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Legislators Gambling with Lottery Proceeds

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Before last fall North Carolina was the largest state in the union that did not have a state-run lottery, but thanks to absent lawmakers and last minute legislative maneuvers the North Carolina Education Lottery was passed. Critics contend that passage of the lottery was a hefty loss to those who are concerned about upholding the veracity of the General Assembly. It is evident the lottery would not have passed the Senate without the absence of opponents or the use of parliamentary procedures regarding absentee votes.

Several conservatives challenged the process that declared the lottery “dead” at 2 a.m. on August 24th, when Senate President Marc Basnight (D-Dare) told reporters that the Senate would not vote on the lottery and was finished for the year. Six days later, the lottery was resuscitated and cleared the Senate.

With the absence of two lottery opponents the Senate was able to pass the lottery with a 25-24 vote, when Lieutenant Governor Beverly Perdue cast the deciding “yes” vote.

Since the lottery’s creation deceit and deception have plagued what was supposed to be the solution to the education funding crisis in the state. Even two months after the first lottery ticket was scratched, North Carolinians are repeatedly being deceived over where lottery proceeds are going.

After the lottery was signed into law by Governor Mike Easley, there has been growing concern over whether lottery revenue would replace existing education spending. The lottery law specifically states that current education expenditures will not be supplanted but rather supplemented. House Bill 1023, North Carolina State Lottery, the bill that became law, specifically states in §18C-102: “The net revenues generated by the lottery shall not supplant revenues already expended or projected to be expended for those public purposes, and lottery net revenues shall supplement rather than be used as substitute funds for the total amount of money allocated for those public purposes.”

Republican Auditor Les Merritt recognized this mounting unease and responded by stating, “There is a pretty big disconnect, I do believe, between what is the public perception and what the actual legislation allows about the uses of lottery revenue.”

When state budget planners reported to national debt-ranking agencies that \$210 million in lottery proceeds would be used to fund Governor Easley’s More at Four program, along with reducing class-sizes in elementary schools, did they not review the purpose and intent of the lottery law; which specifically states that lottery funds will not supplant but rather supplement government programs?

In last year’s appropriation bill, the text specifically states that there will be monies allocated to Governor Easley’s More at Four program. Senate Bill 622 §10.67(a), “Of the funds appropriated in this act to the Department of Health and Human Services, the sum of \$66,646,653 for the 2005-2006 fiscal year and the sum of \$66,646,653 for the 2006-2007 fiscal year shall be used to implement “More at Four”, a voluntary prekindergarten program for at-risk four-year-olds.”

When the lottery was passed, both More at Four and reducing class-sizes in elementary schools were already funded in the General Fund. It was only after the lottery was passed that legislators and the general public discovered that lottery

revenue would supplant existing spending for education, not supplement. Elaine Mejia, director of the N.C. Budget and Tax Center in Raleigh, stated, “If the governor had said this [the Education Lottery] will support education programs already in place, I doubt it would have passed ... the public was hoodwinked.”

State legislators that supported the lottery were even concerned over the recent exposure of certain lottery revenue allocations. Representative Carolyn Justice (R-Pender) stated worryingly, “you almost feel used.”

When the governor states that lottery revenue is replacing recurring allocations for education programs, it is of concern due to the irregularity of lottery revenues. This is the point legislators were attempting to make when they voted for the lottery, that lottery revenue should only supplement expenditures rather than supplant them. Under the lottery law, when North Carolina realizes a lower than expected lottery turnout in participation, current education programs would not be jeopardized because it is supplementing recurring monies. Understandably, it is the state’s responsibility to provide a stable budget for education.

As most lottery opponents expected — North Carolina lottery registered ticket sales declined 33 percent from the first full week to the third, according to recent lottery reports. The Education Lottery reports sales falling from \$28.7 million in the first full-week to \$14.6 million in the ninth, ending May 27. The declining rate of participation has already well surpassed the rate in South Carolina that began its state-run lottery four years ago.

Declining participation can also lead to higher operational costs. Typically, when less people play the lottery, state officials consistently introduce new games, increase the amount of money devoted to prizes and introduce new marketing schemes to boost involvement; all of which increases operational costs of running the lottery, thereby subtracting existing revenue for education.

Currently, with lottery proceeds supplanting the More at Four initiative and reducing class-size expenditures, there are monies that have yet to be claimed. When asked where the extra money will be allocated, Easley’s fiscal advisor stated in a recent WRAL-TV interview, “A big part of the freed-up cash will help pay to increase teacher salaries to the national average.”

Money for School Construction?

In Wake County alone, taxpayers are faced with a \$988 million bond referendum for school construction, which will inevitably raise property taxes, whether or not the bond is supported. It is not fiscally sound to force counties to raise taxes for school construction when Governor Easley’s fiscal advisor is stating there is “freed up” cash within the education budget.

It seems as if the governor believes the lottery is a medicine that will cure all of the state’s illnesses including the huge and complicated issue of overcrowded schools. In reality, lottery revenue is only allocated to assist Local Education Agencies (LEAs) with targeted school construction costs — a small band-aid on an open wound that is overcrowded schools. The truth is, the lottery will not help in aiding the school construction quagmire, only 35 percent of all lottery proceeds will be allocated to education, and only 40 percent of the 35% is targeted for school construction. As noted, lottery participation is down, therefore proceeds and revenue expectations are low. If one were to use the target revenue set by the General Assembly, when the lottery was passed, the amount would equal \$1.14 billion. Using the General Assembly’s revenue expectations — \$97.5 million would be divided between the existing 115 LEAs and \$52.5 million would be given to counties with higher than the median property tax rate based on average daily membership.

