

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1492
Committee Substitute Favorable 6/17/98

Short Title: Rural Infrastructure Bonds.

(Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE
3 STATE, TO ADDRESS STATEWIDE RURAL INFRASTRUCTURE NEEDS BY
4 PROVIDING FUNDS (1) FOR GRANTS AND LOANS TO LOCAL
5 GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER
6 COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND
7 WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR
8 GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE
9 ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. Short title. This act shall be known as the "Rural Infrastructure
13 Bond Act of 1998".

14 Section 2. Purpose. It is the intent of the General Assembly by this act to
15 provide for the issuance of general obligation bonds of the State and to provide that the
16 proceeds realized from the sale of the bonds shall be allocated as follows:

17 (1) \$465,000,000 to provide State matching funds required to receive
18 federal wastewater or water supply assistance funds and to provide
19 additional funding for the Clean Water Revolving Loan and Grant Fund

1 established in Chapter 159G of the General Statutes or to provide
2 funding by grants to local government units;

- 3 (2) \$320,000,000 to provide loans to local government units to finance all
4 or a portion of the cost of construction, improvements, enlargements,
5 extensions, and reconstruction of water supply and distribution systems,
6 wastewater collection systems, wastewater treatment works, water
7 conservation projects and water reuse projects; and
8 (3) \$215,000,000 to provide grants, loans, or other financing to natural gas
9 local distribution companies, persons seeking natural gas distribution
10 franchises, State or local government agencies, or other entities for
11 construction of natural gas facilities.

12 Section 3. Definitions. As used in this act, unless the context otherwise
13 requires:

- 14 (1) " Bond Rating" means a numerical rating of a unit of local government
15 developed by the North Carolina Municipal Council, Inc. The rating
16 formula is based on 100 being a theoretically 'perfect' unit of
17 government and is an assessment of the creditworthiness of the unit.
18 Units of local government with rating below 75 or with no ratings are
19 generally considered to be 'nonbank eligible' and such communities
20 therefore have limited, if any, access to the private market for financing
21 water and sewer or other debt.
22 (2) " Bonds" means bonds issued under this act.
23 (3) " Capital Improvement Plan" means a report that identifies water and
24 sewer infrastructure and capital needs that address planned and strategic
25 growth. It includes an assessment of current water and wastewater
26 systems and a projection of those infrastructure needs over a 20-year
27 horizon. The report takes into consideration government mandates,
28 usefulness of the improvements to the community and the effect on both
29 short and long-term operation and maintenance of the scheduled
30 improvements and identifies alternatives for meeting the identified need
31 including regionalization, consolidation and system mergers, water
32 reuse and conservation.
33 (4) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of the
34 1987 Session Laws, as amended from time to time, codified as Chapter
35 159G of the General Statutes.
36 (5) " Clean Water Revolving Loan and Grant Fund" means the Clean Water
37 Revolving Loan and Grant Fund as defined in the Clean Water
38 Revolving Loan and Grant Act.
39 (6) " Cost" means, without intending thereby to limit or restrict any proper
40 definition of this term in financing the cost of facilities or purposes
41 authorized by this act:

- 1 a. The cost of constructing, reconstructing, enlarging, acquiring,
2 and improving facilities, and acquiring equipment and land
3 therefor,
4 b. The cost of engineering, architectural, and other consulting
5 services as may be required,
6 c. Administrative expenses and charges,
7 d. Finance charges and interest prior to and during construction and,
8 if deemed advisable by the State Treasurer, for a period not
9 exceeding two years after the estimated date of completion of
10 construction,
11 e. The cost of bond insurance, investment contracts, credit
12 enhancement and liquidity facilities, interest-rate swap
13 agreements or other derivative products, financial and legal
14 consultants, and related costs of bond and note issuance, to the
15 extent and as determined by the State Treasurer,
16 f. The cost of reimbursing the State for any payments made for any
17 cost described above, and
18 g. Any other costs and expenses necessary or incidental to the
19 purposes of this act.

20 Allocations in this act of proceeds of bonds to the costs of a project or
21 undertaking in each case may include allocations to pay the costs set
22 forth in items c., d., e., f., and g. in connection with the issuance of
23 bonds for the project or undertaking.

24 (7) "Credit Facility" means an agreement entered into by the State
25 Treasurer on behalf of the State with a bank, savings and loan
26 association, or other banking institution, an insurance company,
27 reinsurance company, surety company, or other insurance institution, a
28 corporation, investment banking firm, or other investment institution, or
29 any financial institution or other similar provider of a credit facility,
30 which provider may be located within or without the United States of
31 America, such agreement providing for prompt payment of all or any
32 part of the principal or purchase price (whether at maturity, presentment
33 or tender for purchase, redemption or acceleration), redemption
34 premium, if any, and interest on any bonds or notes payable on demand
35 or tender by the owner, in consideration of the State agreeing to repay
36 the provider of the credit facility in accordance with the terms and
37 provisions of such agreement.

38 (8) "Economically Depressed Area" means any of the following:
39 a. An economically distressed county as defined in G.S. 143B-
40 437.01.
41 b. That part of a rural county whose poverty rate is at least one
42 hundred fifty percent (150%) of the State poverty rate. For the
43 purpose of this section, the poverty rate is the percentage of the

- 1 population with income below the latest annual federal poverty
2 guidelines issued by the United States Department of Health and
3 Human Resources.
- 4 c. That part of a rural county that experiences an actual or imminent
5 loss of jobs in a number that is equal to or exceeds five percent
6 (5%) of the total number of jobs in the part.
- 7 (9) " Local Government Units" means local government units as defined in
8 the Clean Water Revolving Loan and Grant Act.
- 9 (10) " North Carolina Municipal Council, Inc. (NCMC)" means the private,
10 nonprofit bond rating corporation operating in North Carolina. The
11 Council provides reports and ratings of units of local government for its
12 members.
- 13 (11) " Notes" means notes issued under this act.
- 14 (12) " Par Formula" means any provision or formula adopted by the State to
15 provide for the adjustment, from time to time, of the interest rate or rates
16 borne by any bonds or notes, including:
- 17 a. A provision providing for such adjustment so that the purchase
18 price of such bonds or notes in the open market would be as close
19 to par as possible,
- 20 b. A provision providing for such adjustment based upon a
21 percentage or percentages of a prime rate or base rate, which
22 percentage or percentages may vary or be applied for different
23 periods of time, or
- 24 c. Such other provision as the State Treasurer may determine to be
25 consistent with this act and will not materially and adversely
26 affect the financial position of the State and the marketing of
27 bonds or notes at a reasonable interest cost to the State.
- 28 (13) " Rural County" means a county with a density of less than 200 people
29 per square mile based on the United States census.
- 30 (14) " Rural Economic Development Center" means the Rural Economic
31 Development Center, Inc., a nonprofit corporation.
- 32 (15) " State" means the State of North Carolina.
- 33 (16) " Supplemental Grant" means a grant awarded by the Rural Economic
34 Development Center to a local government unit that assists in financing
35 projects that support rural areas. Supplemental grant funds are intended
36 to supplement other project funding and typically do not represent more
37 than fifty percent (50%) of a project's total cost.
- 38 (17) " Unsewered Communities" means those communities lacking
39 centralized, publicly owned wastewater treatment collection and
40 treatment systems.
- 41 (18) " Wastewater Collection Systems" means wastewater collection systems
42 as defined in the Clean Water Revolving Loan and Grant Act.

