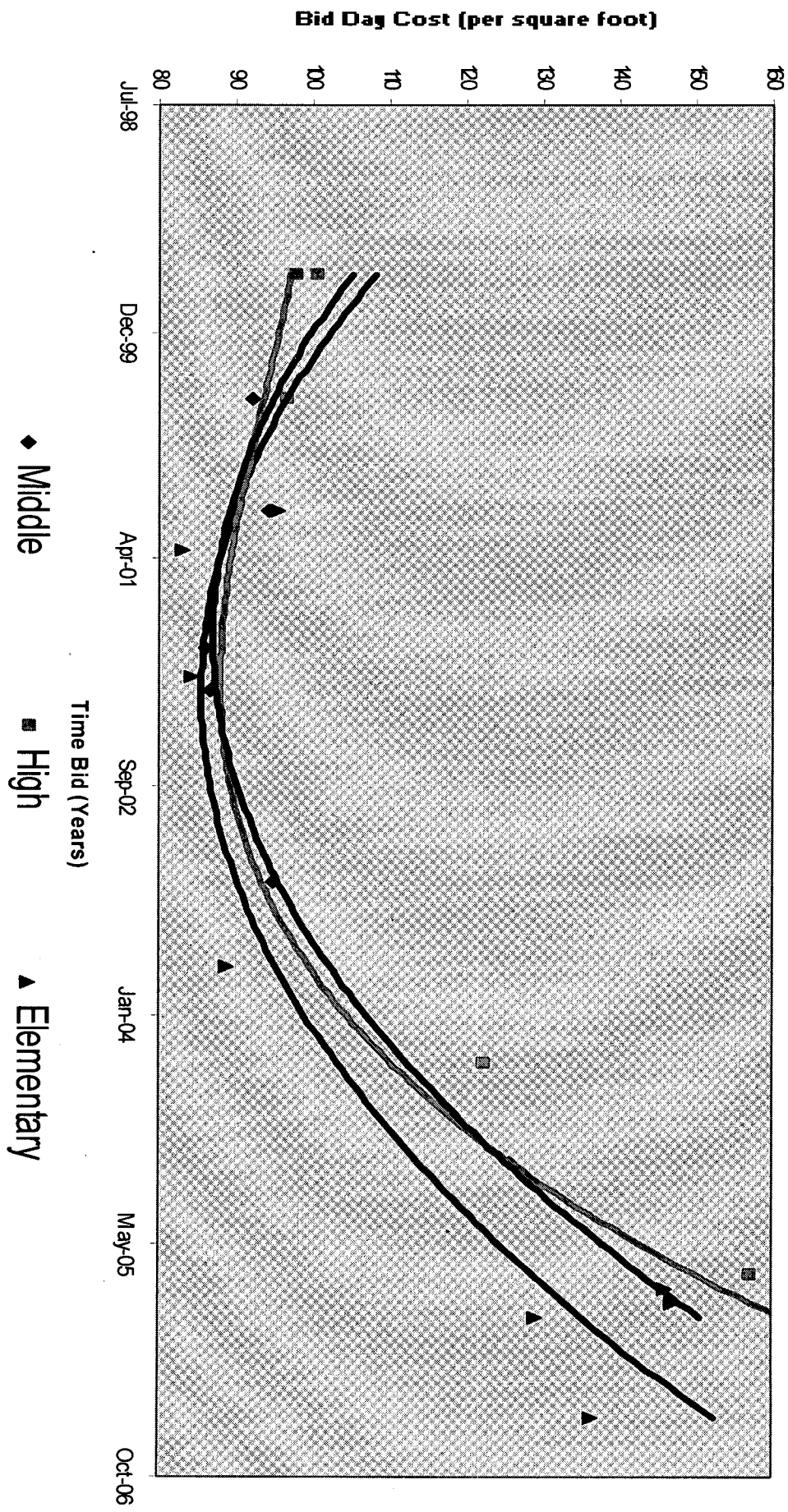
Year	Type of School	CMS Cost/Seat*	Others Cost/Seat*
2005	Elementary Average	\$14,916.22	\$19,131.17
	High School Average	\$23,000.00	\$27,723.25
2004	High School Average	\$18,306.40	\$23,302.15
	Middle Average	\$16,030.55	\$19,603.98
2003	Elementary Average	\$10,766.25	\$11,561.66
	Middle Average	\$12,036.67	\$13,119.85
2002	Elementary Average	\$9,722.75	\$12,585.03
	Middle Average	\$12,870.08	\$13,006.91
2001	Elementary Average	\$10,390.99	\$11,852.68

Multiplying the cost difference by the number of new seats delivered by CMS equates to a savings of over \$49M.

* School types not represented were not bid that year at CMS. Information is based on schools reported to DPI as of 8/06.

History of Award

By School Type/SF - Trend line



● ● ● **Adaptive Reuse**

- “Big Box Conversion”
- Office Conversion
- Lufkin Road MS (Wake)
- Phoenix HS (Gwinnett)

Mobile Construction Cost

	New Classroom (32x24)	New Restroom (16x20)
Cost	\$35,027	\$66,987
*Set Up	\$16,205	\$35,340
Total:	\$51,232	\$102,327
Relocation	\$22,895	\$38,630

*set up includes: footings, electrical, decks & ramps, concrete work, intercom & fire alarm, plumbing, permits, utility location and clean up of site.

● ● ● **Renovate vs Replace**

- NCGS 521C-521 Feasibility and Cost Analysis
- Facility Age and Condition
- Functionality of Facility
- Historical Significance
- Project Execution – Swing Space

THOMASBORO ES

- Built in 1944
- Three Separate Buildings Added 1952, 1977, 1982
- Demolished 1952 and 1977 Buildings
- Classroom Addition Connects 1944 and 1982 Buildings
- On Site Swing with Mobiles
- Cost Reno/Add \$10.4 Million
- Est. Cost New \$13.3 Million

● ● ● **DRUID HILLS ES**

- Built in 1960
- “Florida Plan”
- Replacement Constructed Alongside Existing
- Cost New \$10.3 Million
- Est. Reno/Add \$9.2 Million

● ● ● **SEDGEFIELD ES**

- Built in 1954
- “Florida Plan”
- Replacement Facility Built Alongside Existing
- Existing Facility Used as Swing Space
- Cost New \$11.5 Million
- Est. Cost Reno/Add \$9.9 Million

● ● ● **MYERS PARK TRADITIONAL ES**

- Built in 1928
- Architecturally Significant
- Longstanding Presence in the Olmstead Designed Residential Neighborhood
- Adjacent to Queens University
- Cost Reno/Add \$13.5 Million
- Estimated Cost New \$14.3 Million



ELIZABETH TRADITIONAL ES

- Built in 1925
- Architecturally Significant
- Part of Neighborhood Character
- Cost Reno/Add \$11.35 Million
- Est. Cost New \$13.3 Million

Square Foot Cost Comparison

Brick & Mortar \$139 - \$160

Adaptive Reuse \$130 - \$155

Modular/Mobile \$67

Renovation \$65 - \$87



Recent Legislation

- HB 840 (1999) CMS Construction
- SB 914 (2002) Public Construction Law
- SB 2009 (2006) Public Private Partnership
- SB 402 (2006) Utility Savings

Charlotte Mecklenburg Schools Construction Costs

Presented to
House Select Committee on Public
School Construction Funding

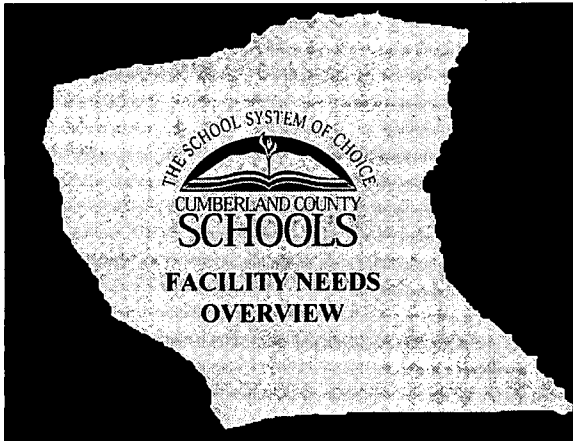


December 13, 2006

House Select Committee on Public School Construction

**Leanne E. Winner
Director of Governmental Relations
North Carolina School Boards Association
(919)841-4040 x331
lwinner@ncsba.org**

- **Facing over \$9.7 billion in school construction needs over the next 5 years**
- **Types of school system**
 - **Fast growing school systems where the property tax base cannot keep pace without significant tax increases.**
 - **School systems located in areas that do not have the economic engine to support school construction demands.**
 - **School systems located in counties where there is not the political will to support the construction needs of the school district.**
 - **School systems that have some needs but are basically in good shape. There are very few of these.**
- **Possible Local Remedies**
 - **Impact Fees – helps in some communities**
 - **Land Transfer Tax – helps in some communities**
 - **Sales Tax – local option, dedicated to school construction, voter referendum**
 - **The issue of how this would be distributed would need to be addressed.**
 - **Pilot program to transfer fiscal responsibility from the county commissioners to the school board.**
- **State Remedy**
 - **\$2 billion bond package for public school construction**
- **Other Construction Hurdles encountered by school systems**
 - **DOT requirements**
 - **Multiple zoning ordinances within a county**



**System Growth Profile
1992 - 2005**

	Increased
Students	8,001
Teachers	977
Classrooms	852

School Construction History

1920s (4)	1970s (11)
1930s (4)	1980s (3)
1940s (2)	1990s (6)
1950s (23)	Since 2000 (6)
1960s (25)	

**Class-Size Reductions
1992 VS 2005**

<u>Grades</u>	<u>1992</u>	<u>Grades</u>	<u>2005</u>
K-9	1/26	K-1	1/18
10-12	1/28	2-3	1/21
		4-5	1/23
		6-12	1/26

- Issues Affecting Facility Needs**
- Population Growth
 - Class-Size Reductions
 - Program Growth

**Loyd Auman Elementary
1990**

32 Regular Classrooms
Grades K – 6
Capacity 806 Students
(31 classrooms x 26 students each
Plus 1 Music/Art Classroom)

Loyd Auman Elementary 2005

32 Regular Classrooms
 Grades Pre-K – 5
 Capacity 540 Students
 33% Reduction in Capacity
 Due to class-size reductions and program
 expansions.

State Lottery Impact Cumberland County Schools

50% Programs, class size reduction, etc.
 \$9,000,000 = 200 teachers
 40% School Construction
 \$7,700,000
 10% Student Scholarships

Loyd Auman Elementary 2005

# Classrms	Grades	Pupils per Rm	Total Students
9	K – 1	18	162
8	2 – 3	21	168
8	4 – 5	23	184
1	Pre-K	16	16
1	EC-Self Cont.	10	10
5	Computer Lab, Art, Music, Remediation, Resource	0	0
<u>32</u>			<u>540</u>

Other Funding Reductions

Sales Tax:
 City of Fayetteville Annexation (1995 – 2006)
 = Annual loss of \$1.2M sales tax revenue
 Utilities:
 State stopped paying utility costs in 1992
 Utility Costs in 2005-06 = \$7.5M

1996 Public School Facility Needs 10-Year Assessment

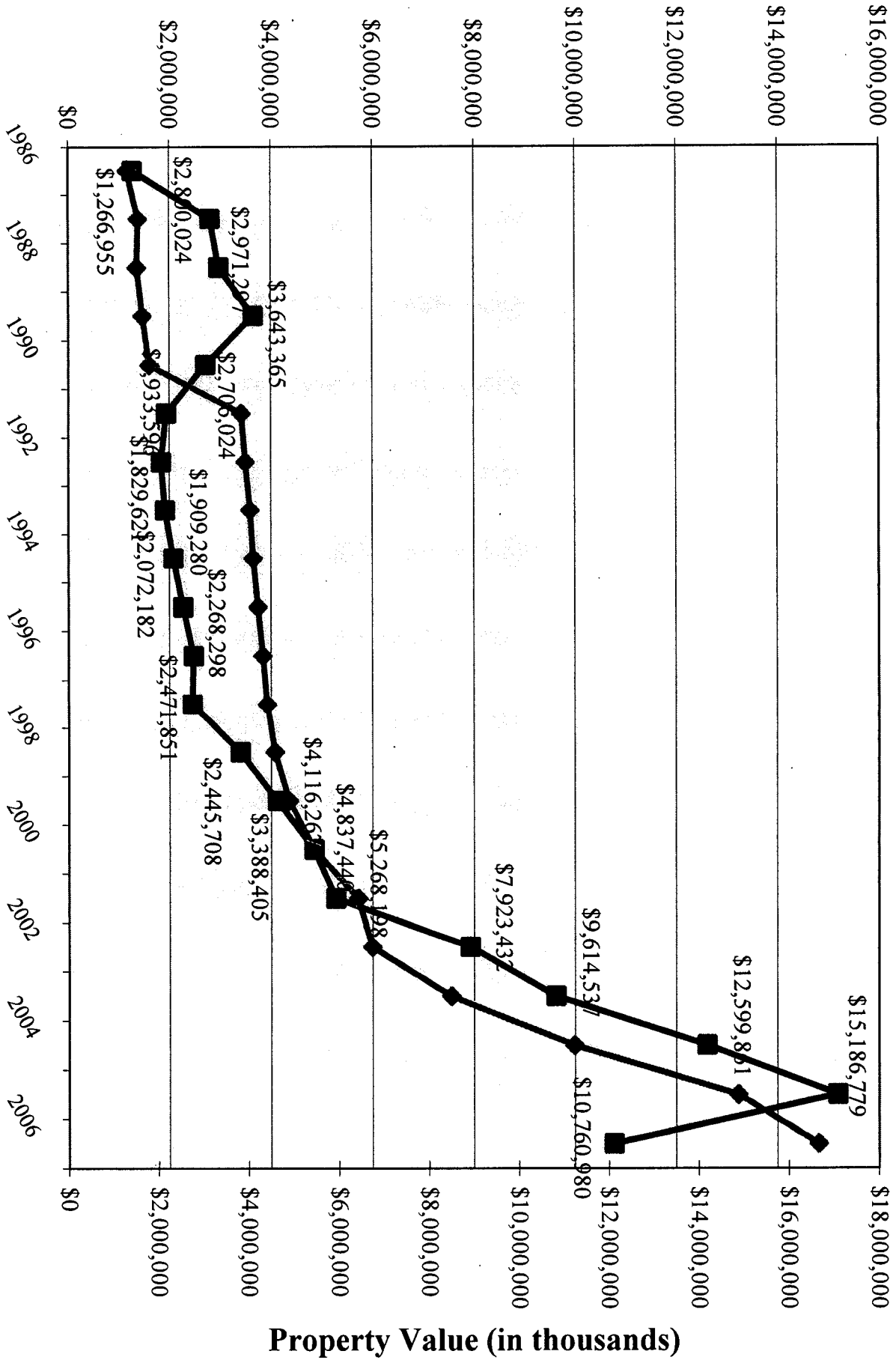
1996-2006 Projected Needs (includes inflation)	\$410,927,295
1996-2006 Project Funding	\$187,671,642
Deficient	<u>\$223,255,653</u>

Future Bond?

