

Item #9

MEMORANDUM

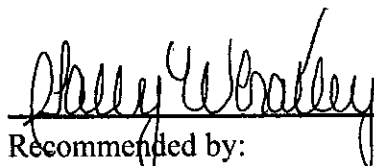
TO: Members of the Board of Education

FROM: Sally Whatley

RE: Consideration of Recommendation of Resolution for Tax Anticipation Note (TAN)

DATE: August 10, 2009

Recommendation: That the Resolution for Tax Anticipation Note (TAN) be approved.



Recommended by:
Sally Whatley, Superintendent

SW/dg

RESOLUTION
AUTHORIZING, AMONG OTHER THINGS,
THE ISSUANCE AND SALE OF TAX ANTICIPATION NOTES
IN THE AGGREGATE PRINCIPAL AMOUNT OF \$14,000,000

WHEREAS, the Dougherty County School District (the "Issuer") is a political subdivision of the State of Georgia, duly created and existing under and by virtue of the Constitution and laws of the State of Georgia, including particularly an Act of the General Assembly creating the Issuer (1951 Ga. Laws, p. 2233), as amended (the "Act"); and

WHEREAS, the Board of Education of Dougherty County (the "Governing Body") of the Issuer has determined that it is in the best interest of the Issuer to borrow money to pay current expenses for calendar year 2009 in anticipation of the receipt of taxes levied or to be levied for the General Fund; and

WHEREAS, the Issuer is authorized by Article IX, Section V, Paragraph V of the Constitution of the State of Georgia and Section 36-80-2 of the Official Code of Georgia Annotated, to borrow money to pay current expenses during any calendar year and to evidence such borrowing by issuing tax anticipation notes in anticipation of the receipt of taxes levied or to be levied for the General Fund for expenses payable in such calendar year; and

WHEREAS, the fiscal authority of the Governing Body is authorized by Article VIII, Section VI, Paragraph I to annually levy a tax upon the assessed value of all taxable property within the territory served by the school system within the limits prescribed by the applicable local law, which levy shall not be greater than 20 mills per dollar; and

WHEREAS, the Issuer proposes to issue Tax Anticipation Notes in the aggregate principal amount of \$14,000,000 (the "Notes") to pay the current expenses of the Issuer;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Issuer and it is hereby resolved by authority of the same, as follows:

Section 1. Findings. The Governing Body hereby finds and determines as follows: (a) the aggregate principal amount of the Notes and any other outstanding temporary loans does not exceed 75% of the total gross income from taxes collected by the Issuer in calendar year 2008 for the General Fund \$24,906,614.68, which is 75% of \$33,208,819.57; (b) the aggregate principal amount of the Notes, together with other contracts, notes, warrants or obligations of the Issuer for current expenses payable from the General Fund, do not exceed the total anticipated tax revenues of the Issuer for the General Fund for calendar year 2009 (tax revenues, which constitute a portion of total anticipated revenues, have been projected to total \$33,109,108.51 during calendar year 2009); (c) no temporary loan or other contract, note, warrant or other obligation for current expenses incurred in calendar year 2008 or any prior calendar year remains unpaid as of the date hereof; and (d) a need exists for the Issuer to borrow \$14,000,000 to pay current expenses of the Issuer in calendar year 2009 prior to the receipt of sufficient revenues from taxes levied or to be levied for the General Fund for 2009.