- 1 (19) " Wastewater Treatment Works" means wastewater treatment works as
2 defined in the Clean Water Revolving Loan and Grant Act.
- 3 (20) " Water Conservation Projects" include, but are not limited to, any
4 construction, repair, renovation, expansion, replacement of components,
5 or other capital improvement, including related equipment and land
6 acquisition, designed to:
- 7 a. Eliminate the wasteful or unnecessary use or loss of water in the
8 operations of a wastewater collection system, wastewater
9 treatment works, or water supply system; or
- 10 b. Enhance the operation of a wastewater collection system,
11 wastewater treatment works, or water supply system to provide a
12 more efficient use of water.
- 13 (21) " Water Pollution Control Revolving Fund" means the fund described by
14 G.S. 159G-4(a) and G.S. 159G-5(c).
- 15 (22) " Water Reuse" means the actual use or application of treated wastewater
16 in or on areas which require water but do not require potable water
17 quality.
- 18 (23) " Water Supply Systems" means water supply systems as defined in the
19 Clean Water Revolving Loan and Grant Act.

20 Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject
21 to a favorable vote of a majority of the qualified voters of the State who vote on the
22 question of issuing Clean Water Bonds in the election called and held as provided in this
23 act, the State Treasurer is hereby authorized, by and with the consent of the Council of
24 State, to issue and sell, at one time or from time to time, general obligation bonds of the
25 State to be designated "State of North Carolina Clean Water Bonds", with any additional
26 designations as may be determined to indicate the issuance of bonds from time to time, or
27 notes of the State as provided in this act, in an aggregate principal amount not exceeding
28 seven hundred eighty-five million dollars (\$785,000,000) for the purpose of providing
29 funds, with any other available funds, for the purposes authorized in this act.

30 The funds to be derived from the sale of the Clean Water Bonds authorized by
31 this act are sufficient to meet no more than a fraction of the needs that now exist and will
32 arise in the immediate future. For this reason, although public necessity, the criteria
33 established by Chapter 159G of the General Statutes, and the guidelines established by
34 the United States Environmental Protection Agency Hardship Grants Program shall be
35 the primary consideration in granting and loaning funds, great emphasis shall also be
36 placed on the creation of efficient systems of regional wastewater disposal and regional
37 water supply and on the willingness and ability of local government units to meet their
38 responsibilities through sound fiscal policies, creative planning, and efficient operation
39 and management.

40 (b) Natural Gas Bonds. Subject to a favorable vote of a majority of the
41 qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the
42 election called and held as provided in this act, the State Treasurer is hereby authorized,
43 by and with the consent of the Council of State, to issue and sell, at one time or from time

1 to time, general obligation bonds of the State to be designated "State of North Carolina
2 Natural Gas Bonds", with any additional designations as may be determined to indicate
3 the issuance of bonds from time to time, or notes of the State as provided in this act, in an
4 aggregate principal amount not exceeding two hundred fifteen million dollars
5 (\$215,000,000) for the purpose of providing funds, with any other available funds, for the
6 purposes authorized in this act.

7 Section 5. Uses of bond and note proceeds. (a) Clean Water Bonds. The
8 proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans
9 and grants to local governments as follows:

10 (1) The proceeds of three hundred fifty-five million dollars (\$355,000,000)
11 of Clean Water Bonds shall be used by the Department of Environment
12 and Natural Resources to provide State matching funds required to
13 receive federal wastewater or water supply assistance funds, for grants
14 to local government units for the same purposes for which funds in the
15 Clean Water Revolving Loan and Grant Fund may be used, and for
16 grants to fund hardship projects in accordance with the guidelines
17 established by the United States Environmental Protection Agency
18 Hardship Grants Program. The grants shall be made for the purpose of
19 paying the cost of water supply systems, wastewater collection systems,
20 and wastewater treatment works. Those proceeds shall be allocated as
21 follows:

22 a. High-Unit Cost Wastewater Account

23 1. Reserved for local units of local government
24 whose bond rating is less than 75 or who have no bond
25 rating \$70,000,000

26 2. Reserved for local units of local government whose bond
27 rating is 75 or greater \$80,000,000

28 b. Hardship Grant Projects

29 Reserved to fund hardship grant projects in accordance with
30 the guidelines established by the United States EPA Hardship
31 Grants Program \$20,000,000

32 c. High-Unit Cost Water Supply Account

33 1. Reserved for local units of local government
34 whose bond rating is less than 75 or who have no bond
35 rating \$70,000,000

36 2. Reserved for local units of local government whose bond
37 rating is 75 or greater \$80,000,000

38 d. Federal Matching Funds \$35,000,000

39 The sum of thirty-five million dollars (\$35,000,000) that is allocated
40 as federal matching funds shall be used to provide State funds necessary
41 for the 1999-2000, 2000-2001, 2001-2002, 2002-2003, and 2003-2004
42 fiscal years to match the federal wastewater or water supply assistance
43 funds deposited in the Water Pollution Control Revolving Fund or

1 another fund that is used to pay the cost of water supply systems,
2 wastewater collection systems, or wastewater treatment works and is
3 eligible to receive federal matching funds, unless the General Assembly
4 has provided the required match through other revenue, in which event
5 this priority shall cease to exist to the extent of the availability of the
6 other revenue. For the purpose of implementing this priority, the
7 Department of Environment and Natural Resources shall certify to the
8 State Treasurer the amount of funds required for the State match for
9 each of the fiscal years ending June 30, 1999, June 30, 2000, June 30,
10 2001, June 30, 2002, June 30, 2003, and June 30, 2004, and the extent
11 to which the General Assembly has provided other funds for this
12 purpose. Upon certification each year of the amount of funds required
13 for the State match for that fiscal year, the State Treasurer may issue
14 from the thirty-five million dollars (\$35,000,000) the amount certified
15 up to thirty-five million dollars (\$35,000,000). Upon certification for
16 the State match required for the fiscal year ending June 30, 2004, the
17 State Treasurer may issue the remaining balance of the thirty-five
18 million dollars (\$35,000,000) of the Clean Water Bonds authorized by
19 this subdivision for the purpose of funding the State match for that fiscal
20 year and for any other purposes authorized by this subdivision. The
21 proceeds of the bonds necessary for the State match for each fiscal year
22 shall be deposited in the Water Pollution Control Revolving Fund or
23 another appropriate fund or account determined by the State Treasurer.

24 The remaining proceeds of Clean Water Bonds allocated under this
25 subdivision may be (i) transferred directly to the Clean Water Revolving
26 Loan and Grant Fund to make grants, (ii) used to make grants directly to
27 the appropriate local government qualifying for a grant from the Clean
28 Water Revolving Loan and Grant Fund, (iii) used to make grants
29 directly to the appropriate local government qualifying for a grant from
30 the EPA Hardship Grants Program, (iv) used for any combination of (i),
31 (ii), or (iii), or (v) used in such other manner as shall effectuate the
32 purposes of this act.