Funding Source: Half-Cent Sales Tax
 \$10,000,000 annually would support a
 \$120,000,000 Bond

LTT Collections

Dare County Land Transfer Tax



County of Dare, NC
School Capital From LTT

Fiscal Year Ending	Actual										
	6/30/1991	6/30/1992	6/30/1993	6/30/1994	6/30/1995	6/30/1996	6/30/1997	6/30/1998	6/30/1999	6/30/2000	6/30/2001
For Series 2001 - 2005 COPs debt service	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local capital outlay	-	-	-	-	-	-	-	-	-	250,000	250,000
School land	-	-	-	-	-	520,567	-	-	-	218,263	206,474
School construction	-	-	-	-	-	-	-	350,000	532,500	125,000	149,000
For debt service for issues prior to 2001	754,501	671,800	911,699	738,380	687,473	686,547	613,313	500,000	500,000	475,000	425,000
	\$ 754,501	\$ 671,800	\$ 911,699	\$ 738,380	\$ 687,473	\$ 1,207,114	\$ 613,313	\$ 850,000	\$ 1,032,500	\$ 1,068,263	\$ 1,030,474

Fiscal Year Ending	Actual											CIP		
	6/30/2002	6/30/2003	6/30/2004	6/30/2005	6/30/2006	6/30/2007	6/30/2008	6/30/2009	6/30/2010	6/30/2011				
For Series 2001 - 2005 COPs debt service	\$ -	\$ -	\$ 125,000	\$ 250,000	\$ 1,500,000	\$ 1,250,000	\$ 1,000,000	\$ 750,000	\$ 500,000	\$ 250,000				
Local capital outlay	422,000	325,000	300,000	2,000,000	1,325,000	950,000	875,000	650,000	925,000	585,000				
School land	-	-	290,000	118,000	-	-	-	-	-	-				
School construction	-	-	-	2,522,015	5,236,000	-	-	-	-	-				
For debt service for issues prior to 2001	400,000	400,000	375,000	350,000	325,000	300,000	275,000	250,000	250,000	250,000				
	\$ 822,000	\$ 725,000	\$ 1,090,000	\$ 5,240,015	\$ 8,386,000	\$ 2,500,000	\$ 2,150,000	\$ 1,650,000	\$ 1,675,000	\$ 1,085,000				

House Select Committee on Public School Construction
January 9, 2007
Minutes

The House Select Committee on Public School Construction met on Tuesday, January 9, 2007 in Room 544 of the Legislative Office Building. Chairman Douglas Yongue presided over the meeting and convened at 10:10 a.m. The following additional members were present at the meeting: Representatives Barnhart, Bell, Carney, Coleman, England, Folwell, Goforth, Hall, Howard, Jones, Lucas, Johnson, Nye, Pierce, Wilkins, Williams, and Wray. Please see attached agenda, attendance, and visitor registration (Attachments 1, 2, 3).

Approval of the Minutes from December 13, 2006

As the first order of business, Chairman Yongue asked for a motion to approve the minutes of the December 13, 2006 meeting. With a motion from Representative Wilkins, and a second from Representative Goforth, the minutes were approved unanimously. Following approval of the minutes, Chairman Yongue invited Mr. Canaan Huie, Legislative Drafting Division, to present the draft committee report.

Presentation of the Draft Committee Report

Mr. Canaan Huie gave a brief overview of the state's public school construction needs, funding sources available to finance those needs, the approval process involving each state agency's responsibility, and different methods of the use of space. Please see this presentation in its entirety in the attached handout (*Attachment 4*). Following this brief history, Mr. Huie listed the six proposals as set forth in the draft committee report.

I. Local Development Options

An act to authorize all counties to impose impact fees and land transfer taxes for public school capital outlay purposes and to enact adequate public facilities ordinances.

Section 1 of the legislation would authorize counties to levy local land transfer taxes, subject to voter approval. The rate of tax could not exceed 1%. This bill would not affect any local act currently authorizing a land transfer tax; however, enacting a tax under this bill would permanently repeal the authority of a county to impose a land transfer tax under any local act.

Section 2 of the legislation would authorize counties to levy impact fees, subject to voter approval. The fee is a charge imposed on new development to offset capital costs associated with providing community service facilities for the new development. Counties would be required to provide a description of the services for which the fees are needed, estimate the costs of the new facilities, and provide a plan for the provision of those facilities. A fee must be uniform on all new development. This bill would not affect any local act currently authorizing an impact fee; however, enacting an impact fee under this bill would permanently repeal the authority of a county to impose an impact fee under any local act.

Section 3 of the legislation would authorize counties to enact adequate public facilities ordinances, subject to voter approval. This growth management tool would allow a community to control the timing of development to ensure that adequate facilities are available to serve the existing and new development. A county would be required to list the specific community

service facilities to be evaluated, set a level-of-service standard, and evaluate the impact of each new development against the level-of-service standard. If the development impacts the level-of-service standard, the county may impose a moratorium on new development or may assess an impact fee. There are clear directives set out in the law if a moratorium is imposed. The law supplements, but does not supplant local authority to enact an Adequate Public Facilities Ordinance (APFO) under a local act.

II. Local Option Sales Tax for Education

An act to authorize counties to levy one-half cent local sales and use taxes for public school capital outlay purposes, if approved by the voters of the counties.

The proceeds of the tax could be used by the county for public school capital outlay purposes only. The tax would not apply to food currently exempt. The tax would be available to a county that had already levied the full 2½¢ authorized by general law. All proceeds would be distributed based on the point of origin. Unlike the other local sales and use taxes, the proceeds would not be shared with the cities.

III. Extend Local Sales Tax Earmarking for Schools

An act to extend the earmarking of a portion of the proceeds of the first and second one-half cent local sales and use taxes for an additional five years.

This bill would extend the time periods under Articles 40 and 42 by five years, so that the earmarking would continue to the year 2016. For these additional years, counties would be required to use 30% of the tax revenue from the first half-cent local sales tax (Article 40) and 60% of the tax revenue from the second half-cent local sales tax (Article 42) only for public school capital outlay purposes.

IV. Property Tax – School Capital Leases

An act to exclude from property tax real and personal property that is subject to a capital lease with a local school administrative unit.

This bill would exclude from the property tax property that is subject to a capital lease and is used as a public school facility. Property owned by a unit of local government is not subject to property tax. However, if the property ever reverts from a Local Board of Education as the owner, then it would become subject to property taxes.

V. Streamline School Construction Approval

An act to streamline the process for approval of school facility construction and renovation plans.

This bill would increase the size threshold at which local governments must submit building plans to the Commissioner of Insurance for review from 10,000 square feet to 20,000 square feet. In addition, this bill would change the requirements of the Department of Transportation (DOT). Under this bill, the entity responsible for the development would be required to notify the DOT of proposed plans, but would have the option of requesting a review. Upon request, the DOT would provide the review with recommendations within 30 days and the entity requesting the review would have no duty to act upon the evaluation and recommendations.

VI. LEA Sales Tax Refund and Exemption

An act allowing a sales and use tax exemption for local school administrative units and reenacting the sales and use tax refund for local school administrative units.

This bill would provide for an exemption from the sales and use tax for items purchased by a local school administrative unit and would reinstate the refund provisions repealed by the General Assembly in 2005. This exemption and refund is modeled after the exemption and refund for State agencies.

The final item of the report includes a Committee Recommendation for the General Assembly to authorize the issuance of general obligation bonds to provide grants for public school capital outlay process. Please see attached Draft Report for this presentation in its entirety (*Attachment 5*).

Mr. Huie opened the floor to further discussion and questions. Representative Coleman asked how many city school systems exist, as it pertains to the recommendations regarding the levy of property taxes. Mr. Huie informed her that about 15 city school systems exist in North Carolina. Representative Coleman asked how much the local options would benefit the construction crisis compared to the collection of more property tax. Mr. Huie explained that while these figures were not available in the draft report, he would include revenue figures in the final report. Representative Goforth emphasized his concern with giving all local governments authority to impose impact fees – in fear that affordable housing would diminish, assuming that developers pass the cost on to the home buyer. Representative Goforth is also concerned about supporting a statewide bond referendum. He suggested that local governments should carry this responsibility. Representatives England asked how much an increase of \$.01 in the state sales tax would generate in bond indebtedness. Mr. Huie explained that the Fiscal Research Division would need to provide this information.

Committee Discussion

Mr. Huie briefed members on each individual proposal in depth asking for questions following each proposal.

Following discussion of Legislative Proposal (1), Representative Barnhart inquired about how counties would match the needs to the size of the impact fee. Mr. Huie explained that each county enacting an impact fee would be required to assess their needs on an annual basis. Representative Johnson asked why the impact fee charges by building rather than be square footage – so as not to impact affordable housing. Mr. Huie said that factoring in square footage, instead of a ‘per building’ measurement, would deem the revenue source a tax and not a fee. Representative Wilkins asked whether or not the six counties currently levying a land transfer tax are levying the maximum. Mr. Huie confirmed that they are all levying at the maximum rate. Representative Wilkins asked if any of these counties have capped the tax. Mr. Huie said that he would find out. Representative Coleman, regarding Section 3 of the first proposal, asked about enacting APFOs in parts of a county with high needs, but not in other areas of a county. Mr. Huie confirmed that it is possible to use this legislation for serving the construction needs of parts of the county, but not all, through dividing the county into zones. Representative Barnhart inquired about existing ordinances that would serve the same purpose as AFPOs. Mr. Huie explained that while there are local ordinances of this nature, the intent of this section of the proposal is to clarify the law by giving all counties this authority – so that there is no question as

to whether or not counties have this authority. There were no further questions and concerns regarding the first proposal.

Mr. Huie explained details of the second proposal – the local option sales tax for education, compared to the other options. This tax, as he explained is based on the point of origin and can only be spent on public school construction. Mr. Huie entertained questions from the committee. Representative Carney asked if there is a sunset set by the state. Mr. Huie said that it is up to the committee as to whether to mandate a sunset to leave the locals with discretion. Representative Carney cited the Georgia example, where state lawmakers set a sunset and increased the public buy-in. Representative Johnson asked about enforcement of the legislation. Mr. Huie admitted that enforcement would be difficult. Representative Howard asked if the proposal could be revised to allow locals to use this option to pay on recent bond debt – by extending the retirement period of indebtedness by more than five years. Representative Wilkins asked about the intent of the proposal. There were no further questions.

Mr. Huie gave a brief explanation of the third proposal and then the fourth. There were questions for clarification. Representative Carney asked what happens in a capital lease situation to the building. Mr. Huie noted that this would be decided by locals in the original contract.

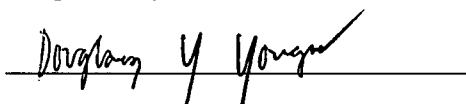
The next proposal for discussion – Streamline School Construction Approval – was explained in detail by Mr. Huie. Following discussion of the final proposal – LEA Sales Tax Refund and Exemption – Mr. Huie took final questions from the committee. Chairman Yongue asked if the university system and community colleges are exempt. Mr. Huie said that he would find out.

The last recommendation for discussion was a recommendation to the 2007-2008 General Assembly for a statewide bond referendum. Chairman Yongue noted that the Education: Everybody's Business Coalition is meeting around the state to gain public discourse about the issue. Representative Johnson and Chairman Yongue encouraged members to attend the meetings closest to their districts – because of the informative nature of the sessions. Representative Johnson stressed the need for the committee to recommend a bond referendum and have a voice in the process – though there is no legislative proposal, given the unknown debt affordability of the state.

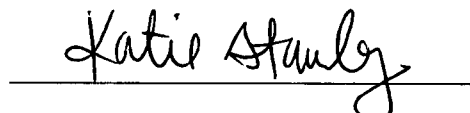
With final comments, Representatives Howard and Goforth expressed their concerns with the first proposal. Representative Jones expressed the need to leave this in the hands of voters to decide. Representative Howard asked Mr. Huie to present the available revenue figures for each proposal. Representative Bell encouraged the committee to consider the proposals in order to give county commissioners and locals the financing options that they want.

With no further discussion, Chairman Yongue announced the January 22, 2007 date for a final meeting and adjourned at 12:20 pm.