Section 2. Authorization of Notes. There is hereby authorized to be issued tax anticipation notes of the Issuer in the aggregate principal amount of \$14,000,000 which shall be designated "Dougherty County School District Tax Anticipation Notes, Series 2009" (the "Notes"). The Notes shall be dated as of the date of delivery thereof to the purchasers; shall bear interest at the rate of 2.00% per annum, calculated on the basis of a 360-day year comprised of twelve 30-day months; shall be payable as to principal and interest by wire transfer upon surrender of the Notes to the persons who are registered owners on December 15, 2009 and shall be payable as to principal and interest in lawful money of the United States of America; shall be issued in \$100,000 denominations, or any integral multiple thereof; shall mature and interest shall be payable on December 31, 2009. The Notes shall be issued in the form of fully registered notes. The Notes shall be executed by the manual or facsimile signature of the Chairman and by the manual or facsimile signature of the Secretary, and the corporate seal of the Issuer shall be impressed or imprinted thereon. In case any officer whose signature shall be affixed to the Notes or who shall have sealed any of the Notes shall cease to be such officer before the Notes so signed and sealed shall have been actually delivered, the Notes, nevertheless, shall be valid Notes of the Issuer and may be delivered as such notwithstanding the fact that such officer or officers may have ceased to be such officer or officers of the Issuer when the Notes shall be actually delivered.

Section 3. Approval of Form of Notes. The Notes as initially issued shall be issued in substantially the form attached hereto as Exhibit A subject to such minor changes, insertions or omissions as may be approved by the Chairman, and the execution and delivery of the Notes shall be conclusive evidence of such approval.

Section 4. Designation of Paying Agent. The School District Finance Director is hereby designated as Paying Agent, Note Registrar and Authenticating Agent with respect to the Notes.

Section 5. Tax Revenues Used to Repay Notes. The Issuer agrees to use for payment of the Notes and the interest thereon a sufficient portion of the revenues received by the Issuer from taxes levied or to be levied for calendar year 2009 for the General Fund and other funds available for such purpose.

Section 6. Authentication of Notes. Only such Notes as shall have endorsed thereon a certificate of authentication substantially in the form hereinabove set forth duly executed by the Note Registrar shall be deemed to be validly issued hereunder. No Notes shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been executed by the Note Registrar, and such executed certificate of the Note Registrar upon any such Note shall be conclusive evidence that such Note has been authenticated and delivered hereunder. Said certificate of authentication on any Note shall be deemed to have been executed by the Note Registrar, but it shall not be necessary that the same authorized signatory sign the certificate of authentication on all of the Notes.

Section 7. Transfer and Exchange of Notes. The Note Registrar shall cause to be kept books for the registration of transfer of the Notes. Notes may be registered and transferred on the books of registration by the registered owner thereof in person or by his duly authorized attorney, upon surrender thereof, together with a written instrument of transfer

executed by the owner or his duly authorized attorney. Upon surrender for registration of transfer of any Note at the principal corporate office of the Note Registrar, the Issuer shall execute, and the Note Registrar shall authenticate and deliver in the name of the transferee or transferees, a new Note or Notes of the same aggregate principal amount and tenor and of any authorized denomination or denominations, numbered consecutively in order of issuance according to the records of the Note Registrar.

The Notes may be exchanged at the principal corporate office of the Note Registrar for an equal aggregate principal amount of Notes of the same aggregate principal amount and tenor and of any authorized denomination or denominations. The Issuer shall execute, and the Note Registrar shall authenticate and deliver, Notes which the owner of Notes making such exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

Such transfers of registration or exchanges of Notes shall be without charge to the owner of such Notes, but any tax or other governmental charge, required to be paid with respect to the same shall be paid by the owner of the Note requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

All Notes surrendered upon any transfer provided for in this resolution shall be promptly cancelled by the Note Registrar and shall not be reissued. Upon request of the Issuer a certificate evidencing such cancellation shall be furnished by the Note Registrar to the Issuer.

Section 8. Registered Owners. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest shall be made only to or upon the order of the registered owner thereof or his duly authorized attorney, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Section 9. Mutilated or Destroyed Notes. In case any Note shall become mutilated or be destroyed or lost, the Issuer, may cause to be executed, authenticated and delivered a new Note of like date and tenor in exchange or substitution for any such Note upon, in the case of a mutilated Note, surrender of such Note, or in the case of destroyed or lost Note, the owners filing with the Issuer, the Paying Agent and the Note Registrar evidence satisfactory to them that such Note was destroyed or lost and providing indemnity satisfactory to them. If any such Note shall have matured, instead of issuing a new Note, the Issuer may pay the same.