33 (2) The proceeds of sixty million dollars (\$60,000,000) of Clean Water
34 Bonds shall be transferred to the Department of Commerce and shall be
35 administered in the same manner as funds in the Industrial Development
36 Fund created in G.S. 143B-437.01(a) for use in accordance with G.S.
37 143B-437.01(a), with the following exceptions:

- 38 a. The funds shall be used only for grants to local governments, not
39 for loans.
- 40 b. The only purposes for which grants may be made are
41 construction of or improvements to new or existing water or
42 sewer distribution lines or equipment.

- 1 c. The projects may be located only in counties that are
2 economically distressed as defined in G.S. 143B-437.01 or have
3 a population of less than 50,000.
4 d. Grants may be made with respect to the following industries as
5 defined in G.S. 105-129.2: manufacturing and processing, and
6 warehousing and wholesale trades.
7 e. No match is required for the grants.
8 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
9 Bonds shall be used by the Rural Economic Development Center, Inc.,
10 to provide supplemental grants to local government units to match
11 federal, State, and other grant or loan program funds to plan or improve
12 needed water and sewer projects in economically depressed areas of
13 North Carolina.

14 The supplemental grants made from the proceeds of this fifty million
15 dollars (\$50,000,000) shall be based on the following criteria:

- 16 a. The applicant shall be a local government unit.
17 b. The applicant shall be a rural county.
18 c. The applicant shall have a capital improvement plan.
19 d. First priority shall be given to a water or wastewater
20 infrastructure project that creates or retains jobs. A project shall
21 also receive funding priority if the project is located in an
22 economically distressed county as defined by G.S. 143B-437.01.
23 e. A project that is proposed in a nondistressed county must meet at
24 least one of the following criteria: (i) be located in that part of a
25 rural nondistressed county where the poverty rate is at least one
26 hundred fifty percent (150%) of the State poverty rate, (ii) be
27 located in that part of a rural nondistressed county where the
28 unemployment rate is at least double the State unemployment
29 rate for the most recent reporting period available, or (iii) be
30 located in that part of a rural nondistressed county that
31 experiences an actual or imminent loss of jobs in a number that
32 equals or exceeds five percent (5%) of the total number of jobs in
33 that part of the county. Any grant awarded for a project in a
34 nondistressed county shall be matched on a dollar-for-dollar
35 basis in the amount of the grant awarded.

36 The proceeds allocated under this subdivision may be
37 transferred directly to the supplemental grant account of the
38 Rural Economic Development Center, Inc., to provide
39 supplemental funding for grants to local governments to provide
40 funds to match federal grants or other grants for necessary water
41 and sewer projects in economically depressed areas. However,
42 funds shall not be expended for the repair or replacement of low-
43 pressure pipe wastewater systems.

- 1 (4) The proceeds of three hundred twenty million dollars (\$320,000,000) of
2 Clean Water Bonds shall be used for the purpose of making loans to
3 local government units to pay the cost of water supply systems, water
4 conservation projects, water reuse projects, wastewater collection
5 systems, and wastewater treatment works. The proceeds shall be
6 allocated as follows:
- 7 a. Wastewater collection systems and wastewater treatment works.
 - 8 1. Reserved for local units of local government
9 whose bond rating is less than 75 or who have no bond
10 rating \$10,000,000
 - 11 2. Reserved for local units of local government whose bond
12 rating is 75 or more \$150,000,000
 - 13 b. Water supply and distribution systems and water conservation
14 projects.
 - 15 1. Reserved for local units of local government
16 whose bond rating is less than 75 or who have no bond
17 rating \$10,000,000
 - 18 2. Reserved for local units of local government whose bond
19 rating is 75 or more \$150,000,000

20 The proceeds allocated under this subdivision shall be used to make
21 loans directly to local government units qualifying for a loan from the
22 Clean Water Revolving Loan and Grant Fund or loaned in such other
23 manner as shall effectuate the purposes of this act. To qualify for a loan
24 from the Clean Water Bonds Fund for the purpose of paying the cost of
25 water supply systems, a local government unit must have a water supply
26 facility plan approved by the Department of Environment and Natural
27 Resources. A water supply facility plan submitted by a local
28 government unit to the Department under G.S. 143-355(1) will be
29 sufficient to meet this requirement. To qualify for a loan from the Clean
30 Water Bonds Fund for the purpose of paying the cost of wastewater
31 collection systems or wastewater treatment works, a local government
32 unit must have a wastewater facility plan approved by the Department
33 of Environment and Natural Resources. A wastewater facility plan must
34 project future wastewater treatment needs, must present a long-range
35 plan to meet those needs, and must include plans for system operations
36 and maintenance of the facilities being built with the bond proceeds.

37 The Department of Environment and Natural Resources shall set the
38 priorities and determine the eligibility of local government units for
39 these loans in accordance with Section 10 of this act. The form of the
40 loans and the details thereof including, without limitation, the maturity,
41 interest rate, and amortization schedule shall be determined, from time
42 to time, by the State Treasurer. In making these determinations, the
43 State Treasurer shall consider the purpose of the loans, the ability of

1 local government units to repay the loans, and the security for the loans.
2 The interest rates on these loans shall reflect the self-supporting nature
3 of the loan program and shall be sufficient to cover substantially all
4 payments of debt service on the three hundred twenty million dollars
5 (\$320,000,000) of Clean Water Bonds and the issuance costs and
6 administrative expenses associated with the issuance of these bonds and
7 the making of these loans, subject to any applicable requirements of the
8 federal tax law.

9 Repayments of the loans shall be credited to the General Fund and
10 may be used to pay, directly or indirectly, debt service on the bonds and
11 notes issued. Repayments may be initially placed into such fund or
12 account as may be determined by the State Treasurer for the purpose of
13 determining compliance with applicable requirements of the federal tax
14 law and shall be expended and disbursed therefrom under the direction
15 and supervision of the Director of the Budget.

16 Any additional moneys which may be received by means of a grant or grants
17 from the United States of America or any agency or department thereof or from any other
18 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water
19 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
20 permitted by the terms of the grant or grants, without regard to any limitations imposed
21 by this act.

22 Moneys in the Clean Water Bonds Fund, the Clean Water Bonds Loan Fund,
23 or any separate fund or account established under this act may be invested from time to
24 time by the State Treasurer in the same manner permitted for investment of moneys
25 belonging to the State or held in the State treasury, except with respect to grant money to
26 the extent otherwise directed by the terms of the grant. Investment earnings, except
27 investment earnings with respect to grant moneys to the extent otherwise directed or
28 restricted by the terms of the grant, may be (i) credited to the Clean Water Bonds Fund,
29 the Clean Water Bonds Loan Fund, or any separate fund or account established under this
30 act, (ii) used to pay debt service on the bonds authorized by this act, (iii) used to satisfy
31 compliance with applicable requirements of the federal tax law, or (iv) transferred to the
32 General Fund of the State.

33 The proceeds of bonds and notes may be used with any other moneys made
34 available by the General Assembly for making grants and loans authorized by this act,
35 including the proceeds of any other State bond issues, whether heretofore made available
36 or which may be made available at the session of the General Assembly at which this act
37 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
38 expended and disbursed under the direction and supervision of the Director of the
39 Budget. The funds provided by this act shall be disbursed for the purposes provided in
40 this act upon warrants drawn on the State Treasurer by the State Controller, which
41 warrants shall not be drawn until requisition has been approved by the Director of the
42 Budget and which requisition shall be approved only after full compliance with the
43 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

1 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be
2 used for the purpose of providing grants, loans, or other financing to natural gas local
3 distribution companies, persons seeking natural gas distribution franchises, State or local
4 government agencies, or other entities for the costs of constructing natural gas facilities,
5 including pipelines, compressors, interests in real property, and related equipment for the
6 delivery of natural gas.