Respectfully submitted,



Douglas Y. Yongue, Chair



Katie Stanley, Committee Assistant

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
AGENDA

Tuesday, January 9, 2007
Room 544, Legislative Office Building
10:00 a.m.

I. Welcoming Remarks

Rep. Doug Yongue

II. Approval of the Minutes from December 13

III. Presentation of the Draft Report

Canaan Huie, Legislative Drafting Division

- Executive Summary
- Legislative Proposal 1, Local Development Options.
- Legislative Proposal 2, Local Option Sales Tax for Education
- Legislative Proposal 3, Extend Local Sales Tax Earmarking for Schools
- Legislative Proposal 4, Property Tax – School Capital Leases
- Legislative Proposal 5, Streamline School Construction Approval
- Legislative Proposal 6, LEA Sales Tax Refund and Exemption

IV. Committee Discussion

V. Adjournment

Future Meeting Date: Tuesday, January 22, 2007 (Room 544) at 10 a.m.

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction 01/09/2007

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JASON COURNOYER	NC PolicyWATCH
David Crawford	AIA North Carolina
Heather Blackley	Greater Raleigh Chamber of Commerce
Mary Ann	EGHS
Ashley Malloch	EGHS
Jeff Miron	Civitas
Chris Hyes	Civitas
EK SPREUKER	DOI
Ben Matthew	NCDPI
Mark HAYSTON	IC
Rita L. Joyner	SBE

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction

01/09/2007

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Zany Wilson

SBE

Payton MAYHARD

GMS

Josan HARRISON

WC PSS

Joel HARRIS

AMB

Katherine W. Joyce

NCASA

Rebecca Troutman

NCACC

Molly Ryan

NCSBA

Bill O'Donnell

NCSBA

DAVE SIMPSON

CAVC

VISITOR REGISTRATION SHEET

House Select Committee/Public School Construction 01/09/2007

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS

House Select Committee on Public School Construction Funding Report – Executive Summary

Y. Canaan Huie
Legislative Drafting Division
January 9, 2007

Executive Summary

- Committee Proceedings
- Committee Recommendations and Legislative Proposals

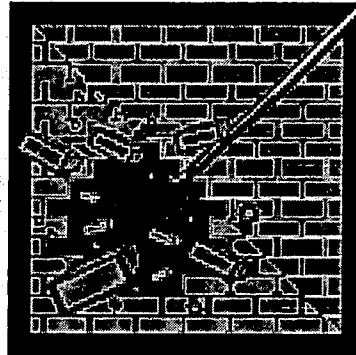


Committee Activities

- Public School Facility Needs
- Existing Sources of Funding
- Approval Process
- Debt Affordability
- APFOs and Impact Fees
- Different Construction Methods

Public School Facility Needs

- \$9.7 billion in public school facility needs statewide
- Every LEA has at least \$1 million in needs
- 11 LEAs have over \$200 million in needs each



Existing Sources of Funding

- State Recurring Sources
 - Public School Building Capital Fund
 - Corporate Income Tax Receipts
 - Lottery Proceeds
- Local Recurring Sources Generally Available
 - Property Taxes
 - Supplemental School Taxes
 - Local Sales and Use Taxes

Existing Sources of Funding

- Local Recurring Sources with Limited Availability
 - Excise Tax on Conveyances
 - Impact Fees
 - School District Levied Property Taxes
- One-Time or Occasional Sources of Funding
 - General Obligation Debt
 - Special Indebtedness

Existing Sources of Funding

- Alternative Financing Options
 - Operating Leases
 - Capital Leases



Approval Process for Public School Construction

- Four State agencies play a role in public school construction approval
 - Department of Public Instruction
 - Department of Environment and Natural Resources
 - Department of Transportation
 - Department of Insurance

Debt Affordability

- Each year the Debt Affordability Advisory Committee issues recommendations regarding the debt level
- 2006 recommendations
 - No more than \$214 million per year for the following 5 years
 - General Assembly authorized \$719 million in 2006
- 2007 recommendation due by February 1

APFOs and Impact Fees

- Growth management tools
- Designed to ensure that new development pays for needed improvements to local infrastructure.
- Impact fees are designed to fully or partially offset the costs of new development
- APFOs are designed to ensure that adequate facilities exist when the development is completed

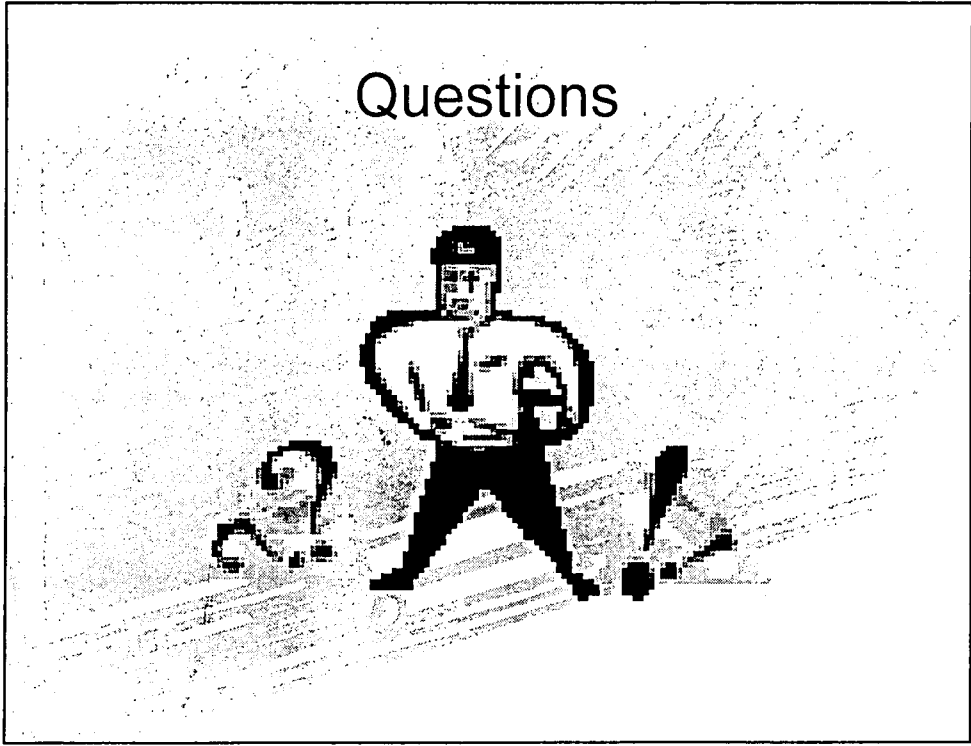
Different Methods of Construction

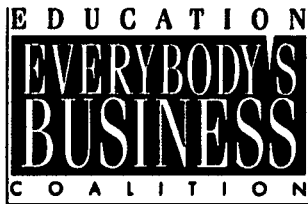
- Many different options for providing for new student space
 - New construction
 - Renovations to existing school
 - Re-adapting other structures to school usage
 - Mobile facilities
- Costs of new construction and adaptive re-use are similar and higher than renovations or mobile facilities
- But, there may be special issues with respect to renovation or mobile facilities

Legislative Proposals

1. Local Development Options
2. Local Option Sales Tax for Education
3. Extend Local Sales Tax Earmarking for Schools
4. Property Tax – School Capital Leases
5. Streamline School Construction Approval
6. LEA Sales Tax Refund and Exemption
7. Support for a statewide bond referendum and legislative infrastructure committees

Questions





NC Association of School Administrators
NC Citizens for Business & Industry
NC Council of Chambers of Commerce
NC School Boards Association
Public School Forum of NC

For Immediate Release

**Contact: Jo Ann Norris
919-781-6833 ext. 106**

Education: Everybody's Business Coalition to Hold Public Forums on School Facility Needs

The Education: Everybody's Business Coalition is inviting the state's governmental, business and education leaders to a series of public forums in January to learn about a real and immediate crisis regarding public school facilities. Among those invited to these forums are legislators, county commissioners, business leaders, educators and other concerned citizens.

"Our coalition, which includes education groups and the business leadership of our state, believes we have reached a 'Crisis in the Classroom' with regard to the deplorable conditions that too many of our students and teachers face daily in public school facilities," said Jo Ann Norris, Chair of the Coalition and Associate Executive Director of the Public School Forum.

The most recent estimate of public school facility needs, which was revised this summer and made public in October, identified \$9.7 billion in school facility needs statewide over the next five years. The assessment, conducted by the Department of Public Instruction with the cooperation of school boards and county governments across the state, also showed that every county has at least \$1 million in needs for school facility construction, renovations or additions.

"Many education and government leaders believe the 2006 estimates are low," Norris said. "Our coalition agrees, and we believe this issue requires a bold solution similar to the \$1.8 billion state bond referendum that was authorized by the General Assembly and overwhelmingly approved by the voters in 1996. It is time for the state to think again about stepping in to ensure our 1.4 million K-12 students have the kinds of learning environment they deserve."

Just a few facts help to underscore the immediacy of this crisis:

1. We now house more than 178,000 children in more than 7,000 mobile units and those numbers are growing every year;
2. We will need at least 266 new schools and more than 4,900 new classrooms at existing schools;
3. The total statewide capital facility needs have *increased* more than 57% since the 2000/2001 assessment;
4. The lottery is expected to produce no more than \$850 million for school construction in this period, or less than 10% of the total need;
5. Many counties simply lack the financial capacity to deal with this problem;
6. Our commitment to class size reductions and expansion of early childhood programs is creating additional needs for classrooms and new school buildings.

"The time to address this crisis is now, and we hope the forums we are planning across the state will emphasize the need for the state to put another statewide bond referendum for public schools before North Carolina voters at the earliest possible date," Norris said.

A listing of the dates and locations for the public forums is attached.

Coalition members supporting the efforts to launch a statewide school bond campaign are NC Association of School Administrators, NC Citizens for Business & Industry, NC Council of Chambers of Commerce, NC School Boards Association and Public School Forum of NC.

Education: Everybody's Business Coalition
Regional Public Forums

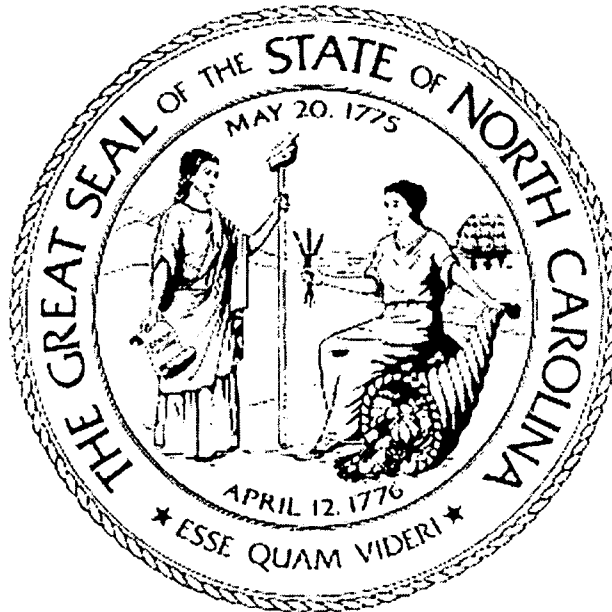
All Public Forums are from 6:00 pm to 7:30 pm

Education Region

- | | | | |
|----------|---|---|------------------------|
| 1 | John Holmes High School
Edenton | 600 Woodard Street
Edenton, NC 27932 | Thurs., Jan. 18 |
| 2 | James Sprunt Com. College
Kenansville | Boyette Building, Rm. 113
Kenansville, NC 28349 | Wed., Jan. 10 |
| 3 | Nash County
Agricultural Center
Nashville | 1006 Eastern Avenue
Nashville, NC 27856 | Tues., Jan. 16 |
| 4 | Cumberland County
Education Resource Center
Fayetteville | 396 Elementary Drive
Fayetteville, NC 28306 | Mon., Jan. 22 |
| 5 | High Point Chamber
Of Commerce
High Point | 1634 N. Main Street
High Point, NC 27262 | Thurs., Jan. 11 |
| | <i>(Extra parking past the Chamber of Commerce across from Time Warner)</i> | | |
| 6 | Bonnie Cone Center
McKnight Auditorium
UNC-Charlotte
Charlotte | 9201 University City Blvd.
Charlotte, NC 28223-0001 | Mon., Jan. 8 |
| | <i>(Park in deck adjacent to the Center. Token will be given in the meeting.)</i> | | |
| 7 | Holiday Inn Express
N. Wilkesboro | 1700 Winkler Street
Wilkesboro, NC 28697 | Thurs., Jan. 11 |
| 8 | A.B. Tech Community College
Enka Campus | Harvey Haynes Conference Center
1459 Sand Hill Road
Enka, NC 28728 | Wed., Jan. 10 |

DRAFT REPORT – FOR REVIEW ONLY

House Select Committee on
Public School Construction Funding



REPORT TO THE 2007
GENERAL ASSEMBLY OF NORTH CAROLINA

DRAFT REPORT – FOR REVIEW ONLY

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY

ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

THE REPORT IS ALSO AVAILABLE ON-LINE:
<http://www.ncleg.net/LegLibrary/>

DRAFT REPORT – FOR REVIEW ONLY

TABLE OF CONTENTS

Letter of Transmittal	i
Committee Membership	ii
Committee Proceedings	1
Committee Recommendation and Legislative Proposals	11
1. AN ACT TO AUTHORIZE ALL COUNTIES TO IMPOSE IMPACT FEES AND LAND TRANSFER TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES AND TO ENACT ADEQUATE PUBLIC FACILITIES ORDINANCES.	13
2. AN ACT TO AUTHORIZE COUNTIES TO LEVY ONE-HALF CENT LOCAL SALES AND USE TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES, IF APPROVED BY THE VOTERS OF THE COUNTIES.....	25
3. AN ACT TO EXTEND THE EARMARKING OF A PORTION OF THE PROCEEDS OF THE FIRST AND SECOND ONE-HALF CENT LOCAL SALES AND USE TAXES FOR AN ADDITIONAL FIVE YEARS.....	31
4. AN ACT TO EXCLUDE FROM PROPERTY TAX REAL AND PERSONAL PROPERTY THAT IS SUBJECT TO A CAPITAL LEASE WITH A LOCAL SCHOOL ADMINISTRATIVE UNIT.....	35
5. AN ACT TO STREAMLINE THE PROCESS FOR APPROVAL OF SCHOOL FACILITY CONSTRUCTION AND RENOVATION PLANS.....	39
6. AN ACT ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL ADMINISTRATIVE UNITS AND REENACTING THE SALES AND USE TAX REFUND FOR LOCAL SCHOOL ADMINISTRATIVE UNITS.....	45

DRAFT REPORT – FOR REVIEW ONLY

APPENDICES

- A. Committee Authorization
- B. Committee Agendas

DRAFT REPORT – FOR REVIEW ONLY



*HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION FUNDING
State Legislative Building
Raleigh, North Carolina 27603*

January 24, 2007

TO THE MEMBERS OF THE 2006 GENERAL ASSEMBLY:

The House Select Committee on Public School Construction Funding submits to you for your consideration its report.