Presently, it takes approximately \$36 million to build a high school in North Carolina based on current estimates from the state’s architect for school construction. The average amount an LEA could receive from the state lottery for school construction would be \$1.3 million, based on average daily membership and optimistic projections. With disappointing financial support from the state and with little confidence in the lottery, counties are forced to either raise property taxes or ask for hundreds of millions of dollars in bonds to finance school construction needs.

Under the current formula a county like Guilford, which is one of the few LEAs that will receive additional funding

because of higher median property taxes, would receive \$10.1 million from the lottery. This is compared to Graham County, which will only receive \$94,206 from lottery proceeds. In Guilford County the lottery revenue would almost build one elementary school, based on Department of Public Instruction estimates. But according to district school officials, Guilford's school population is growing by 1,500 students or more annually, enough to fill three elementary schools; thereby leaving the ultimate burden on local school boards to impose, and county taxpayers, to finance hefty bonds to build the necessary schools.

There is an increasing concern that the lottery will even affect the public's view of bond referendums, due to the way the lottery has been sold to the public, as an education solution to all problems, including school construction.

According to Margaret Arbuckle, director of the Guilford Education Alliance, "Our worry is that the public will see the lottery as being this great boon and will say, 'Well, we don't need to vote for this bond. The lottery will take care of it.'"

Support for bonds has historically decreased throughout the country after state-run lotteries were established. The Florida lottery was created in 1986; only three of 15 bond issues proposed by local school districts have been passed by voters. Interestingly, before the creation of the lottery 21 out of 22 bond issues were approved.

A steady diet of lobbying and false advertising has led North Carolinians, including some legislators, to become too optimistic about the lottery's ability to fund education. But Guilford County's enrollment problems are not confined to only their county; enrollment statewide is expected to reach close to 1.5 million by 2014, an increase of more than 200,000 students from 2005 levels, according to the State Board of Education.

Proceeds from the lottery will help counties fund a small percentage of school construction, but the largest share will remain the responsibility of the counties. Just in Wake County, education leaders expect \$9.1 million in lottery revenue in the first year, although the county's projected cost for school construction during the next four years will top \$1 billion. The counties and the school districts simply cannot keep up with the increasing enrollment by simply taxing local residents; and what legislators must understand is that the education lottery will 'not' solve school construction problems.

Sheri Little, principal at South Point High School in Belmont stated, "I hate to say it, but basically that [lottery proceeds] is a drop in the bucket when you are looking at building a new high school."

Where Do We Go From Here?

It is time the General Assembly and the governor adopt responsible fiscal policies that will target the needs of school construction throughout the state. When the lottery was enacted in 2005, it was understood that More at Four and initiatives to lower class-sizes would be supplemented by lottery revenue. Governor Easley should keep the money allocated for these expenditures in the budget, as mandated by law, and use lottery revenue, now intended to supplant these expenditures, to offset school construction costs throughout the state.

Typically in North Carolina, extra money is always spent; the "freed up" money, previously cited, will be spent to help offset the costs to raise teacher's salaries to the national average. But according to the Appropriations Bill of 2005 §2.2(j): "The governor shall analyze the current state public school teacher salary schedule, trends in salaries, and the current disparity between North Carolina teacher pay and the national average to determine how teacher pay affects the state's ability to recruit and retain highly qualified public school teachers to improve educational opportunity and outcomes for children across North Carolina. The governor may, after consultation with the speaker of the house and the president pro tempore of the Senate, devise and execute prior to July 1, 2006, a plan to reduce the disparity and may use funds available from the Reserve for Contingent Appropriations to begin to execute such a plan."

The Appropriations Act specified there would be \$85 million in Reserve for Contingent Appropriations, so money is available to bring teacher salaries to the national average. What is not considered in the Reserve is money for school construction. It would be fiscally prudent if the governor would suggest that lottery revenue, now designated for More at Four and to lower class-sizes, be allocated for aiding school construction needs across the state. This additional revenue

would not solve school construction problems, but it would help counties reduce the burden on taxpayers.

In addition to ensuring that lottery revenue is targeting school construction needs, the reconvening General Assembly must also support a constitutional amendment mandating that all net revenues from the lottery goes for education and not other purposes. As currently written, the lottery law only directs 35 percent of lottery income to be transferred into an education lottery fund. It does not put those funds in a “lockbox.” Without a constitutional mandate, legislators, present or future, could simply order that lottery funds could be used for other programs, just as the legislature has used Highway Trust Funds and Golden Leaf Funds for other expenses.

Senator Robert Pittenger (R-Mecklenburg) wrote in a letter to newspaper editors, “With the legislative leadership’s proclivity to raid trust funds to balance the budget each session, it seems unlikely that education will receive the windfall anticipated by most people.”

Going by recent history, it is clear that long-term funding promises cannot be sustained. One can look at promises made in the 1980s and 1990s, when highway money was moved to several different locations, by Governor Easley no less.

A fact of life is that no session of the General Assembly can mandate a future General Assembly’s course of action on any topic or spending measure. That’s why a constitutional amendment would be the best way to prevent legislators from misusing lottery revenue set aside for education.

Since creation of the state-run lottery the focus of legislators has changed from the underlying problems hampering the education system to an arbitrary focus on additional revenue. Today the legislature touts the lottery as a grand opportunity to generate additional revenue. With this new myopic focus, legislators have made no changes to existing construction funding; instead they have created a poorly-subsidized maze of county-by-county lottery revenue subsidies to address this most pressing need of the public schools. Instead of reinventing education budgetary expenditures, legislators must leave existing funding as is, and use lottery revenues to help counties finance the public schools’ most pressing need: school construction.

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