7 Any additional moneys which may be received by means of a grant or grants
8 from the United States of America or any agency or department thereof or from any other
9 source to aid in financing the cost of any natural gas grants authorized by this act may be
10 placed by the State Treasurer in the Natural Gas Bonds Fund or in a separate account or
11 fund and shall be disbursed, to the extent permitted by the terms of the grant or grants,
12 without regard to any limitations imposed by this act.

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

25 The North Carolina Utilities Commission shall provide quarterly reports to the
26 Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and
27 House of Representatives Appropriations Committees, and the Fiscal Research Division
28 on the expenditure of moneys from the Natural Gas Bonds Fund.

29 Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of
30 Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of
31 bonds the issuance of which has been anticipated by bond anticipation notes or the
32 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
33 fund to be designated "Clean Water Bonds Fund", which may include such appropriate
34 special accounts therein as may be determined by the State Treasurer and shall be
35 disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be
36 allocated and expended as provided in this act.

37 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,
38 including premium thereon, if any, except the proceeds of bonds the issuance of which
39 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or
40 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural
41 Gas Bonds Fund", which may include such appropriate special accounts therein as may
42 be determined by the State Treasurer, and shall be disbursed as provided in this act.
43 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in

1 this act. The proceeds may be used in accordance with G.S. 62-159 or may be
2 distributed in accordance with the provisions of legislation enacted by the General
3 Assembly in 1998 or later providing for the allocation of the bond proceeds for the
4 purposes provided in this act.

5 (c) Costs. Allocations to the costs of a capital improvement or undertaking in
6 each case may include allocations to pay the costs set forth in Section 3(6)c., d., e., f., and
7 g. of this act in connection with the issuance of bonds for that capital improvement or
8 undertaking.

9 Section 7. Election. The questions of the issuance of the bonds authorized by
10 this act shall be submitted to the qualified voters of the State at an election to be held on
11 the first Tuesday after the first Monday of November 1998. Any other primary, election,
12 or referendum validly called or scheduled by law at the time the election on the bond
13 question provided for in this section is held may be held as called or scheduled. Notice of
14 the election shall be given in the manner and at the times required by G.S. 163-33(8).
15 The election and the registration of voters therefor shall be held under and in accordance
16 with the general laws of the State. Absentee ballots shall be authorized in the election.

17 The State Board of Elections shall reimburse the counties of the State for all
18 necessary expenses incurred in holding the election that are in addition to those that
19 would have otherwise been incurred, the same to be paid out of the Contingency and
20 Emergency Fund or other funds available to the State Board of Elections.

21 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
22 Statutes, or both may be used in accordance with rules prescribed by the State Board of
23 Elections. The bond questions to be used in the ballots or voting systems shall be in
24 substantially the following form:

25 "[] FOR [] AGAINST
26 the issuance of seven hundred eighty-five million dollars (\$785,000,000) State of North
27 Carolina Clean Water Bonds constituting general obligation bonds of the State secured by
28 a pledge of the faith and credit and taxing power of the State for the purpose of providing
29 funds, with any other available funds, to make loans and grants to local government units
30 to pay all or a portion of the cost of clean water projects.

31 "[] FOR [] AGAINST
32 the issuance of two hundred fifteen million dollars (\$215,000,000) State of North
33 Carolina Natural Gas Bonds constituting general obligation bonds of the State secured by
34 a pledge of the faith and credit and taxing power of the State for the purpose of providing
35 funds, with any other available funds, to provide grants, loans, or other financing to
36 public or private entities for construction of natural gas facilities."

37 If a majority of those voting on a bond question in the election vote in favor of
38 the issuance of the bonds described in the question, those bonds may be issued as
39 provided in this act. If a majority of those voting on a bond question in the election vote
40 against the issuance of the bonds described in the question, those bonds shall not be
41 issued.

42 The results of the election shall be canvassed and declared as provided by law
43 for elections for State officers; the results of the election shall be certified by the State

1 Board of Elections to the Secretary of State, in the manner and at the time provided by
2 the general election laws of the State.

3 Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes
4 may bear such date or dates, may be serial or term bonds or notes, or any combination
5 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
6 from their date or dates, may be payable at such place or places, either within or without
7 the United States of America, in such coin or currency of the United States of America as
8 at the time of payment is legal tender for payment of public and private debts, may bear
9 interest at such rate or rates, which may vary from time to time, and may be made
10 redeemable before maturity, at the option of the State or otherwise as may be provided by
11 the State, at such price or prices, including a price less than the face amount of the bonds
12 or notes, and under such terms and conditions, all as may be determined by the State
13 Treasurer, by and with the consent of the Council of State.

14 (b) Signatures; Form and Denomination; Registration. Bonds or notes may be
15 issued as certificated or uncertificated obligations. If issued as certificated obligations,
16 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
17 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
18 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
19 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
20 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
21 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the
22 State Treasurer. Should any officer whose signature or facsimile signature appears on
23 bonds or notes cease to be such officer before the delivery of the bonds or notes, the
24 signature or facsimile signature shall nevertheless have the same validity for all purposes
25 as if the officer had remained in office until delivery, and bonds or notes may bear the
26 facsimile signatures of persons who at the actual time of the execution of the bonds or
27 notes shall be the proper officers to sign any bond or note although at the date of the bond
28 or note such persons may not have been such officers. The form and denomination of
29 bonds or notes, including the provisions with respect to registration of the bonds or notes
30 and any system for their registration, shall be as the State Treasurer may determine in
31 conformity with this act; provided, however, that nothing in this act shall prohibit the
32 State Treasurer from proceeding, with respect to the issuance and form of the bonds or
33 notes, under the provisions of Chapter 159E of the General Statutes, the Registered
34 Public Obligations Act, as well as under this act.

35 (c) Manner of Sale; Expenses. Subject to determination by the Council of State as
36 to the manner in which bonds or notes shall be offered for sale, whether at public or
37 private sale, whether within or without the United States of America, and whether by
38 publishing notices in certain newspapers and financial journals, mailing notices, inviting
39 bids by correspondence, negotiating contracts of purchase or otherwise, the State
40 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
41 or rates of interest, which may vary from time to time, and at such price or prices,
42 including a price less than the face amount of the bonds or the notes, as the State
43 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of

1 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
2 other available moneys.

3 (d) Notes; Repayment.

4 (1) By and with the consent of the Council of State, the State Treasurer is
5 hereby authorized to borrow money and to execute and issue notes of
6 the State for the same, but only in the following circumstances and
7 under the following conditions:

8 a. For anticipating the sale of bonds to the issuance of which the
9 Council of State shall have given consent, if the State Treasurer
10 shall deem it advisable to postpone the issuance of the bonds;

11 b. For the payment of interest on or any installment of principal of
12 any bonds then outstanding, if there shall not be sufficient funds
13 in the State treasury with which to pay the interest or installment
14 of principal as they respectively become due;

15 c. For the renewal of any loan evidenced by notes herein
16 authorized;

17 d. For the purposes authorized in this act; and

18 e. For refunding bonds or notes as herein authorized.