Respectfully Submitted,

Rep. Douglas Y. Yongue, Chair

DRAFT REPORT – FOR REVIEW ONLY

2005-2006

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION FUNDING

MEMBERSHIP

Rep. Douglas Y. Yongue, Chair
Rep. Linda P. Johnson, Vice-Chair
Rep. Earl Jones, Vice-Chair
Rep. Marvin W. Lucas, Vice-Chair
Rep. Martha B. Alexander
Rep. Jeff Barnhart
Rep. Larry Bell
Rep. Becky Carney
Rep. Linda Coleman
Rep. Bob England, M.D.
Rep. Dale R. Folwell
Rep. Bruce Goforth
Rep. Larry D. Hall
Rep. Julia C. Howard
Rep. Edd Nye
Rep. Garland E. Pierce
Rep. William L. Wainwright
Rep. Roger West
Rep. W.A. (Winkie) Wilkins
Rep. Arthur Williams
Rep. Michael H. Wray

Staff:

Katie Stanley, Committee Clerk

Cindy Avrette, Staff Attorney

Y. Canaan Huie, Staff Attorney

Adam Levinson, Fiscal Analyst

DRAFT REPORT – FOR REVIEW ONLY

COMMITTEE PROCEEDINGS

The House Select Committee on Public School Construction Funding met four times after the adjournment of the 2006 Regular Session of the 2005 General Assembly on July 28, 2006. *Appendix B* contains a copy of the Committee's agenda for each meeting. The Committee studied a number of issues relating to public school construction funding, including the public school facilities needs in the State, current sources of funding for public school construction in North Carolina and other states, the approval process for construction of new public schools, the recommendations of the Debt Affordability Advisory Committee, the effect of adequate public facilities ordinances and impact fees, and the costs of alternative types of construction.

PUBLIC SCHOOL FACILITIES NEEDS

North Carolina law (G.S. 115C-521) requires local boards of education to submit their plans for meeting long-range school facilities needs to the State Board of Education every five years. The Department of Public Instruction facilitates this quintennial survey and compiles the results in a report. The Department of Public Instruction issued its most recent report in 2006 and found that the 115 local education agencies (LEA) had combined facility needs over the next five years of over \$9.72 billion. The report noted that every LEA had at least \$1 million in facility needs and that eleven LEAs¹ each had facility needs in excess of \$200 million. The figures include needs for new schools (\$4.268 billion), renovations to existing buildings (\$2.273 billion), additions to existing building (\$2.242 billion), furnishings and equipment (\$754 million), and land (\$191 million). These needs represent a substantial increase in public school facilities needs since the last quintennial survey in 2000, which found needs of \$6.98 billion.

EXISTING SOURCES OF FUNDING FOR SCHOOL FACILITIES NEEDS

¹ Wake County -- \$1.447 billion; Mecklenburg County -- \$910 million; Guilford County -- \$475 million; Gaston County -- \$417 million; Durham County -- \$348 million; Forsyth County -- \$313 million; Onslow County -- \$253 million; Union County -- \$232 million; Wayne County -- \$219 million; Johnston County -- \$218 million; and Cabarrus County -- \$211 million.

DRAFT REPORT – FOR REVIEW ONLY

At its first meeting on October 26, the Committee examined numerous sources of funding for public school construction. The Committee looked at recurring State sources of funding, recurring local sources of funding that are generally available throughout the State, recurring local sources of funding that are available only to a limited number of localities, one-time or occasional sources of funding that are available from the State or local governments, and financing options that can provide school districts with alternative means of providing for public school facilities needs. These various sources of funding are outlined below.

Recurring Sources of State Funding. For the most part, the provision of public school facilities is a local responsibility in North Carolina. The State, on the other hand, is generally responsible for the operating expenses associated with public education. However, there are several recurring sources of State aid for public school construction purposes. The Public School Building Capital Fund is funded by corporate income tax receipts and lottery proceeds. The Public School Building Capital Fund serves as the conduit for transferring both of these sources of funds from the State to school districts, but the allocation formulas are different depending on the source of the funding.

Beginning in 1987, the State began to earmark the proceeds derived from of ½% percentage point of the corporate income tax receipts for the Public School Building Capital Fund. The amount of this earmarking has risen and fallen over the years in conjunction with corporate income tax receipts. The amounts in the Fund derived from corporate income tax receipts are allocated to all LEAs based on the average daily memberships (ADM) of the agencies. The State funds allocated to a LEA that are not used in a given year accrue to the benefit of that LEA. State funds derived from corporate income tax receipts require a 1/3 local match and may be used for a variety of construction purposes or school technology needs.

In 2005, the General Assembly authorized the North Carolina Education Lottery, a portion of the proceeds of which are earmarked for public school construction purposes. Forty

DRAFT REPORT – FOR REVIEW ONLY

percent of the net proceeds of the lottery² are distributed to the Public School Building Capital Fund for school construction purposes. The funds derived from lottery proceeds are treated differently from funds derived from corporate income tax receipts. Sixty-five percent of these funds are distributed to the LEAs based solely on ADM. The remaining thirty-five percent of these funds are distributed to the LEAs that are located in counties that have an effective property tax rate³ higher than the State average effective property tax rate. As with corporate income tax receipts, an amount allocated to a LEA that is not used in a given year accrues to the benefit of that LEA. Unlike with funds derived from corporate income tax receipts, the funds derived from lottery proceeds do not require a local match and may not be used for school technology needs. With the funds derived from lottery proceeds there is an additional restriction that the funds may not be used to retire indebtedness incurred for school construction purposes before January 1, 2003.

Recurring Sources of Local Funding Generally Available. Currently counties have several sources of recurring funding that may be used for financing public school construction. The following sources are available in all counties throughout the State.

- Property taxes. All counties are authorized to levy property taxes to provide for public schools without any limitation as to the rate or amount of tax imposed. Property taxes represent the single largest source of revenue for county governments. On average, property taxes account for roughly 70% of a county's tax revenue and between 38% and 55% of a county's budget⁴. Nominal and effective tax rates in the State vary significantly from county to county. Nominal tax rates range from a low of 0.26% in Dare County (effective tax rate of 0.2154%) to a high of 1.1% in Scotland County (nominal tax rate of 1.005%).

² Under State law, the net proceeds of the lottery (after all winnings and administrative expenses are covered) must total at least 35% of the gross revenues of the lottery.

³ The effective tax rate takes into account not only the nominal tax rate but the change in the fair market value in the county since the last revaluation.

⁴ The difference in percentages is due to the fact that counties have additional sources of revenue, such as fees and State and federal aid.

DRAFT REPORT – FOR REVIEW ONLY

- Supplemental School Taxes. All counties are currently authorized to levy supplemental school taxes in the county as a whole or in a particular district in the county for the support of public schools⁵. Supplemental school taxes are essentially an additional property tax which may only be used for the support of public schools. The tax rate is limited to 0.5% (0.6% if the LEA or district has a population of at least 100,000). The local board of education may petition the board of county commissioners to levy the additional tax, which requires voter approval.

- Local Sales and Use Taxes. All counties are authorized to levy local sales and use taxes at a rate of 2.5%⁶. The taxes must be imposed in one increment of 1% and three subsequent increments of ½% each. The tax proceeds are shared with the municipalities in the county based on one of two formulas chosen by the county, one of which is based on relative populations and the other of which is based on relative assessed property values. A portion of the county proceeds from each of the first two ½% levies must be used for public school capital outlay purposes. For the first ½% levy, the county must use at least 30% of its portion of the proceeds for public school capital outlay purposes⁷. For the second ½% levy, the county must use at least 60% of its portion of the proceeds for public school capital outlay purposes. There is nothing that would prevent a county from using a greater share of its sales and use tax proceeds for these purposes.

Recurring Source of Local Funding Available in Only Certain Areas. Certain counties in the State have authority to enact different types of tax or fee legislation. In North Carolina, counties are considered subunits of the State and therefore have only the authority specifically granted to them by the State. The revenue options discussed in this section have been approved in local legislation for certain areas only.

⁵ If these taxes are levied in a district only, they may be used only for schools within that district.

⁶ Several counties have been authorized by the General Assembly to impose an additional local sales and use tax. Currently, only Mecklenburg County imposes an additional sales and use tax. That tax rate is limited to ½% and the proceeds of that levy may be used for public transportation purposes only.

⁷ For the first five years for which the tax is in effect, the county is required to use 40% of its proceeds for public school capital outlay purposes. All counties have now had the tax in effect for over five years and therefore are now subject to the 30% requirement.

DRAFT REPORT – FOR REVIEW ONLY

- Excise Tax on Conveyances. Excise taxes on conveyances are known by a number of names, including deed stamp tax and land transfer tax. The State currently has an excise tax on conveyances equal to 0.2% of the value of the interest in land transferred. The counties collect this tax and retain one-half of the proceeds. In addition, seven counties⁸ have received authorization from the General Assembly to levy a local excise tax on conveyances. Although there are some differences among the local acts authorizing the taxes, all of those acts set the tax rate at 1% and require that the proceeds be spent on capital needs. No new local excise taxes on conveyances have been approved since 1989.
- Impact Fees. Impact fees are imposed by a jurisdiction to offset the costs of growth in the jurisdiction. An impact fee is structured so that new housing unit pays a proportionate share of the costs of new infrastructure necessitated by the growth. To date, only three counties⁹ have been authorized to levy impact fees. For counties, impact fees are imposed to offset not only the costs of additional school facilities, but other infrastructure needs such as water and sewer and parks and recreation facilities. No new impact fees have been authorized since 1991.
- School Districts Levying Property Taxes. There are three local school administrative units¹⁰ that are allowed to levy and collect their own property taxes. Each of those school districts received that authority under a local act. In addition, due to a provision of the North Carolina Constitution, the districts were granted the power to levy property taxes only after approval by the voters in the district.

One-Time or Occasional Sources of Funding. From time to time, the State or local governments will provide non-recurring sources of funding for public school construction. Although this could take the form of a special appropriation from the State, this non-recurring infusion of

⁸ Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, and Washington. Although authorized, the tax has never been levied in Washington County.

⁹ Catawba, Chatham, and Orange. In addition, 22 municipalities have been authorized to impose impact fees.

¹⁰ Mooresville, Roanoke Rapids, and Weldon.

DRAFT REPORT – FOR REVIEW ONLY

funds generally comes as the result of the issuance of State or local general obligation bonds or local special indebtedness.

- General Obligation Bonds. General obligation bonds are a pledge of the full faith and credit and taxing power of an entity. This means that the jurisdiction pledges to repay the indebtedness from any source of funds available and to raise taxes, if need be, to cover this repayment. General obligation bonds may only be issued if approved by the voters. In addition, before a local government may issue general obligation bonds, the Local Government Commission must approve the issuance.

The State has issued general obligation bonds twice in the last 35 years to provide for public school facilities. In 1973, the General Assembly and the voters approved the issuance of \$300 million of general obligation bonds for school construction purposes. In 1996, the General Assembly and the voters approved the issuance of \$1.8 billion of general obligation bonds for school construction purposes.

In addition, local governments have made extensive use of general obligation debt to finance public school capital outlay projects. Since 1995, 74 of 93 bond referenda for public school capital outlay projects have passed (almost an 80% passage rate). These referenda have authorized the issuance of over \$7.19 billion of local general obligation bonds. In 2006, five of six local general obligation bond referenda were approved (totaling over \$1.42 billion)¹¹.

- Special Indebtedness. Commonly referred to as "certificates of participation," special indebtedness is nonvoted debt that maybe secured only by an interest in the property being acquired or improved. There is no pledge of the State's or local government's faith and credit or taxing power to secure the debt. Thus, voter approval is not necessary for the borrowing. If the State or local government defaulted on its repayments, no deficiency judgment could be rendered against the entity, but the property that serves as security could be disposed of to generate funds to satisfy the

¹¹ Wake County -- \$970 million; Forsyth County -- \$250 million; Union County -- \$184.5 million; Lenoir County -- \$50 million; and Hoke County -- \$20 million. A \$45 million bond referendum in Franklin County was defeated.

DRAFT REPORT – FOR REVIEW ONLY

debt. The State or local government could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the entity's credit rating.