Section 10. Redemption. The Notes are not subject to redemption as is more fully provided in the foregoing form thereof.

Section 11. Tax Covenants and Representations. The Notes are being issued by the Issuer for the governmental purpose of providing funds for the current expenses of the Issuer for the year 2009, in compliance with the conditions necessary for the interest income on the Notes to be excludable from gross income for federal income taxation pursuant to the provisions of Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"). It is the intention of the Issuer that the interest on the Notes be and remain excludable from gross

income for federal income tax purposes, and, to that end, the Issuer hereby covenants with the holders of the Notes, as follows:

(a) It will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the tax-exempt status of the interest on the Notes under Section 103 of the Code.

(b) It will not directly or indirectly use or permit the use of any proceeds of the Notes or any other funds of the Issuer or take or omit to take any action in a way that would cause the Notes to be (i) "private activity bonds" within the meaning of Section 141 of the Code, (ii) obligations which are "federally guaranteed" within the meaning of Section 149 of the Code or (iii) "hedge bonds" within the meaning of Section 149 of the Code. Without limiting the foregoing, the Issuer will not allow 10% or more of the proceeds of the Notes to be used in the trade or business of any private business and will not loan 5% or more of the proceeds of the Notes to any nongovernmental units.

(c) It will not directly or indirectly use or permit the use of any proceeds of the Notes or any other funds of the Issuer or take or omit to take any action that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code. The Issuer anticipates that no rebate of any investment earnings to the Department of Treasury of the United States will be required by Section 148(f) of the Code at any time while the Notes are outstanding. However, in the event that such rebate is required, the Issuer hereby covenants to comply with all requirements of Section 148 of the Code to the extent applicable to the Notes.

(d) The Issuer will cause to be completed and filed with the Internal Revenue Service the information required by Section 149(e) of the Code, (Treasury Form 8038-G) prior to or simultaneously with the issuance of the Notes.

Section 12. Approval of Tax Documents. The Chairman is hereby authorized to execute on behalf of the Issuer a Non-Arbitrage Certificate to assure the owners of the Notes and Hunton & Williams LLP, Bond Counsel, that the interest on the Notes will remain excludable from gross income for federal income tax purposes and that the proceeds of the Notes will not be used in a manner which would result in the Notes being "arbitrage bonds" within the meaning of Section 148 of the Code.

Section 13. General Authority. From and after the date of adoption of this resolution, any member of the Governing Body and the officers of the Issuer are hereby authorized to do such acts and things, and to execute and deliver all such certificates or agreements as may be necessary or desirable in connection with the issuance of the Notes. All actions of the Governing Body, officers or agents of the Issuer taken in connection therewith prior to the date hereof are hereby ratified and confirmed.

Section 14. Ownership of Notes. Global Form; Securities Depository; Ownership of Notes.

(a) Upon the initial issuance, the ownership of each Note shall be registered in the name of the Securities Depository or the Securities Depository Nominee, and ownership thereof shall be maintained in Book-Entry Form by the Securities Depository for the account of

the Agent Members thereof. Initially, each Note shall be registered in the name of Cede & Co., as the nominee of The Depository Trust Company. Beneficial Owners will not receive Notes from the Paying Agent evidencing their ownership interests. Except as provided in subsection (c) of this Section 14, the Notes may be transferred, in whole but not in part, only to the Securities Depository or the Securities Depository Nominee, or to a successor Securities Depository selected or approved by the Issuer or to a nominee of such successor Securities Depository.