19 (2) Funds derived from the sale of bonds or notes may be used in the
20 payment of any bond anticipation notes issued under this act. Funds
21 provided by the General Assembly for the payment of interest on or
22 principal of bonds shall be used in paying the interest on or principal of
23 any notes and any renewals thereof, the proceeds of which shall have
24 been used in paying interest on or principal of the bonds.

25 (e) Refunding Bonds and Notes. By and with the consent of the Council of
26 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
27 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
28 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
29 combined with any other issues of State bonds and notes similarly secured.

30 (f) Tax Exemption. Bonds and notes shall be exempt from all State, county,
31 and municipal taxation or assessment, direct or indirect, general or special, whether
32 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift
33 taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes.
34 The interest on bonds and notes shall not be subject to taxation as to income.

35 (g) Investment Eligibility. Bonds and notes are hereby made securities in
36 which all public officers, agencies, and public bodies of the State and its political
37 subdivisions, all insurance companies, trust companies, investment companies, banks,
38 savings banks, savings and loan associations, credit unions, pension or retirement funds,
39 other financial institutions engaged in business in the State, executors, administrators,
40 trustees, and other fiduciaries may properly and legally invest funds, including capital in
41 their control or belonging to them. Bonds and notes are hereby made securities which
42 may properly and legally be deposited with and received by any officer or agency of the
43 State or political subdivision of the State for any purpose for which the deposit of bonds,

1 notes, or obligations of the State or any political subdivision is now or may hereafter be
2 authorized by law.

3 (h) Faith and Credit. The faith and credit and taxing power of the State are
4 hereby pledged for the payment of the principal of and the interest on bonds and notes.
5 In addition to the State's right to amend any provision of this act to the extent it does not
6 impair any contractual right of a bond owner, the State expressly reserves the right to
7 amend any provision of this act with respect to the making and repayment of loans, the
8 disposition of any repayments of loans, and any intercept provisions relating to the failure
9 of a local government unit to repay a loan, the bonds not being secured in any respect by
10 loans, any repayments thereof, or any intercept provisions with respect thereto.

11 Section 9. Variable interest rates. In fixing the details of bonds and notes, the
12 State Treasurer may provide that any of the bonds or notes may:

- 13 (1) Be made payable from time to time on demand or tender for purchase
14 by the owner thereof provided a credit facility supports the bonds or
15 notes, unless the State Treasurer specifically determines that a credit
16 facility is not required upon a finding and determination by the State
17 Treasurer that the absence of a credit facility will not materially or
18 adversely affect the financial position of the State and the marketing of
19 the bonds or notes at a reasonable interest cost to the State;
- 20 (2) Be additionally supported by a credit facility;
- 21 (3) Be made subject to redemption or a mandatory tender for purchase prior
22 to maturity;
- 23 (4) Bear interest at a rate or rates that may vary for such period or periods
24 of time, all as may be provided in the proceedings providing for the
25 issuance of the bonds or notes, including, without limitation, such
26 variations as may be permitted pursuant to a par formula; and
- 27 (5) Be made the subject of a remarketing agreement whereby an attempt is
28 made to remarket bonds or notes to new purchasers prior to their
29 presentment for payment to the provider of the credit facility or to the
30 State.

31 If the aggregate principal amount repayable by the State under a credit facility
32 is in excess of the aggregate principal amount of bonds or notes secured by the credit
33 facility, whether as a result of the inclusion in the credit facility of a provision for the
34 payment of interest for a limited period of time or the payment of a redemption premium
35 or for any other reason, then the amount of authorized but unissued bonds or notes during
36 the term of such credit facility shall not be less than the amount of such excess, unless the
37 payment of such excess is otherwise provided for by agreement of the State executed by
38 the State Treasurer.

39 Section 10. Special provisions governing clean water loans. (a) Scope. The
40 provisions of this section shall apply to loans being made from the proceeds of bonds
41 authorized by this act for clean water projects, other than from funds deposited in the
42 Clean Water Revolving Loan and Grant Fund.

1 (b) Clean Water Bonds Loan Fund. There is established in the Department of
2 State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may
3 include any special or segregated accounts the State Treasurer considers appropriate.
4 There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean
5 Water Bonds and notes to be used to make loans, other than loans to be made through the
6 Clean Water Revolving Loan and Grant Fund, to local government units for clean water
7 projects as provided in this act.

8 Except as otherwise permitted by Section 5 of this act with respect to the use of
9 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
10 Fund, other than funds set aside for administrative expenses, including expenses related
11 to determining compliance with applicable requirements of the federal tax law and costs
12 of issuance, shall be used to make loans for the purposes provided in this act. The State
13 Treasurer shall be responsible for making and administering all loans pursuant to the
14 provisions of this section.

15 (c) Application for Loans; Hearings.

16 (1) Eligibility/Initial Hearing.

17 a. Prior to filing an application for a loan, a local government unit
18 shall hold a public hearing. A notice of the public hearing shall
19 be published once at least 10 days before the date fixed for the
20 hearing.

21 b. All applications for loans shall be filed with the Department of
22 Environment and Natural Resources. The form of the application
23 shall be prescribed by the Department and shall require any
24 information necessary to determine the eligibility for a loan
25 under the provisions of this section. All applications approved
26 by the Department of Environment and Natural Resources shall
27 be filed with the Local Government Commission. Each applicant
28 shall furnish to the Department of Environment and Natural
29 Resources and the Local Government Commission information
30 in addition or supplemental to the information contained in its
31 application, upon request.

32 c. A local government unit shall not be eligible for a loan unless it
33 demonstrates to the satisfaction of the Department of
34 Environment and Natural Resources and the Local Government
35 Commission that:

- 36 1. The applicant is a local government unit;
- 37 2. The applicant has the financial capacity to pay the
38 principal of and interest on its proposed loan as evidenced
39 by the approval of the Local Government Commission;
- 40 3. The applicant has substantially complied or will
41 substantially comply with all applicable laws, rules,
42 regulations, and ordinances, whether federal, State, or
43 local; and