All counties currently have the authority to acquire or improve real property for school facilities. Subject to approval of the Local Government Commission, counties may issue special indebtedness to acquire and improve real property for these purposes.

Alternative Financing Options. In addition to the funding options listed above, local school administrative units have the option of entering into two types of financing arrangements to provide for public school facilities. Local school administrative units are currently allowed to enter into either operating or capital leases to provide for school facilities. As a practical matter, an operating lease or a capital lease will generally require the local school administrative unit to receive the approval of both the board of county commissioners and the Local Government Commission before entering into the lease.

APPROVAL PROCESS FOR PUBLIC SCHOOL CONSTRUCTION

The Committee looked at the approval process related to new school construction plans. In addition to the Department of Public Instruction, the Department of Transportation, the Department of Environment and Natural Resources, and the Department of Insurance all play a role in evaluating construction plans for new schools. The Department of Transportation evaluates plans to determine their effect on local traffic patterns and to evaluate the potential of providing other safe routes (such as sidewalks and bike paths) to schools. The Department of Environment and Natural Resources first evaluates projects as it would any other large project for the effects of sediment run-off during construction. In addition, the DENR may conduct further permitting or review based on the specific location where the school is to be located¹². The Department of Insurance has a duty to inspect any building to be owned by a city, county, or school district before construction begins to determine if the plans are in accord

¹² For example, if the building would impact wetlands or a review of the water and wastewater capacity if the school will not be part of a public water system.

DRAFT REPORT – FOR REVIEW ONLY

with fire safety standards, if the building is in excess of 10,000 square feet. In all, the approval process for public school construction plans often spans months before construction may begin.

DEBT AFFORDABILITY

The Committee heard from the State Treasurer about the work of the Debt Affordability Advisory Committee. In 2004, the General Assembly created a Debt Affordability Advisory Committee to annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee must undertake an annual debt affordability study and establish guidelines for evaluating the State's debt burden. The Committee consists of the State Treasurer, the Secretary of Revenue, the State Budget Officer, the State Auditor, the State Controller, and four members of the public - two appointed by the President Pro Tempore of the Senate and two appointed by the Speaker of the House of Representatives. The State Treasurer serves as the chair of the Committee and the Committee meets upon the call of the chair. The Committee must report its findings and recommendations to the Governor, the General Assembly, and the Fiscal Research Division by February 1 of each year.

The study compiled by the Debt Affordability Advisory Committee evaluates the State's current and projected debt burden using indicators such as tax-supported debt to personal income, debt per capita, debt service to tax revenue, and rapidity of principal repayment ratios. The study recognizes that debt capacity is a limited and scarce resource and that an evaluation of the State's debt position can help policymakers evaluate the long-term impact of financing decisions and assist in prioritizing capital spending.

In 2006, the Debt Affordability Advisory Committee released a report recommending that the State issue no more than \$214.4 million in State tax-supported debt in each of the following five fiscal years. In 2006, the General Assembly authorized the issuance of a total of \$719.2 million of State debt over the following four fiscal years¹³, using much of the then

¹³ The timing of the debt authorizations were specified in the authorizations so that the issuance of the debt would be spread out over those four years to comply with the Committee's recommendations.

DRAFT REPORT – FOR REVIEW ONLY

estimated debt capacity. The Debt Affordability Advisory Committee is expect to release new recommendations by February 1 based on updated information.

ADEQUATE PUBLIC FACILITIES ORDINANCE AND IMPACT FEES

The Committee heard a presentation regarding the legal status of adequate public facilities ordinances (APFO) and impact fees in North Carolina and their economic impacts.

An APFO is a growth management technique implemented by a local government to affect the timing of additional residential development. Under an APFO, a community must define the types of services to which the APFO applies and determine the level of service that the community wishes to provide. The community must then determine whether that level of services will be available once the new development is fully operational. If the service level is adequate, the development is approved. If the service level is inadequate, the development is either stalled or, in some cases, a fee or land dedication is required. Under an impact fee, a community must determine the impact of a proposed development on community services and assess a fee against the development to cover all or a portion of the increased governmental costs associated with the development.

It is clear under North Carolina law that local governments do not have independent authority to levy impact fees; they must be specifically authorized by the General Assembly¹⁴. The legal authority to enact an APFO in North Carolina is unclear as the issue has never been specifically addressed by the courts. Because an APFO will usually result in the payment of a 'voluntary' fee or in delayed development (when it is found that the service level is insufficient), there is cause for concern. The General Assembly has provided for specific procedures for a local government to impose a development moratorium. The courts have ruled that the counties do not have authority to impose a mandatory fee absent legislative approval. Unless the procedures specified by the General Assembly for declaring a development moratorium are met, one could argue that an APFO violates current law¹⁵.

¹⁴ *Durham Land Owners Association v. County of Durham*, 360 N.C. 532 (2006).

¹⁵ Cabarrus County has been given specific authority to enact an APFO in local legislation.

DRAFT REPORT – FOR REVIEW ONLY

Economic research suggests that the impact fees and APFOs often have some unintended consequences. First, research suggests that the costs of impact fees and APFOs are borne by homebuyers and sellers of undeveloped land - generally not by the developers themselves. Second, the average increase in the price of a home after an impact fee is imposed is greater than the amount of the fee. Third, by slowing additional development, impact fees and APFOs often put upward pressure on the prices of existing housing, thereby benefiting existing homeowners and increasing the local government's property tax base.

DIFFERENT METHODS OF PROVIDING FOR SCHOOL FACILITIES

The Committee looked at different types of construction methods that can be used to provide for 'new' school facilities. These include new construction, renovation or additions to existing school facilities, converting existing structures into school facilities, and the use of mobile facilities. The Committee learned that all of these methods of providing for additional pupil space are used, particularly in the larger and faster-growing districts. The Committee learned that new construction and adaptive re-use often have similar cost structures. While renovation and mobile construction are often cheaper, there may be special issues with respect to those types of projects less desirable¹⁶.

¹⁶ For example, school buildings designed in the 1940's or 1950's may not reflect the security needs of today's schools. There may be no good way of renovating the existing structure without significantly increasing costs to the level that new construction would be more cost-efficient.

DRAFT REPORT – FOR REVIEW ONLY

COMMITTEE RECOMMENDATIONS AND LEGISLATIVE PROPOSALS

The House Select Committee on Public School Construction Funding finds that needs with respect to public school facilities are great and critical; and, therefore, recommends that the General Assembly authorize the issuance of general obligation bonds to provide grants for public school capital outlay purposes. The Commission is mindful of the State's judicious use of debt financing and of potential competing interests for the State's debt capacity. In addition, the Commission is aware that the Debt Affordability Advisory Committee will issue new recommendations with respect to debt capacity in February 2007. For these reasons, the Commission does not recommend a specific dollar amount for the general obligation bond authorization. That determination needs to be made once the General Assembly has the benefit of the findings of the Debt Affordability Advisory Committee. The Committee recognizes that the State has many important issues to address with respect to future infrastructure needs. Therefore, the Commission recommends that both chambers of the General Assembly establish a committee at the start of the 2007 Regular Session to address the State's infrastructure needs including public schools, conservation, water and sewer, transportation, universities and community colleges, and affordable housing and to develop a bond and dedicated funding package to meet these overall needs.

In addition, the Committee makes the following six recommendations to the 2007 General Assembly. Each proposal is followed by an explanation.

1. Local Development Options.
2. Local Option Sales Tax for Education.
3. Extend Local Sales Tax Earmarking for Schools.
4. Property Tax – School Capital Leases.
5. Streamline School Construction Approval.
6. LEA Sales Tax Refund and Exemption.

LEGISLATIVE PROPOSAL 1

LOCAL DEVELOPMENT OPTIONS

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 1

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

**AN ACT TO AUTHORIZE ALL COUNTIES TO IMPOSE IMPACT FEES AND
LAND TRANSFER TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY
PURPOSES AND TO ENACT ADEQUATE PUBLIC FACILITIES ORDINANCES.**

SHORT TITLE: Local Development Options

SPONSORS:

BRIEF OVERVIEW: This bill would authorize counties to enact impact fees, land transfer taxes, and adequate public facilities ordinances.

FISCAL IMPACT:

EFFECTIVE DATE: When it becomes law.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

DRAFT REPORT – FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

D

BILL DRAFT 2007-LYxz-23 [v.2] (1/8)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/9/2007 8:34:42 AM

Short Title: Local Development Options.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ALL COUNTIES TO IMPOSE IMPACT FEES AND LAND TRANSFER TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES AND TO ENACT ADEQUATE PUBLIC FACILITIES ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Subchapter to read:

"SUBCHAPTER X. LOCAL OPTION COUNTY TAXES

"Article 60.

"Land Transfer Tax.

"§ 105-600. Short title.

This Article is the County Land Transfer Tax Act.

"§ 105-601. Levy.

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution, levy a local land transfer tax on instruments conveying interests in real property located in the county, up to a rate of one percent (1%). The tax applies to the consideration or value, whichever is greater, of the interest conveyed, including the value of any lien or encumbrance remaining on the property at the time of sale. The levy of the tax may become effective only on the first day of a calendar month set in the resolution levying the tax, which may not be earlier than the first day of the second succeeding calendar month after the date the resolution is adopted.

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local land transfer tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

DRAFT REPORT – FOR REVIEW ONLY

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

'[] FOR [] AGAINST

real property transfer tax at the rate of up to one percent (1%) of value or consideration to be used for public school capital outlay purposes.'

(d) Effect on Local Act. – If a county levies a land transfer tax under this Article, that county may not also levy a land transfer tax under a local act. This section does not repeal any local act authorizing a county to levy a land transfer tax. However, a county's levy of a land transfer tax under this Article automatically removes the county's authority to levy a land transfer tax under a local act. Repeal of a county's land transfer tax levied under this Article does not revive the county's authority to levy a land transfer tax under a local act.

"§ 105-602. Administration.

(a) Resolution. – The board of county commissioners must, upon adoption of a resolution levying a tax under this Article, immediately deliver a certified copy of the resolution to the register of deeds of the county, accompanied by a certified statement from the county board of elections setting forth the results of the special election approving the tax in the county. Upon receipt of these documents, the register of deeds shall administer the tax in the county as provided in this Article.

(b) Scope. – A tax levied under this Article does not apply to transfers exempt pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of this Chapter.

The tax is in addition to the tax levied by Article 8E of this Chapter. A tax levied under this Article applies to transfers of interests in real property located within the county. If the property is located in two or more counties, a transfer of an interest in the property is taxable only by the county in which the greater part of the property, with respect to value, lies.

(c) Administration. – A tax levied under this Article is payable by the transferor of the interest. Except as otherwise provided in this Article, the provisions of G.S. 105-228.31 through G.S. 105-228.36 apply to a tax levied under this Article. The county must provide metering or similar equipment for the collection of the tax in lieu of the use of tax stamps.

(d) Repeal or Reduction. – A county may, by resolution, repeal or reduce the rate of a tax levied under this Article. Repeal or reduction of the tax must become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal or reduction resolution was adopted. Repeal of a land transfer tax, or reduction of its rate, under this Article does not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(e) Use. – A county may use the proceeds of a tax levied under this Article for public school capital outlay purposes only."

SECTION 2. The General Statutes are amended by adding a new Chapter to read:

"Chapter 159J.

"County Impact Fees.

"§ 159J-1. Purpose.

It is the purpose of this Chapter to place an equitable share of the cost of providing new community service facilities upon all new inhabitants and upon those associated with the development process.

"§ 159J-2. Definitions.

The following definitions apply in this Chapter:

DRAFT REPORT – FOR REVIEW ONLY

- (1) Capital costs. – Costs spent for developing community service facilities. Capital costs are limited to capital outlay items listed in the 'Uniform Local Government Accounting Systems' procedural manual prepared by the North Carolina Local Government Commission.
- (2) Community services facilities. – The following public facilities or improvements provided or established by the county or in conjunction with other units of government:
 - a. Water, sewer, and drainage projects.
 - b. Parks, open spaces, and recreational facilities.
 - c. Streets, sidewalks, thoroughfare rights-of-way, and public transit stations and capital equipment.
 - d. Emergency medical services facilities.
 - e. Fire stations.
 - f. Schools.
 - g. Cultural facilities, including libraries.
 - h. Solid waste collection, handling, disposal, and recycling.
- (3) Developer. – An individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (4) Impact fee. – The charge imposed upon new construction under this Chapter.
- (5) New construction. – Any new development, construction, or installation for which a building or zoning permit, a certification, or any other type of governmental approval is required. New construction includes the installation of a mobile home, factory-built housing, or modular housing. New construction does not include: (i) renovation and repair of existing structures, structures incidental to accessory uses, or additions, unless the renovation, repairs, or additions will cause an increase in off-street parking requirements or a change in occupancy as occupancy is defined by the North Carolina State Building Code; (ii) fences, billboards, poles, pipelines, transmission lines, advertising signs, or similar structures that do not generate a need for community service facilities.

"§ 159J-3. Imposition of impact fee.

(a) Vote. – The board of county commissioners may direct the county board of elections to conduct a special election on the question of whether to impose an impact fee in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election in a county concerning the imposition of an impact fee authorized by this Article must be in the following form:

'[] FOR [] AGAINST

county impact fees to be used only for the provision of new community service facilities.'

(c) Imposition. – If a majority of those voting in an election held pursuant to this Article vote for the imposition of an impact fee, a county may, for the purpose of placing an equitable share of the cost of providing new community service facilities upon developers and inhabitants of newly developed areas, impose an impact fee upon all new construction within the county for

DRAFT REPORT – FOR REVIEW ONLY

the purpose of placing an equitable share of the cost of providing community service facilities upon developers and inhabitants of newly developed areas.