(b) With respect to Notes registered in the name of the Securities Depository or the Securities Depository Nominee, the Issuer, the Paying Agent, the Bond Registrar and the Authenticating Agent shall have no responsibility or obligation to any Agent Member or Beneficial Owner. Without limiting the foregoing, neither the Issuer, the Paying Agent, the Bond Registrar, the Authenticating Agent nor their respective affiliates shall have any responsibility or obligation with respect to:

(i) the accuracy of the records of the Securities Depository, the Securities Depository Nominee or any Agent Member with respect to any beneficial ownership interest in the Notes;

(ii) the delivery to any Agent Member, any Beneficial Owner or any other person, other than the Securities Depository or the Securities Depository Nominee, of any notice with respect to the Notes; or

(iii) the payment to any Agent Member, any Beneficial Owner or any other person, other than the Securities Depository or the Securities Depository Nominee, of any amount with respect to the principal or interest on the Notes.

So long as the Notes are registered in Book-Entry Form, the Issuer, the Paying Agent, the Bond Registrar and the Authenticating Agent may treat the Securities Depository as, and deem the Securities Depository to be, the absolute owner of such Notes for all purposes whatsoever, including without limitation:

(i) the payment of principal of and interest on such Notes;

(ii) giving notices of redemption (if applicable) and other matters with respect to such Notes;

(iii) registering transfers with respect to such Notes; and

(iv) the selection of Notes (if applicable) for redemption.

So long as the Notes are registered in Book-Entry Form, the Paying Agent shall pay all principal of and interest on the Notes only to the Securities Depository or the Securities Depository Nominee as shown in the bond register, and all such payments shall be valid and effective to fully discharge the Issuer's obligations with respect to payment of principal of and interest on the Notes to the extent so paid.

(c) If at any time (i) the Issuer determines that the Securities Depository is incapable of discharging its responsibilities described herein, (ii) if the Securities Depository notifies the Issuer that it is unwilling or unable to continue as Securities Depository with respect to the Notes, or (iii) if the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934 or other applicable statute or regulation and a successor Securities Depository is not appointed by the Issuer within 90 days after the Issuer receives notice or becomes aware of such condition, as the case may be, then this Section 14 shall no longer be applicable and the Issuer shall execute and the Bond Registrar and Authenticating Agent shall authenticate and deliver notes representing the Notes to the owners of the Notes. Notes issued pursuant to this subsection (c) shall be registered in such names and authorized denominations as the Securities Depository, pursuant to instructions from the Agent Member or otherwise, shall instruct the Bond Registrar. Upon exchange, the Bond Registrar shall deliver such notes representing the Notes to the persons in whose names such Notes are so registered on the business day immediately preceding the date of such exchange.

(d) For purposes of this Resolution, the following terms shall have the meanings set forth below:

“Agent Member” means a member of, or participant in, the Securities Depository.

“Beneficial Owner” means the owners of a beneficial interest in the Notes registered in Book-Entry Form.

“Book-Entry Form” or “Book-Entry System” means, with respect to the Notes, a form or system, as applicable, under which (i) the ownership of beneficial interests in the Notes may be transferred only through book-entry and (ii) physical Notes in fully registered form are registered only in the name of a Securities Depository or its nominee as holder, with physical Notes in the custody of a Securities Depository.

“Securities Depository” means any securities depository that is a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of beneficial interest in bonds and bond service charges, and to effect transfers of bonds in Book-Entry Form, and means, initially, The Depository Trust Company (a limited purpose trust company), New York, New York.

“Securities Depository Nominee” means any nominee of a Securities Depository and shall initially mean Cede and Co., New York, New York, as nominee of The Depository Trust Company.

Section 15. Sale of Notes. The sale of the Notes to Morgan Keegan (the “Purchaser”) for \$14,000,000 is hereby approved.

Section 16. Tax Levy for Payment of Note. For the purpose of providing funds for the payment of the principal of and interest on the Notes, there shall be and hereby is assessed and levied and there shall hereafter be collected a direct tax upon all real and personal property now or hereafter subject to taxation within Dougherty County, Georgia for school

purposes, the net proceeds of which will be in a sufficient amount to produce such sums as are required to pay the principal and interest thereon. Said sums are irrevocably pledged and appropriated to the payment of the principal and interest, when due on the Notes, and the provisions to meet the requirements of this Resolution shall hereafter be made in due time and manner so that the Notes, including both principal and interest, shall be fully paid at maturity.