- 1 4. The applicant has agreed by official resolution to adopt
2 and place into effect a schedule of fees and charges or the
3 application of other sources of revenue which will provide
4 adequate funds for proper operation, maintenance, and
5 administration of the project and repayment of all
6 principal and interest on the loan.
- 7 (2) Assessment. The Department of Environment and Natural Resources
8 may require any applicant to file with its application an assessment of
9 the impact the project for which the funds are sought will have upon
10 meeting the facility needs of the area within which the project is to be
11 located.
- 12 (3) Hearing by the Department of Environment and Natural Resources or
13 the Local Government Commission. A public hearing may be held by
14 the Department of Environment and Natural Resources or the Local
15 Government Commission at any time on any application. Public
16 hearings may also be held by the Department of Environment and
17 Natural Resources in its discretion upon written request from any citizen
18 or taxpayer who is a resident of the county or counties in which the
19 project is to be located or a resident of the local government unit that
20 proposes to borrow moneys under this act, if it appears that the public
21 interest will be served by the hearing. The written request shall set forth
22 each objection to the proposed project or other reason for requesting a
23 hearing on the application and shall contain the name and address of the
24 persons submitting it. In deciding whether to grant a request for a
25 hearing on an application, the Department of Environment and Natural
26 Resources may consider the application, the written objections to the
27 proposed project, and the facility needs and shall determine if the public
28 interest will be served by a hearing. The determination by the
29 Department of Environment and Natural Resources shall be conclusive,
30 and all written requests for a hearing shall be retained as a permanent
31 part of the records pertaining to the application.
- 32 (4) Petition for Vote. A petition, demanding that the question of whether to
33 enter into a loan agreement with the State under this act be submitted to
34 voters, may be filed with the clerk of the local government unit applying
35 for the loan within 15 days after the public hearing required by this
36 section. The petition's sufficiency shall be determined and a
37 referendum, if any, shall be conducted according to the standards,
38 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.
- 39 (d) Priorities.
- 40 (1) Determination. Determination of priorities to be assigned each eligible
41 project shall be made semiannually by the Department of Environment
42 and Natural Resources during each fiscal year. Every eligible project
43 shall be considered by the Department of Environment and Natural

- 1 Resources with every other project eligible during this same priority
2 period.
- 3 (2) Priority Factors. All applications for loans under this act shall be
4 assigned a priority by the Department of Environment and Natural
5 Resources. The Department of Environment and Natural Resources
6 shall establish other priority factors criteria by rule.
- 7 (3) Assignment of Priority. A written statement relative to each priority
8 assigned shall be prepared by the Department of Environment and
9 Natural Resources and shall be attached to the application. The priority
10 assigned shall be conclusive.
- 11 (4) Failure to Qualify. If an application does not qualify for a loan as of the
12 prior period in which the application was eligible for consideration by
13 reason of the priority assigned, the application shall be considered
14 during the next succeeding priority period upon request of the applicant.
15 If the application again fails to qualify for a loan during the second
16 priority period by reason of the priority assigned, the application shall
17 receive no further consideration. An applicant may file a new
18 application at any time and may amend any pending application to
19 include additional data or information.
- 20 (5) Withdrawal of Commitment. Failure of an applicant within one year
21 after the date of acceptance of the loan to arrange for necessary
22 financing of the proposed project or award of the contract of the
23 construction of the proposed project shall constitute sufficient cause for
24 withdrawal of the commitment. Prior to withdrawal of a commitment,
25 the Department of Environment and Natural Resources shall give due
26 consideration to any extenuating circumstances presented by the
27 applicant as reasons for failure to arrange necessary financing or to
28 award a contract, and the commitment may be extended for an
29 additional period of time if, in the judgment of the Department of
30 Environment and Natural Resources, the extension is justified.
- 31 (e) Disbursement. To be eligible to receive the loans provided for in this
32 section, a local government unit must arrange to borrow the amounts necessary pursuant
33 to rules adopted by the Local Government Commission. No funds shall be disbursed
34 until the Department of Environment and Natural Resources gives a certificate of
35 eligibility to the effect that the applicant meets all eligibility criteria and that all
36 procedural requirements of this act have been met. The maximum principal amount of a
37 loan shall be one hundred percent (100%) of the cost of any eligible project.
- 38 (f) Intercept. The governing body of a local government unit shall by
39 resolution authorize to be included in its loan agreement a provision authorizing the State
40 Treasurer, upon failure of the local government unit to make a scheduled repayment of
41 the loan, to withhold from the local government unit any State funds that would
42 otherwise be distributed to the local government unit in an amount sufficient to pay all
43 sums then due and payable to the State as a repayment of the loan. In such event,

1 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
2 and apply such funds to the repayment of the loan, except that such funds shall not be
3 withheld if (i) before the execution of the loan agreement, such funds have been legally
4 pledged to secure special obligation bonds or other obligations of the local government
5 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
6 secure special obligation bonds or other obligations of the local government unit as
7 authorized in this subsection. After the execution of a loan agreement, all or any portion
8 of the State funds specified in the loan agreement to be so withheld may be pledged to
9 secure special obligation bonds or other obligations of the local government unit only
10 with the prior written consent of the State Treasurer.

11 The State Treasurer shall notify the Secretary of Revenue and the State
12 Controller of the amount to be withheld from the local government unit, and the
13 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
14 amount so requested to be applied by the State Treasurer to the repayment of the loan.

15 (g) Inspection. Inspection of a project for which a loan has been made under
16 this act may be performed by qualified personnel of the Department of Environment and
17 Natural Resources or may be performed by qualified engineers registered in this State
18 approved by the Department of Environment and Natural Resources. No person shall be
19 approved to perform inspections who is an officer employed by the local government unit
20 to which the loan was made or who is an owner, officer, employer, or agent of a
21 contractor or subcontractor engaged in the construction of the project for which the loan
22 was made. For the purpose of payment of inspection fees, inspection services shall be
23 included in the term "cost" as used in this act.

24 (h) Rules. The State Treasurer, the Local Government Commission, and the
25 Department of Environment and Natural Resources may adopt, modify, and repeal rules
26 necessary for the administration of their respective duties under this act. Uniform rules
27 may be jointly adopted where feasible and desirable, and no rule, jointly adopted, may be
28 modified or revoked except upon concurrence of all agencies involved.

29 (i) Federal Grants and Loans. In order to carry out the purposes of this act to
30 secure the greatest possible benefits to the citizens of this State of the funds appropriated,
31 the State Treasurer, the Local Government Commission, and the Department of
32 Environment and Natural Resources shall adopt rules and criteria, not inconsistent with
33 provisions of this act, as are necessary and appropriate to conform to regulations for
34 federal grants and loans for any of the purposes set forth in this act.

35 (j) Reports. The Department of Environment and Natural Resources shall
36 prepare and file each year on or before July 31 with the Joint Legislative Commission on
37 Governmental Operations a report for the preceding fiscal year concerning the allocation
38 and making of loans authorized by this act. The report shall set forth for the preceding
39 fiscal year:

40 (1) Itemized and total allocations of loans authorized and unallocated funds
41 for the loan program as of the end of the preceding fiscal year;

- 1 (2) Identification of each loan agreement entered into by the State during
2 the preceding fiscal year and the total amount of loans authorized by
3 such loan agreements;
4 (3) The amount disbursed to each local government unit pursuant to such
5 loan agreements during the preceding fiscal year and the total amount of
6 such disbursements;
7 (4) The loan repayments made by each local government unit pursuant to
8 such loan agreements and the total amount of such loan repayments
9 during the preceding fiscal year; and
10 (5) A summary for the five preceding years of the information required by
11 subdivisions (1) through (4) of this subsection.

12 The report shall be signed by the Secretary of Environment and Natural Resources.

13 (k) Local Government Commission.

- 14 (1) Local government units may execute debt instruments payable to the
15 State in order to obtain loans provided for in this act. Local government
16 units shall pledge or agree to apply as security for such obligations:
17 a. Any available source of revenues of the local government unit,
18 including revenues from benefitted facilities or systems, provided
19 that (i) the local government unit has not otherwise pledged the
20 revenues as security for, or contractually agreed to apply the
21 revenues to, the payment of any other obligations of the local
22 government unit, (ii) the use of the revenues is not otherwise
23 restricted by law, or (iii) the revenues are not derived from the
24 exercise of the local government unit's taxing power; or
25 b. Their faith and credit; or
26 c. Any combination of a. or b. above.