"§ 159J-4. Amount of fee.

(a) The amount of each impact fee imposed shall be uniform and based upon the capital costs to be incurred by the county as a result of the new construction. In establishing the impact fee, the county may establish zones within which the costs of providing community service facilities are estimated. Zones may have different impact fees, depending upon the community service facilities available and the extent to which capital costs have been paid in each zone. Facilities upon which fees are based must directly result in additional capital costs, and fees must be expended within the same zone as or otherwise benefit the new construction upon which the fee is imposed. The board of county commissioners must hold a public hearing before it may establish the zones authorized in this section.

(b) The amount of each impact fee shall be based upon documented needs and upon specific classifications and rates that shall be uniformly applied. Classifications upon which fees are based must account for the costs and extent of the additional burden placed upon community service facilities by different types and sizes of new construction.

(c) Before imposing an impact fee, the county shall prepare, or have prepared, a report containing each of the following:

- (1) A description of the anticipated capital cost to the county of each additional or expanded community service facility necessitated by the new construction.
- (2) A description of the characteristics of the new construction that necessitate the additional or expanded community service facility, such as population, trip generation, stormwater runoff, and flow characteristics.
- (3) A plan for providing the community service facilities necessitated by the new construction.

"§ 159J-5. Enactment of ordinances.

A county may enact ordinances to exercise the authority granted by this Chapter. Before enacting any ordinance to exercise the authority granted by this Chapter, a county must hold a public hearing on the ordinance. Notice of the public hearing shall be given in accordance with G.S. 153A-323.

"§ 159J-6. Funds.

Funds for each community service facility for which an impact fee is collected shall be placed in a separate capital reserve fund under Part 2 of Article 3 of Chapter 159 of the General Statutes. Separate capital reserve funds shall be established for separate zones. All funds shall be expended for the facility for which they were collected. Payment of impact fees does not entitle the payer to any greater right to use or ownership in the facility for which the fee is collected than is shared by the general public.

"§ 159J-7. Credits for improvements.

An ordinance adopted under this Chapter shall provide for credits against required impact fees when a developer installs improvements of a type that generally would be paid for by the county out of a capital reserve account funded by impact fees. The ordinance may specify the circumstances under which a developer will be allowed to install improvements and receive credits.

"§ 159J-8. Effect on local acts.

If a county levies an impact fee under this Article, that county may not also levy an impact fee under a local act. This section does not repeal any local act authorizing a county to levy an

DRAFT REPORT – FOR REVIEW ONLY

impact fee. However, a county's levy of an impact fee under this Article automatically removes the county's authority to levy an impact fee under a local act. Repeal of a county's impact fee levied under this Article does not revive the county's authority to levy an impact fee under a local act.

"§ 159J-9. Challenge to impact fee.

To challenge an impact fee, a developer shall pay the amount charged by the county, clearly identify that payment is made under protest, and give notice of appeal within 30 days after the date that payment under protest is made. The notice required by this section shall be delivered by personal service or by registered or certified mail, return receipt requested, to the county manager or the chair of the county board of commissioners if the county does not have a county manager.

The board of county commissioners shall hold a public hearing to review the appeal within 30 days after receiving the notice of appeal. The decision of the board of county commissioners on the appeal is subject to review by the superior court of the county where the new construction is to occur, in the nature of certiorari. A petition for review by the superior court shall be filed with the Clerk of Superior Court within 30 days after the date that the board of county commissioners delivers its decision in writing, either by personal service, or by registered or certified mail, return receipt requested, to the appealing party."

SECTION 3. The General Statutes are amended by adding a new Chapter to read:

"Chapter 159K.

"County Adequate Public Facilities Ordinances.

"§ 159K-1. Purpose.

It is the purpose of this Chapter to allow counties to ensure that adequate public facilities are available before approving new development so that existing residents are not harmed by new development within a county.

"§ 159K-2. Definitions.

The following definitions apply in this Chapter:

- (1) Capital costs. – Costs spent for developing community service facilities. Capital costs are limited to capital outlay items listed in the 'Uniform Local Government Accounting Systems' procedural manual prepared by the North Carolina Local Government Commission.
- (2) Community services facilities. – The following public facilities or improvements provided or established by the county or in conjunction with other units of government:
 - a. Water, sewer, and drainage projects.
 - b. Parks, open spaces, and recreational facilities.
 - c. Streets, sidewalks, thoroughfare rights-of-way, and public transit stations and capital equipment.
 - d. Emergency medical services facilities.
 - e. Fire stations.
 - f. Schools.
 - g. Cultural facilities, including libraries.
 - h. Solid waste collection, handling, disposal, and recycling.
- (3) Developer. – An individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new development.

DRAFT REPORT – FOR REVIEW ONLY

- (4) Impact fee. – A charge imposed upon new development to offset the capital costs of providing new community services facilities.
- (5) New development. – Any new development, construction, or installation for which a building or zoning permit, a certification, or any other type of governmental approval is required. New development includes the installation of a mobile home, factory-built housing, or modular housing. New development does not include: (i) renovation and repair of existing structures, structures incidental to accessory uses, or additions, unless the renovation, repairs, or additions will cause an increase in off-street parking requirements or a change in occupancy as occupancy is defined by the North Carolina State Building Code; (ii) fences, billboards, poles, pipelines, transmission lines, advertising signs, or similar structures that do not generate a need for community service facilities.

"§ 159K-3. Enactment of adequate public facilities ordinance.

(a) Vote. – The board of county commissioners may direct the county board of elections to conduct a special election on the question of whether to enact an adequate public facilities ordinance in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election in a county concerning the imposition of an impact fee authorized by this Article must be in the following form:

'[] FOR [] AGAINST

county adequate public facilities ordinances to ensure the existence of adequate public facilities before the approval of new development'

(c) Imposition. – If a majority of those voting in an election held pursuant to this Article vote for the enactment of an adequate public facilities ordinance, a county may enact an ordinance limiting further development if it is determined that adequate community service facilities do not exist to serve the new development.

"§ 159K-4. Enactment of ordinance.

A county may enact an ordinance to exercise the authority granted by this Chapter. Before enacting any ordinance to exercise the authority granted by this Chapter, a county must hold a public hearing on the ordinance. Notice of the public hearing shall be given in accordance with G.S. 153A-323.

"§ 159K-5. Ordinance requirements.

(a) Delineation of Services. – An adequate public facilities ordinance shall contain a description of the community services facilities to which the ordinance will apply. An adequate public facilities ordinance may apply to all community service facilities or to only a subset of those facilities.

(b) Level-of-Service Standard. – Each county that enacts an adequate public facilities ordinance pursuant to this Chapter shall evaluate the needs of the county with respect to community services facilities and adopt a level-of-service standard the county deems appropriate. A county may establish separate zones within the county that may have different level-of-service standards.

(c) Evaluation. – An adequate public facilities enacted pursuant to this Chapter shall require an evaluation of the impact of new development on the level-of-service standard. A

DRAFT REPORT – FOR REVIEW ONLY

county that has established separate zones may elect to evaluate the impact of the new development at the level of the zone rather than at the level of the county as a whole.

(d) Adequacy Determination. – An adequate public facilities ordinance shall provide that if the county determines that the new development will not result in a violation of the level-of-service standard, the new development may be approved. The ordinance shall further provide that if the new development would result in a violation of the level-of-service standard, the county may either impose a moratorium on the new development or may assess an impact fee on the development to cover the capital costs of the new community services facilities necessitated by the development. An impact fee imposed by the county must comply with the requirements of G.S. 159J-4. A moratorium imposed on a development shall be accompanied by the following:

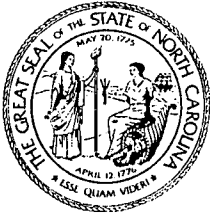
- (1) A clear statement of the problems or conditions necessitating the moratorium.
- (2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- (3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

"§ 159J-6. Effect on local acts.

This Chapter supplements but does not supplant the authority of a county to enact an adequate public facilities ordinance under a local act."

SECTION 4. This act is effective when it becomes law.

DRAFT REPORT – FOR REVIEW ONLY



DRAFT 2007-LYxz-23: Local Development Options

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction Funding	Date:	January 9, 2007
Introduced by:		Summary by:	Y. Canaan Huie Committee Counsel
Version:	2007-LYxz-23 [v.2]		

SUMMARY: *This bill would authorize counties, with approval of the voters, to levy land transfer taxes and impact fees and to enact adequate public facilities ordinances. This bill would be effective when it became law.*

CURRENT LAW: North Carolina is a state that follows Dillon's Rule, meaning that local governments do not have independent authority and instead derive their authority from the State. As such, local governments have only the powers granted to them by the State. Under current law, most counties do not have authority to levy land transfer taxes¹⁷ or impact fees¹⁸. Under current law, the extent to which counties have the authority to enact adequate public facilities ordinances is unclear¹⁹.

BILL ANALYSIS: Section 1 of this bill would authorize counties to levy local land transfer taxes, subject to voter approval. A land transfer tax is a tax imposed on the conveyance of an interest in real property. As with the State excise tax on conveyances, certain transfers of an interest in real property would be exempt from the tax²⁰. The bill would require the levy of the tax to be approved by the voters of the county. The rate of tax could not exceed 1%. The tax would have the same scope and be administered in the same way as the State excise tax on conveyances. Proceeds of the tax could be used by the county for public school capital outlay purposes only. The new Article would have no effect on existing local acts that authorize counties to impose land transfer taxes; however, enactment of a tax under the proposed new Article would permanently repeal a county's authority to levy a tax under a local act.

Section 2 of this bill would authorize counties to levy an impact fee, subject to voter approval. An impact fee is a charge imposed on new development to offset the capital costs associated with providing community service facilities for the new development. Counties that impose an impact fee would be required to provide a description of new community services facilities necessitated by development, estimate the costs of those new facilities, and provide a plan for the provision of those facilities. A fee imposed under this Article must be uniform on all new development and may not exceed a proportionate share of the capital costs of the new community service facilities. An impact fee ordinance could

¹⁷ Seven counties have been given the authority to impose local land transfer taxes. Those counties are Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, and Washington. Washington County has never imposed the tax.

¹⁸ Three counties have been given the authority to impose impact fees. Those counties are Catawba, Chatham, and Orange.

¹⁹ Although several counties have enacted adequate public facilities ordinances, Cabarrus County is the only county that has been given authority by the State to do so. The enactment of an adequate public facilities ordinance in Union County is the subject of several legal cases.

²⁰ Specifically excluded from the tax are transfers of an interest in real property by operation of law; by lease for a term of years; by or pursuant to the terms of a will; by intestacy; by gift; if no consideration in property or money is due or paid by the transferee to the transferor; by merger, conversion, or consolidation; or by an interest securing indebtedness (such as a mortgage).

DRAFT REPORT – FOR REVIEW ONLY

provide for credits against the fee for community service facilities provided by the developer. A challenge to an impact fee levied under this proposed Article could only be made after payment of the fee and would be made to the board of county commissioners. A developer could appeal the decision of the board to the Superior Court within 30 days of the board's decision. This Article would not affect the authority of a county to levy an impact fee under a local act; however, the levy of an impact fee under this Article would permanently repeal the authority of a county to levy an impact fee under a local act.

Section 3 of this act would authorize counties to enact adequate public facilities ordinances, subject to voter approval. Adequate public facilities ordinances are a growth management tool that allows communities to control the timing of development to ensure that adequate facilities are available to serve the existing and new development. When enacting an adequate public facilities ordinance, a county would be required to list the community service facilities to be evaluated under the ordinance, set a level-of-service standard for those facilities, and evaluate the impact of each new development against that level-of-service standard. If the new development would not violate the level-of-service standard, the new development could be approved. If the new development would violate the level-of-service standard, the county could either impose an impact fee on the project to offset the costs of the new services required or a moratorium on the development. An impact fee imposed under this ordinance would be required to meet the criteria for impact fees discussed above. When imposing a moratorium, a county would be required to provide the following:

- A clear statement of the problems or conditions necessitating the moratorium.
- A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

Enactment of an adequate public facilities ordinance under the proposed new Article would not affect the authority of the county to enact such an ordinance under a local act.

EFFECTIVE DATE: This bill would be effective when it became law.

2007-LYxz-23e1-SMLY-LYxz-23

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 2

LOCAL OPTION SALES TAX FOR EDUCATION

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 2

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

**AN ACT TO AUTHORIZE COUNTIES TO LEVY ONE-HALF CENT LOCAL
SALES AND USE TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY
PURPOSES, IF APPROVED BY THE VOTERS OF THE COUNTIES**

SHORT TITLE: Local Option Sales Tax for Education.

SPONSORS:

BRIEF OVERVIEW: This bill would authorize counties to levy an additional ½¢ local sales and use tax, if approved by the voters, the proceeds of which could be used for public school capital outlay purposes only.

FISCAL IMPACT:

EFFECTIVE DATE: When it becomes law.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

DRAFT REPORT – FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

H

D

BILL DRAFT 2007-LYxz-19 [v.2] (1/4)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/5/2007 8:41:54 AM

Short Title: Local Option Sales Tax for Education. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO LEVY ONE-HALF CENT LOCAL SALES AND USE TAXES FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES, IF APPROVED BY THE VOTERS OF THE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax.

"§ 105-535. Short title.

This Article is the Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax Act.

"§ 105-536. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"§ 105-537. Levy.

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the taxes, the board of commissioners of the county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Vote. – The board of commissioners of a county may, by resolution, direct the county board of elections to conduct an advisory referendum on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287.

DRAFT REPORT – FOR REVIEW ONLY

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article shall be:

FOR AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public school capital outlay purposes.'

"§ 105-538. Administration.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

"§ 105-539. Distribution and use.