Section 17. Bank Qualification. The Issuer shall designate the Notes as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 18. Effective Date. This resolution shall be in full force and effect immediately upon its adoption, and any and all resolutions or parts of resolutions in conflict with this resolution shall be, and they are, to the extent of such conflict, hereby repealed.

Adopted and approved by the Governing Body of the Issuer on August __, 2009.

**DOUGHERTY COUNTY SCHOOL
DISTRICT**

(SEAL)

By: _____
Chairman, Board of Education of Dougherty
County

Attest:

Secretary

EXHIBIT A

FORM OF NOTE

UNITED STATES OF AMERICA

STATE OF GEORGIA

DOUGHERTY COUNTY SCHOOL DISTRICT
TAX ANTICIPATION NOTE,
SERIES 2009

Maturity Date

Date of Original Issue

CUSIP

December 31, 2009

August 13, 2009

Principal Amount: FOURTEEN MILLION DOLLARS AND NO CENTS (\$14,000,000.00)

Registered Owner: CEDE & CO.

KNOW ALL MEN BY THESE PRESENTS: DOUGHERTY COUNTY SCHOOL DISTRICT, a political subdivision of the State of Georgia (the "Issuer"), for value received, hereby promises to pay the principal amount set forth above, together with interest thereon at the rate of 2.00% per annum (calculated on the basis of a 360-day year comprised of twelve 30-day months), in immediately available funds, on the maturity date set forth above, to the registered owner hereof.

Both principal hereof and interest hereon are payable by wire transfer by the School District Finance Director, as paying agent, note registrar and authenticating agent (the "Paying Agent"), to the person who is the registered owner hereof as of December 15, 2009 upon surrender hereof. Both principal hereof and interest are payable in lawful money of the United States of America. Notwithstanding the foregoing, so long as this Note is registered in the name of the Securities Depository or the Securities Depository Nominee, payment of principal, redemption premium (if any) and interest on this Note shall be made by wire transfer to the Securities Depository as described more fully below. The Issuer also promises to pay any and all amounts owed by the Issuer as arbitrage rebate pursuant to Section 148 of the Internal Revenue Code of 1986, as amended and any amounts expended by any owner of this Note in connection with the collection of amounts owed hereunder, including, but not limited to attorney fees.

This Note is one of a series of tax anticipation notes in the aggregate principal amount of \$14,000,000 authorized by a resolution (the "Resolution") duly adopted by the Board of Education of the Dougherty County School District (the "Governing Body") of the Issuer on

August 10, 2009, in accordance with Article IX, Section V, Paragraph V of the 1983 Constitution of the State of Georgia and Section 36-80-2 of the Official Code of Georgia Annotated, for the purpose of making a temporary loan to pay current expenses of the Issuer in calendar year 2009.

This Note is issued in anticipation of the receipt of taxes levied or to be levied for the General Fund in calendar year 2009. The principal amount of this Note together with all other temporary loans, notes, warrants or similar obligations does not exceed 75% of the total revenues from taxes collected for the General Fund by the Issuer in calendar year 2008. The principal amount of the Note, together with other contracts, notes, warrants and obligations of the Issuer for current expenses payable from the General Fund does not exceed the total anticipated revenues from taxes of the Issuer for the General Fund for calendar year 2009. No temporary loan or other contract, note, warrant or other obligation for current expenses incurred in calendar year 2008 or any prior calendar year remains unpaid.

The Notes are being issued by means of a Book-Entry System, with actual Notes immobilized at The Depository Trust Company, New York, New York, or its successor as Securities Depository, evidencing ownership of the Notes in principal amounts of \$100,000 or integral multiples thereof, and with transfers of Beneficial Ownership effected on the records of the Securities Depository and its participants pursuant to the rules and procedures established by the Securities Depository. Actual Notes are not available for distribution to the Beneficial Owners, except under the limited circumstances set forth in the Resolution. The principal and interest on the Notes are payable by the Paying Agent to Cede & Co., as nominee of the Securities Depository. Transfer of principal and interest payments to participants of the Securities Depository is the responsibility of the Securities Depository; transfers of principal and interest to Beneficial Owners by participants of the Securities Depository will be the responsibility of such participants and other nominees of Beneficial Owners. The Issuer and the Paying Agent are not responsible or liable for maintaining, supervising or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants.