27 The faith and credit of a local government unit shall not be pledged
28 or be deemed to have been pledged unless the requirements of Article 4
29 of Chapter 159 of the General Statutes have been met. The State
30 Treasurer, with the assistance of the Local Government Commission,
31 shall develop and adopt appropriate debt instruments for use under this
32 act.

- 33 (2) Nothing contained in this act shall prohibit any local government unit
34 from applying any funds of the local government unit not otherwise
35 restricted as to use by law to the payment of any debt instrument
36 payable to the State incurred pursuant to the provisions of this act.
37 (3) The Local Government Commission shall review and approve proposed
38 loans to local government units under this act under the provisions of
39 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
40 Government Commission in considering the ability of a local
41 government unit to repay a loan may regard as a source of revenue for
42 repayment of a loan revenue sources that may not be available other
43 than on an annual discretionary basis and that may not be subject to a

1 pledge or agreement to apply. Loans under this act shall be outstanding
2 debts for the purposes of Article 10 of Chapter 159 of the General
3 Statutes.

- 4 (4) The State Treasurer shall annually certify to the General Assembly the
5 financial condition of the loan program and identify existing
6 delinquencies.

7 Section 11. Reports. (a) The Rural Economic Development Center shall
8 prepare and file each year on or before July 31 with the Joint Legislative Commission on
9 Governmental Operations and the Fiscal Research Division a report for the preceding
10 fiscal year concerning the allocation and making of grants authorized by this act. The
11 report shall be signed by the Chair of the Board of Directors of the Rural Economic
12 Development Center. The report shall set forth for the preceding fiscal year:

- 13 (1) Itemized and total allocations of grants authorized and unallocated funds
14 for the grant program as of the end of the preceding fiscal year;
15 (2) Identification of each grant agreement entered into by the Rural
16 Economic Development Center during the preceding fiscal year and the
17 total amount of grants authorized by the grant agreements;
18 (3) The amount disbursed to each local government unit pursuant to the
19 grant agreements during the preceding fiscal year and the total amount
20 of the disbursements; and
21 (4) A summary for the five preceding years of the information required by
22 subdivisions (1) through (3) of this subsection.

23 (b) The Department of Environment and Natural Resources shall prepare and file
24 each year on or before July 31 with the Joint Legislative Commission on Governmental
25 Operations and the Fiscal Research Division a report for the preceding fiscal year
26 concerning the allocation and making of grants authorized by this act. The report shall be
27 signed by the Secretary of Environment and Natural Resources. The report shall set forth
28 for the preceding fiscal year:

- 29 (1) Itemized and total allocations of grants authorized and unallocated funds
30 for the grant program as of the end of the preceding fiscal year;
31 (2) Identification of each grant agreement entered into by the Department of
32 Environment and Natural Resources during the preceding fiscal year
33 and the total amount of grants authorized by the grant agreements;
34 (3) The amount disbursed to each local government unit pursuant to the
35 grant agreements during the preceding fiscal year and the total amount
36 of the disbursements; and
37 (4) A summary for the five preceding years of the information required by
38 subdivisions (1) through (3) of this subsection.

39 (c) The Department of Commerce shall prepare and file each year on or before
40 July 31 with the Joint Legislative Commission on Governmental Operations and the
41 Fiscal Research Division a report for the preceding fiscal year concerning the allocation
42 and making of grants authorized by this act. The report shall be signed by the Secretary
43 of Commerce. The report shall set forth for the preceding fiscal year:

- 1 (1) Itemized and total allocations of grants authorized and unallocated funds
2 for the grant program as of the end of the preceding fiscal year;
- 3 (2) Identification of each grant agreement entered into by the Department of
4 Commerce during the preceding fiscal year and the total amount of
5 grants authorized by the grant agreements;
- 6 (3) The amount disbursed to each local government unit pursuant to the
7 grant agreements during the preceding fiscal year and the total amount
8 of the disbursements; and
- 9 (4) A summary for the five preceding years of the information required by
10 subdivisions (1) through (3) of this subsection.

11 Section 12. Minority business participation. The goals set by G.S. 143-128 for
12 participation in projects by minority businesses apply to projects funded by the proceeds
13 of bonds or notes issued under this act. The Department of Environment and Natural
14 Resources, the Department of Commerce, and the Rural Economic Development Center
15 shall monitor compliance with this requirement and shall report to the General Assembly
16 by January 1 of each year on the participation by minority businesses in these projects.

17 Section 13. Interpretation of act. (a) Additional Method. The foregoing sections of
18 this act shall be deemed to provide an additional and alternative method for the doing of
19 the things authorized thereby and shall be regarded as supplemental and additional to
20 powers conferred by other laws, and shall not be regarded as in derogation of any powers
21 now existing.

22 (b) Statutory References. References in this act to specific sections or Chapters of
23 the General Statutes or to specific acts are intended to be references to these sections,
24 Chapters, or acts as they may be amended from time to time by the General Assembly.

25 (c) Broad Construction. This act, being necessary for the health and welfare of the
26 people of the State, shall be broadly construed to effect the purposes thereof.

27 (d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent
28 with the provisions of any general laws, or parts thereof, the provisions of this act shall be
29 controlling.

30 (e) Severability. If any provision of this act or the application thereof to any
31 person or circumstance is held invalid, such invalidity shall not affect other provisions or
32 applications of the act which can be given effect without the invalid provision or
33 application, and to this end the provisions of this act are declared to be severable.

34 Section 14. G.S. 159G-6 reads as rewritten:

35 **"§ 159G-6. Distribution of funds.**

36 (a) Revolving loans and grants.

- 37 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
38 and Grant Fund, other than funds set aside for administrative expenses,
39 shall be used for revolving loans and grants to local government units
40 for construction costs of wastewater treatment works, wastewater
41 collection systems and water supply systems and other assistance as
42 provided in this Chapter.

1 (2) The maximum principal amount of a revolving loan or a grant may be
2 one hundred percent (100%) of the nonfederal share of the construction
3 costs of any eligible project. The maximum principal amount of
4 revolving loans made to any one local government unit during any fiscal
5 year shall be ~~three~~ five million dollars ~~(\$3,000,000)~~ (\$5,000,000). The
6 maximum principal amount of grants made to any one local government
7 unit during any fiscal year shall be ~~one~~ two million dollars ~~(\$1,000,000)~~
8 (\$2,000,000).

9 (3) The State Treasurer shall be responsible for investing and distributing
10 all funds appropriated or accruing to the Clean Water Revolving Loan
11 and Grant Fund for revolving loans and grants under this Chapter. In
12 fulfilling his responsibilities under this section, the State Treasurer shall
13 make a written request to the Department of Environment and Natural
14 Resources to arrange for the appropriated funds to be (i) transferred
15 from the appropriate accounts to a local government unit to provide
16 funds for one or more revolving loans or grants or (ii) invested as
17 authorized by this Chapter with the interest on and the principal of such
18 investments to be transferred to the local government unit to provide
19 funds for one or more revolving loans or grants.