(a) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing county the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month and shall include them in the monthly distribution.

(b) Use. – Counties may use the proceeds of a tax levied under this Article only for public school capital outlay purposes as defined in G.S. 115C-426(f) and to retire indebtedness incurred by the counties for these purposes.

(c) Nonsupplant Restriction. – It is the purpose of this Article for counties to appropriate funds generated under this Article to increase the level of county spending for public school capital outlay purposes above the level of spending before the levy of the tax authorized in this Article. A county that levies a tax under this Article must continue to spend for public school capital outlay purposes the same amount of money it would have spent for those purposes if it had not levied the tax."

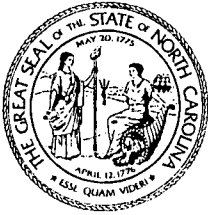
SECTION 2. A tax levied under Article 46 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 46 of Chapter 105 of the General Statutes.

SECTION 3. G.S. 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, 40, 42, 43, and ~~44~~44, 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, and ~~105-501~~105-501, 105-510, 105-520, 105-531, and 105-539 do not apply to tax proceeds distributed under this section."

SECTION 4. This act is effective when it becomes law.

DRAFT REPORT – FOR REVIEW ONLY



DRAFT 2007-LYxz-19: Local Option Sales Tax for Education

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction Funding	Date:	January 7, 2007
Introduced by:		Summary by:	Y. Canaan Huie Committee Counsel
Version:	2007-LYxz-19[v.2]		

SUMMARY: *This bill would authorize counties to levy one-half cent local sales and use taxes, if approved by a referendum of the voters of the county. The proceeds of the tax are to be used only for public school capital outlay purposes.*

CURRENT LAW: The General Assembly has previously authorized the levy of three one-half cent local sales and use taxes, in addition to a one-cent local sales and use tax authorized in 1971. Previous local sales taxes have given the local governments the option of holding an advisory referendum before imposing the tax. If the referendum failed, the county was not allowed to levy the tax. The county also had the option of levying the tax without a referendum, so long as a referendum had not failed.

All counties in North Carolina currently levy local sales taxes at a rate of at least 2.5%.

BILL ANALYSIS: This bill would authorize all counties to hold referenda on the issue of whether to levy additional one-half cent local sales taxes to be used only for public school capital outlay purposes only. The taxes will be administered in the same manner as the current first one-half cent local sales tax in Article 39 of the General Statute except that they would not apply to the sales price of food that is currently exempt from tax, the proceeds would not be shared with cities, and the proceeds would be distributed based on the point of origin.

EFFECTIVE DATE: This bill would become effective when it became law.

2007-LYxz-19e1-SMLY-LYxz-19

LEGISLATIVE PROPOSAL 3

EXTEND LOCAL SALES TAX EARMARKING FOR SCHOOLS

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 3

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

AN ACT TO EXTEND THE EARMARKING OF A PORTION OF THE
PROCEEDS OF THE FIRST AND SECOND ONE-HALF CENT LOCAL SALES
AND USE TAXES FOR AN ADDITIONAL FIVE YEARS.

SHORT TITLE: Extend Local Sales Tax Earmarking for Schools.

SPONSORS:

BRIEF OVERVIEW: This bill would extend the time period by five years during which counties are required to devote a specified percentage of the first and second ½¢ local sales and use taxes for public school capital outlay purposes.

FISCAL IMPACT:

EFFECTIVE DATE: When it becomes law.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

DRAFT REPORT – FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

D

BILL DRAFT 2007-LYz-20 [v.2] (1/4)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/5/2007 8:51:07 AM

Short Title: Extend Local Sales Tax Earmarking for Schools. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE EARMARKING OF A PORTION OF THE PROCEEDS OF THE FIRST AND SECOND ONE-HALF CENT LOCAL SALES AND USE TAXES FOR AN ADDITIONAL FIVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-487(a) reads as rewritten:

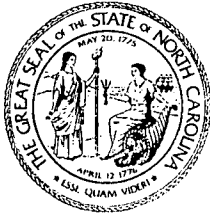
"(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a county from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the county and thirty percent (30%) of the revenue received by a county from these taxes in the next ~~23~~28 fiscal years in which the taxes are in effect in the county may be used by the county only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes."

SECTION 2. G.S. 105-502(a) reads as rewritten:

"(a) Sixty percent (60%) of the revenue received by a county under this Article during the first ~~25~~30 fiscal years in which the tax is in effect may be used by the county only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect."

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

DRAFT REPORT – FOR REVIEW ONLY



DRAFT 2007-LYz-20: Extend Local Sales Tax Earmarking for Schools

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction Funding	Date:	January 7, 2007
Introduced by:		Summary by:	Y. Canaan Huie Committee Counsel
Version:	2007-LYz-20 [v.2]		

SUMMARY: *This bill would extend the earmarking for public school capital outlay of a portion of the local sales and use tax proceeds by an additional five years. This bill would become effective when it became law.*

CURRENT LAW: There are four Articles of the Revenue Act that authorize counties to levy local sales and use taxes. Article 39 authorizes a one-cent tax and Articles 40, 42, and 44 authorize additional one-half-cent taxes. Article 40 and Article 42 provide that the county is required to use a percentage of the tax revenue for public school capital outlay purposes, including retirement of outstanding debt. The earmarking in Article 40, enacted in 1983, was for the first ten fiscal years the tax was in effect and the earmarking in Article 42, enacted in 1986, was for the first eleven years that the tax was in effect. In 1993, the earmarking was extended for an additional five years for both Articles. In 1998, the earmarkings were extended by 13 and 9 years respectively for Articles 40 and 42. Most counties enacted the first half-cent tax under Article 40 in 1983 and the second half-cent tax under Article 42 in 1986, so the earmarking would expired in 2011.

If a county can demonstrate that it does not need the earmarked revenue to meet its public school capital needs, it may petition the Local Government Commission to authorize it to use the money for any public purposes. In making its decision, the Commission must consider not only the public school capital needs but also the other capital needs of the county.

BILL ANALYSIS: This bill would extend the time periods under Articles 40 and 42 by five years, so that the earmarking would continue to the year 2016. For these additional years, counties would be required to use 30% of the tax revenue from the first half-cent local sales tax (Article 40)²¹ and 60% of the tax revenue from the second half-cent local sales tax (Article 42) only for public school capital outlay purposes.

EFFECTIVE DATE: This act would become effective when it became law.

2007-LYz-20e1-SMLY-LYz-20

²¹ In 1985, the General Assembly exempted Burke County from the restriction that it use a percentage of the first half-cent local sales tax for public school capital outlay purposes. This exemption would remain in effect.

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 4

PROPERTY TAX – SCHOOL CAPITAL LEASES

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 4

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

**AN ACT TO EXCLUDE FROM PROPERTY TAX REAL AND PERSONAL
PROPERTY THAT IS SUBJECT TO A CAPITAL LEASE WITH A LOCAL
SCHOOL ADMINISTRATIVE UNIT.**

SHORT TITLE: Property Tax - School Capital Leases.

SPONSORS:

BRIEF OVERVIEW: This bill would clarify that real and tangible personal property that is subject to a capital lease and used as a school facility is excluded from property tax.

FISCAL IMPACT:

EFFECTIVE DATE: For taxes imposed for taxable years beginning on or after July 1, 2007.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

DRAFT REPORT – FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

D

BILL DRAFT 2007-LYz-17 [v.2] (1/3)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/4/2007 5:35:01 PM

Short Title: Property Tax - School Capital Leases.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXCLUDE FROM PROPERTY TAX REAL AND PERSONAL PROPERTY THAT IS SUBJECT TO A CAPITAL LEASE WITH A LOCAL SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:

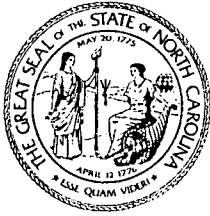
"§ 105-275. **Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...
(43) Real or tangible personal property that is subject to a capital lease pursuant to G.S. 115C-531."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

DRAFT REPORT – FOR REVIEW ONLY



DRAFT 2007-LYz-17: Property Tax -- School Capital Leases

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction Funding	Date:	January 7, 2007
Introduced by:		Summary by:	Y. Canaan Huie Committee Counsel
Version:	2007-LYZ-17 [v.2]		

SUMMARY: *This bill would exclude from property tax real or tangible personal property that is subject to a capital lease and is used as a public school facility.*

CURRENT LAW: In 2006, the General Assembly authorized local school administrative units to enter into capital leases to provide for school facilities. Capital leases differ from operating leases in several respects. In general, a capital lease is one that is considered to have the economic characteristics of ownership. To determine whether a lease is a capital lease or an operating lease, one must look at a number of different provisions in the lease. Under generally accepted accounting principles, a capital lease is a non-cancelable contract satisfying one or more of the following conditions:

- Legal title to the property is transferred to the lessee.
- The lease contains bargain or nominal purchase options.
- The lease term equals or exceeds 75% of the asset's useful life.
- The present value of the minimum lease payments equals or exceeds 90% of the asset's fair market value.

Generally, property owned by a unit of local government is not subject to property tax. In this case, because the local school administrative unit does not own the property that is the subject of the capital lease, that property would be subject to the property tax.

BILL ANALYSIS: This bill would exclude from the property tax property that is subject to a capital lease and is used as a public school facility.

EFFECTIVE DATE: This bill would be effective when it became law.

2007-LYZ-17e1-SMLY-LYZ-17

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 5

STREAMLINE SCHOOL CONSTRUCTION APPROVAL

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 5

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

AN ACT TO STREAMLINE THE PROCESS FOR APPROVAL OF SCHOOL FACILITY CONSTRUCTION AND RENOVATION PLANS.

SHORT TITLE: Streamline School Construction Approval

SPONSORS:

BRIEF OVERVIEW: This bill would raise the size threshold with respect to local governments building plans that must receive the approval of the Commissioner of Insurance before construction may begin and would simplify the Department of Transportation review of school construction and renovation plans.

FISCAL IMPACT:

EFFECTIVE DATE: This bill would become effective October 1, 2007.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

DRAFT REPORT – FOR REVIEW ONLY
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

D

BILL DRAFT 2007-LYz-21 [v.3] (1/4)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/9/2007 7:44:07 AM

Short Title: Streamline School Construction Approval. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO STREAMLINE THE PROCESS FOR APPROVAL OF SCHOOL FACILITY
CONSTRUCTION AND RENOVATION PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-31-40(b) reads as rewritten:

"(b) No agency or other person authorized or directed by law to select a plan and erect a building for the use of the State or any State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising ~~40,000~~20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents."

SECTION 2. G.S. 136-18(29a) reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

...

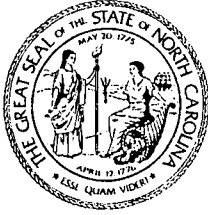
(29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, ~~school or relocating a school, or expanding an existing school, request from provide the Department with notice of the proposed development.~~ request of the entity, the Department shall provide a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation "Policy on Street and Driveway Access". The Department shall provide the written

DRAFT REPORT – FOR REVIEW ONLY

evaluation and recommendations within a reasonable time, which shall not exceed ~~60~~30 days. This subdivision shall not be construed to require the public or private entities planning schools to meet the recommendations made by the Department."

SECTION 3. This act becomes effective October 1, 2007.

DRAFT REPORT – FOR REVIEW ONLY



DRAFT 2007-LYz-21: Streamline School Construction Approval

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction	Date:	January 7, 2007
Introduced by:		Summary by:	Y. Canaan Huie Committee Counsel
Version:	2007-LYz-21[v.3]		

SUMMARY: *This bill would increase the building size threshold for local government buildings whose plans require approval by the Commissioner of Insurance before construction may begin. This bill would become effective October 1, 2007.*

CURRENT LAW: For a building in excess of 10,000 square feet, a county, city, or school district must submit plans to the Commissioner of Insurance prior to beginning construction of the facility. The Commissioner has the duty of reviewing those plans with respect to compliance with fire safety standards. The Commissioner has 30 days to complete the review, but may extend this period by 30 days if necessary.

For all new school construction, relocation, and renovation projects, the public or private entity responsible for the project must request from the Department of Transportation a written evaluation and recommendations regarding the compliance of proposed access points to criteria developed by the Department. The Department must provide the evaluation and recommendations within 60 days of receiving the request, but the entity responsible for the school project is not required to act on the evaluation and recommendations.

BILL ANALYSIS: This bill would increase the size threshold at which local governments must submit building plans to the Commissioner of Insurance for review from 10,000 square feet to 20,000 square feet.

In addition, this bill would change the requirements related to the Department of Transportation. Under this bill, the entity responsible for the development would be required to notify the Department of Transportation of proposed plans. The entity would have the option of requesting a review, but would not be required to do so. Upon request, the Department would provide the evaluation and recommendation within 30 days rather than 60 days. As before, the entity requesting the review would have no duty to act upon the evaluation and recommendations.

EFFECTIVE DATE: This bill would become effective October 1, 2007.

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 6

LEA SALES TAX REFUND AND EXEMPTION

DRAFT REPORT – FOR REVIEW ONLY

LEGISLATIVE PROPOSAL 6

A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION
FUNDING
TO THE 2007 GENERAL ASSEMBLY

**AN ACT ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL
SCHOOL ADMINISTRATIVE UNITS AND REENACTING THE SALES AND
USE TAX REFUND FOR LOCAL SCHOOL ADMINISTRATIVE UNITS.**

SHORT TITLE: LEA Sales Tax Refund and Exemption

SPONSORS:

BRIEF OVERVIEW: This bill would allow for an exemption from the sales and use tax for purchases made by a local school administrative unit and would re-enact the sales and use tax refund for local school administrative units.