This Note is not subject to prepayment prior to maturity.

If the Notes are no longer registered to a Securities Depository, this Note may be registered as transferred by the registered owner hereof in person or by the owner's attorney duly authorized in writing, but only in the manner, subject to the limitations specified in the authorizing resolution, and upon surrender and cancellation of this note. Upon such registration of transfer, a new note or notes of the same aggregate principal amount and tenor and of any authorized denomination or denominations will be issued to the transferee in exchange therefor.

If the Notes are not registered to a Securities Depository, this Note may be exchanged for an equal aggregate principal amount of Notes of the same aggregate principal amount and tenor of any authorized denomination or denominations, in the manner and subject to the conditions provided in the authorizing resolution. No service charge shall be made for any registration of transfer or exchange hereinbefore referred to, but the Paying Agent may require payment of a sum sufficient to cover any tax or other governmental charge as a condition precedent to the exercise of such privilege.

The person in whose name this Note is registered shall be deemed and regarded as the absolute owner hereof for all purposes, and payment of or on account of either principal or interest made to such registered owner shall be valid and effectual to satisfy and discharge the liability upon this Note to the extent of the sum or sums so paid.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and laws of the State of Georgia to be done precedent to or as a condition to the issuance of this Note have been properly done, have happened and have been performed in the manner required by the Constitution and laws of the State of Georgia; that the tax levies in anticipation of which this Note is issued are or will be valid and legal levies; that the Issuer will use a sufficient amount of the proceeds of such tax levies and other available funds for the payment of this Note and the interest hereon; and that this Note, together with all other indebtedness of the Issuer, is within every debt or other limit provided by the Constitution and laws of the State of Georgia.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Resolution.

IN WITNESS WHEREOF, the Issuer acting by and through its Governing Body, has caused this Note to be executed in its corporate name by the manual signature of the Chairman, and attested by the manual signature of the Secretary and the corporate seal of the Issuer to be impressed or imprinted hereon, all as of the date of original issue as shown above.

**DOUGHERTY COUNTY SCHOOL
DISTRICT**

(SEAL)

By: _____
Chairman, Board of Education of Dougherty
County

Attest:

Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Notes described in the within mentioned authorizing resolution of the Board of Education of Dougherty County adopted on August 10, 2009, and is hereby authenticated.

**DOUGHERTY COUNTY SCHOOL
DISTRICT**

By: _____
School District Finance Director

Date of Authentication: August __, 2009

* * * * *

ASSIGNMENT FOR TRANSFER

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers
unto

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER
OF ASSIGNEE

the within Note of Dougherty County School District and does hereby constitute and appoint
_____ attorney to transfer the said Note on the books of the Note Registrar,
with full power of substitution in the premise.

Date:

In the presence of: _____
Noteholder

NOTICE: The signature to this Assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

* * * * *

SECRETARY'S CERTIFICATE

The undersigned does hereby certify that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution pertaining to the Dougherty County School District Tax Anticipation Notes, Series 2009 in the aggregate principal amount of \$14,000,000, which resolution was duly adopted at a meeting of the governing body (the "Governing Body") of the Issuer which was duly called and assembled on August 10, 2009, which was open to the public, and at which a quorum was present and acting throughout and that the original of said resolution appears of record in the minute book of the Governing Body which is in my custody and control, and that said resolution has not been amended, repealed, revoked or rescinded as of the date hereof.

Given under my hand and the seal of the Governing Body of the Issuer, this ___ day of August, 2009.

(SEAL)

Secretary