FISCAL IMPACT:

EFFECTIVE DATE: For taxes imposed for taxable years beginning on or after July 1, 2007.

A copy of the proposed legislation, bill analysis, and fiscal note begin on the next page

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

D

BILL DRAFT 2007-MC-6 [v.2] (12/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/2/2007 2:01:43 PM

Short Title: LEA Sales Tax Refund and Exemption. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL ADMINISTRATIVE UNITS AND REENACTING THE SALES AND USE TAX REFUND FOR LOCAL SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ 105-164.13. **Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

- ...
- (54) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:
- a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29B.
 - b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.
 - c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number."

SECTION 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.29B. **Local school administrative unit exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(54), a local school administrative unit must obtain from the Department a sales tax exemption number.

The application for exemption must be in the form required by the Secretary, be signed by the unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(b) Liability. – A local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

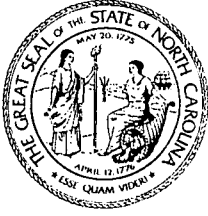
SECTION 3. G.S. 105-164.14(c)(2b) and (2c) are reenacted.

SECTION 4. G.S. 105-164.44H is repealed.

SECTION 5. Section 7.51(c) of S.L. 2005-276 reads as rewritten:

~~"SECTION 7.51.(c) Subsection (b) of this section becomes effective July 1, 2006. Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the amount transferred to the State Public School Fund each quarter shall equal one fourth of the amount refunded under G.S. 105-164.4(e)(2b) and (2c) during the 2005-2006 fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use tax increased or decreased during the preceding fiscal year. The remainder of this This section becomes effective July 1, 2005, and applies to sales made on or after that date."~~

SECTION 6. Sections 1, 3, and 4 of this act become effective July 1, 2007, and apply to purchases made on or after that date. The remainder of this act is effective when it becomes law.



DRAFT 2007-MCz-6: LEA Sales Tax Exemption and Refund

BILL ANALYSIS

Committee:	House Select Committee on Public School Construction Funding	Date:	January 7, 2007
Introduced by:		Summary by:	Y. Canaan Huie
Version:	2006-MCz-6[v.2]		Committee Counsel

SUMMARY: *This bill would provide for an exemption from sales and use tax and a refund provision for local school administrative units. Most parts of the bill would become effective July 1, 2007.*

CURRENT LAW: Local school administrative units are liable for sales and use tax on purchases made by the unit. Many units of local government, such as counties and cities, are exempt from the sales and use tax on most purchases.

BILL ANALYSIS: This bill would allow for an exemption from the sales and use tax for items purchased by a local school administrative unit and would reinstate the refund provisions repealed by the General Assembly in 2005²². This exemption and refund is modeled after the exemption and refund for State agencies.

In 2003, the General Assembly changed the sales and use tax refund process for State agencies to an exemption for State agencies. To qualify for the exemption, the items must be purchased by a State agency and the purchase must meet one of the following conditions:

- The items are purchased pursuant to a purchase order of the State agency that contains the exemption number of the agency and a description of the items purchased.
- The items purchased are paid for by a State-issued check, electronic deposit, credit card, procurement card, or credit account of a State agency and the agency provides to or has on file with the retailer the agency's exemption number.

That act incorporated all of the various payment and purchase mechanisms where accounting system controls are in place to verify purchases and prevent possible misuse of the agency's sales tax exemption by its employees. The only type of direct purchases not included within this exemption is employee expense reimbursements.

The sales tax exemption applies only to direct purchases of tangible personal property. State agencies must still apply for refunds of local taxes paid on indirect purchases of building materials, supplies, fixtures, and equipment that become a part of a structure owned or leased by the State.

A State agency is liable for items purchased with its exemption number that it does not use. The liability include not only the tax that should have been paid on the items purchased, but also interest calculated from the date the tax would otherwise have been paid.

To be eligible for the sales and use tax exemption, a State agency must obtain from the Department of Revenue a sales tax exemption number through an application process.

²² With the exemption process in place, the refund provisions would primarily apply to items purchased indirectly by a local school administrative unit, such as building materials.

In addition, this bill would repeal an automatic transfer of funds to the State Public School Fund that was enacted in 2005 when the local school administrative unit refund provision was repealed.

EFFECTIVE DATE: Most provisions of the act would become effective July 1, 2007.

BACKGROUND: In 2005, the General Assembly repealed the provisions allowing local school administrative units to receive a refund of sales and use taxes paid. It redirected estimated State sales tax revenues refundable to LEAs to the State Public School Fund for allotment through State position, dollar, and categorical allotments. The effect of that provision was to funnel all State monies for public education through the budgetary process by eliminating the State monies going directly to LEAs through the refund process.

The provision accomplishes that redirection in three steps:

- It repealed the ability of individual LEAs to obtain an annual refund of the State and local sales and use tax monies paid, effective July 1, 2005, and applicable to sales made on or after that date.²³ LEAs had had the ability to request an annual refund of State and local sales and use taxes paid since July 1, 1998.²⁴ The provision also repealed the ability of school board cooperatives to obtain a refund; they have had the ability to request annual refunds since July 1, 2003.²⁵ The LEAs were able to obtain a refund for sales and use taxes paid by them during the fiscal year 2004-05.
- For fiscal year 2006-07, the provision directs the Secretary of Revenue to transfer quarterly a calculated amount from the State sales and use tax net collections to the State Public School Fund. The quarterly amount will be equal to one-fourth of the amount refunded to LEAs and school board cooperatives²⁶ during the 2005-06 fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use tax increased or decreased during the preceding fiscal year. The Fiscal Research Division estimated the total amount of this annual earmarking at \$33,000,000.²⁷
- For subsequent fiscal years, the provision directs the Secretary to transfer quarterly an amount equal to one-fourth of the amount refunded to LEAs and school board cooperatives during the preceding fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use taxes increased or decreased during the preceding fiscal year.

2007-MCz-6e1-SMLY-MC-6

²³ The intent of the legislation, as reflected by the Committee Report, was to repeal the ability of school boards to obtain a refund of State sales and use taxes paid, not State and local. It is anticipated that a provision will be introduced in the 2006 legislative session to reinstate the refund of local sales and use taxes.

²⁴ S.L. 1998-212.

²⁵ S.L. 2003-431.

²⁶ S.L. 2003-345 corrected a statutory reference made in this provision of the act.

²⁷ This dollar amount reflects the amount of State sales and use taxes paid by LEAs, not the local sales and use taxes paid by them.

APPENDIX A

AUTHORIZATION

James B. Black
Speaker



Office of the Speaker
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

TO THE HONORABLE MEMBERS OF THE NORTH CAROLINA
HOUSE OF REPRESENTATIVES

Section 1. The House Select Committee on Public School Construction (hereinafter "Select Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6 and Rule 26(a) of the Rules of the House of Representatives of the 2005 General Assembly.

Section 2. The Select Committee shall be composed of the twenty two members listed below and appointed by the Speaker of the House of Representatives.

Representative Doug Yongue, Chair
Representative Martha Alexander
Representative Lucy Allen
Representative Jeff Barnhart
Representative Larry M. Bell
Representative Becky Carney
Representative Linda Coleman
Representative Bob England
Representative Dale Folwell
Representative Bruce Goforth
Representative Larry Hall
Representative Julia Howard
Representative Linda Johnson, Vice-Chair
Representative Earl Jones, Vice-Chair
Representative Marvin Lucas, Vice-Chair
Representative Edd Nye
Representative Garland Pierce
Representative William Wainwright
Representative Roger West
Representative Winkie Wilkins
Representative Arthur Williams
Representative Michael Wray

Section 3. The Select Committee shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Select Committee may study and consider public-private partnerships for school construction and facility ownership, sale lease-back arrangements, private and commercial financing arrangements, design standards for school facilities that may facilitate alternative financing

techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local construction bond pools, and any other financing issues.

Section 4. The Select Committee shall meet upon the call of its Chair. A quorum of the Select Committee shall be a majority of its members, including the Chair.

Section 5. Members of the Select Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1. The expenses of the Select Committee including per diem, subsistence, travel allowances for Select Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel, and subsistence expenses of members of the Select Committee, and clerical expenses shall be paid upon the authorization of the Chair of the Select Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives.

Section 6. The members of the Select Committee serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives shall fill vacancies and may dissolve the Select Committee at any time.


Section 7. The Legislative Services Officer shall assign professional and clerical staff to assist the Select Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Select Committee.

Section 8. The Select Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Select Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Section 9. The Select Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Select Committee in the State Legislative Building or the Legislative Office Building.

Section 10. The Select Committee may submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives, on or before January 23, 2007, by filing a copy of the report with the Office of the Speaker of the House of Representatives and the Legislative Library. The Select Committee shall terminate on January 23, 2007, or upon the filing of its final report, whichever occurs first.

Effective this 28th day of September, 2006.



James B. Black, Speaker

Revised 12-12-06 to add Representative Larry M. Bell to the committee.

APPENDIX B

COMMITTEE MEETING AGENDAS

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

AGENDA

*Thursday, October 26, 2006
Room 544, Legislative Office Building
10:00 a.m.*

- I. Welcome and Introductions**
Rep. Doug Yongue
- II. Explanation of Committee Charge**
Rep. Doug Yongue
- III. Glossary of Relevant Terms**
Steve Taynton and Ben Matthews, Department of Public Instruction
- IV. Public School Construction Funding Options**
Canaan Huie, Legislative Drafting Division
- V. Lunch Break**
- VI. Explanation of Public Schools Facility Needs Survey**
Steve Taynton, Department of Public Instruction
- VII. Experiences of Counties and Local School Administrative Units**
 - Jim Blackburn, North Carolina Association of County Commissioners
 - Mike Burriss, Wake County Public School System
 - Brown Hendrix, Hoke County Public Schools

Future Meeting Dates: Tuesday, November 21, 2006; Wednesday, December 13, 2006; Tuesday, January 9, 2007. All meetings begin at 10 a.m. and are scheduled to end by 3:00 p.m.

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

AGENDA

*Wednesday, December 13, 2006
Room 1027, Legislative Building
9:00 a.m.*

I. Welcoming Remarks

Rep. Doug Yongue

II. Approval of the Minutes from October 26

III. Other Agencies Participation in the School Construction Approval Process

- Robin Smith, Assistant Secretary of Environment and Natural Resources
- Wayne Goodwin, Assistant Commissioner of Insurance
- Kevin Lacey, State Traffic Engineer, Department of Transportation
- Tom Norman, Director of Bicycle and Pedestrian Division, Department of Transportation

IV. State and Local Debt Affordability

Vance Holloman, Deputy State Treasurer

V. Adequate Public Facilities Ordinances and Impact Fees

Dustin Read, Esq., Center for Real Estate, UNC- Charlotte

VI. Lunch Break

VII. Comparison of Spending Levels

Alex Hess, School of Government

VIII. Comparison of State Funding Methods

Canaan Huie, Legislative Drafting Division

IX. Costs of Alternative Types of Construction

Guy Chamberlain, Charlotte-Mecklenburg Schools

X. Experiences of Local School Administrative Units

- Leanne Winner, North Carolina School Boards Association
- Tim Kinlaw, Cumberland County Public School System
- Anna McGinnis, Dare County Schools

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION

AGENDA

*Tuesday, January 9, 2007
Room 544, Legislative Office Building
10:00 a.m.*

I. Welcoming Remarks

Rep. Doug Yongue

II. Approval of the Minutes from December 13

III. Presentation of the Draft Report

Canaan Huie, Legislative Drafting Division

- Executive Summary
- Legislative Proposal 1, Local Development Options.
- Legislative Proposal 2, Local Option Sales Tax for Education
- Legislative Proposal 3, Extend Local Sales Tax Earmarking for Schools
- Legislative Proposal 4, Property Tax – School Capital Leases
- Legislative Proposal 5, Streamline School Construction Approval
- Legislative Proposal 6, LEA Sales Tax Refund and Exemption

IV. Committee Discussion

V. Adjournment

HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION FUNDING
AGENDA

Tuesday, January 23, 2007
Room 544, Legislative Office Building
2:00 p.m.

- I. **Welcoming Remarks**
Rep. Doug Yongue
- II. **Approval of the Minutes from January 9**
- III. **Review of Changes to the Draft Report**
Canaan Huie, Legislative Drafting Division
- IV. **Committee Discussion and Action**
- V. **Adjournment**

VISITOR REGISTRATION SHEET

House Select Committee /Public School Construction January 23, 2007
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Cecil Baul	NC AE
Rital Joynes	SBE
Zhang Wilson	SBE
Donna Carpenter	NCHBA
Chris Hayes	Civitas
TIMOTHY MORRISON	NC DOI - ENR DIV
Brian Mullis	Civitas
Becki Gray	Civitas
Sal Mays	CMS
Joe Boylan	

VISITOR REGISTRATION SHEET

House Select Committee /Public School Construction January 23, 2007

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Alan Norris	Public School Forum of NC
JEFF TAYLOR	DPT
BEN MATTHEWS	
CLARE VANK	Car Army
John M... ..	1000
DREW MORETZ	RALPHIGH CHAMBER
Jeff Mixon	civitas

VISITOR REGISTRATION SHEET

BE SELECT COMMITTEE ON
PUBLIC SCHOOL CONSTRUCTION

23-JAN-2007

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas Moore	Edwisten & Webb
Jennifer Willis	Wake Co. Govt.
Jim Blackburn	Association of County Commissioners
Katherine Joyce	NCASA
Bill O'Donnell	NCSBA
Pamela Schore	NCASIA
Ashly Mallak	Everett Gaskins
Linda McCarly	Wake UP
Harold Webb	Wake Co Commissioners