20 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
21 the various Wastewater Accounts in each fiscal year shall be used to make revolving
22 loans and grants to local government units as provided below. The Department of
23 Environment and Natural Resources shall disburse no funds from the Wastewater
24 Accounts except upon receipt of written approval of the disbursement from the
25 Environmental Management Commission.

26 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
27 the General Wastewater Revolving Loan and Grant Account shall be
28 used exclusively for the purpose of providing for revolving construction
29 loans or grants in connection with approved wastewater treatment work
30 or wastewater collection system projects.

31 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
32 Wastewater Account shall be available for grants to applicants for high-
33 unit cost wastewater projects. Eligibility of an applicant for such a grant
34 shall be determined by comparing estimated average household user
35 fees for water and sewer service, for debt service and operation and
36 maintenance costs, to one and one-half percent (1.5%) of the median
37 household income in the county in which the project is located. The
38 projects which would require estimated average household water and
39 sewer user fees greater than one and one-half percent (1.5%) of the
40 median household income are defined as high-unit cost wastewater
41 projects and will be eligible for a grant equal to the excess cost, subject
42 to the limitations in ~~subsection~~ subdivision (a)(2) of this section.

1 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
2 Emergency Wastewater Revolving Loan Account shall be available for
3 revolving emergency loans to applicants in the event the Environmental
4 Management Commission certifies that a serious public health hazard,
5 related to the inadequacy of existing wastewater facilities, is present or
6 imminent in a community.

7 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
8 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
9 loans and grants to local government units as provided below. The Department of
10 Environment and Natural Resources shall disburse no funds from the Water Supply
11 Accounts except upon receipt of written approval of the disbursement from the Division
12 of Environmental Health.

13 (1) General Water Supply Revolving Loan and Grant Account. – The funds
14 in the General Water Supply Revolving Loan and Grant Account shall
15 be used exclusively for the purpose of providing for revolving
16 construction loans and grants in connection with water supply systems
17 generally and not upon a county allotment basis.

18 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
19 Cost Water Supply Account shall be available for grants to applicants
20 for high-unit cost water supply systems, on the same basis as provided
21 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

22 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
23 Emergency Water Supply Revolving Loan Account shall be available
24 for revolving emergency loans to applicants in the event the Division of
25 Environmental Health certifies that a serious public health hazard,
26 related to the water supply system, is present or imminent in a
27 community.

28 (d) Repealed by Session Laws 1991, c. 186, s. 4.

29 (e) Notwithstanding any other provision of this Chapter, funds in the Water
30 Pollution Control Revolving Fund shall not be available as grants except to the extent
31 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
32 thereunder."

33 Section 15. The General Assembly finds that:

34 (1) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws
35 directed the North Carolina Utilities Commission to require the
36 franchised natural gas local distribution companies to file reports with
37 the Commission detailing their plans for providing natural gas service in
38 areas of the State where natural gas service is not available, and directed
39 the Commission and the Public Staff to provide independent analyses
40 and summaries of those reports together with status reports of natural
41 gas service in the State to the Joint Legislative Utility Review
42 Committee; and

- 1 (2) The reports of the utilities, the Commission, and the Public Staff
2 indicate that the construction of facilities and the extension of natural
3 gas service in some areas of the State may not be economically feasible
4 with traditional funding methods; and
- 5 (3) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)
6 authorizing special funding methods, including the use of supplier
7 refunds and customer surcharges, to facilitate the expansion of natural
8 gas service; and
- 9 (4) While the 1991 legislation has been successful in providing some
10 natural gas service to previously unserved areas of the State, that
11 legislation has not been sufficient to facilitate the extension of service
12 that is necessary and in the public interest and there are still counties
13 with no gas service or virtually no gas service; and
- 14 (5) It is therefore necessary to authorize additional funding methods,
15 including appropriations from the General Assembly and the proceeds
16 of general obligation bonds, to further facilitate the expansion of natural
17 gas service.

18 Section 16. Chapter 62 of the General Statutes is amended by adding a new
19 section to read:

20 **"§ 62-159. Additional funding for natural gas expansion.**

21 (a) In order to facilitate the construction of facilities in and the extension of natural
22 gas service to unserved areas, the Commission may provide funding through
23 appropriations from the General Assembly or the proceeds of general obligation bonds as
24 provided in this section to either (i) an existing natural gas local distribution company or
25 (ii) a person or a gas district awarded a new franchise, for the construction of natural gas
26 facilities that it otherwise would not be economically feasible for the company or person
27 to construct.

28 (b) The use of funds provided under this section shall be pursuant to an order of
29 the Commission after a public hearing. The Commission shall ensure that all projects for
30 which funds are provided under this section are consistent with the intent of this section
31 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular
32 project pursuant to this section, the Commission shall consider the scope of a proposed
33 project, including the number of unserved counties and the number of anticipated
34 customers that would be served, the total cost of the project, the extent to which the
35 project is considered feasible, and other relevant factors affecting the public interest. In
36 determining economic feasibility, the Commission shall employ the net present value
37 method of analysis on a project specific basis. Only those projects with a negative net
38 present value shall be determined to be economically infeasible for the company or
39 person to construct. In no event shall the Commission provide funding under this section
40 of an amount greater than the negative net present value of any proposed project as
41 determined by the Commission. If at any time a project is determined by the
42 Commission to have become economically feasible, the Commission may require the
43 recipient of funding to remit to the Commission appropriate funds related to the project,

1 and the Commission may order those funds to be returned with interest in a reasonable
2 amount to be determined by the Commission. Funds returned, together with interest,
3 shall be deposited in a special account with the State Treasurer to be used for other
4 expansion projects pursuant to the provisions of this section. Utility plant acquired with
5 expansion funds shall be included in the local distribution company's rate base at zero
6 cost except to the extent such funds have been remitted by the company pursuant to order
7 of the Commission.

8 (c) To the extent that one or more of the counties included in a proposed
9 project to be funded pursuant to this section are counties affected by the loss of exclusive
10 franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the
11 public interest requires that the person obtaining the franchise or funding pursuant to this
12 section be given an exclusive franchise and that the existing franchise be canceled. Any
13 new exclusive franchise granted under this subsection shall be subject to the provisions of
14 G.S. 62-36A(b).

15 (d) The Commission, after hearing, shall adopt rules to implement this section as
16 soon as practicable. The Commission and Public Staff shall report to the Joint
17 Legislative Utility Review Committee on the use of funding provided under this section
18 in conjunction with the reports required under G.S. 62-36A."

19 Section 17. G.S. 62-2 reads as rewritten:

20 "**§ 62-2. Declaration of policy.**

21 (a) Upon investigation, it has been determined that the rates, services and
22 operations of public utilities as defined herein, are affected with the public interest and
23 that the availability of an adequate and reliable supply of electric power and natural gas
24 to the people, economy and government of North Carolina is a matter of public policy. It
25 is hereby declared to be the policy of the State of North Carolina:

- 26 (1) To provide fair regulation of public utilities in the interest of the public;
27 (2) To promote the inherent advantage of regulated public utilities;
28 (3) To promote adequate, reliable and economical utility service to all of
29 the citizens and residents of the State;
30 (3a) To assure that resources necessary to meet future growth through the
31 provision of adequate, reliable utility service include use of the entire
32 spectrum of demand-side options, including but not limited to
33 conservation, load management and efficiency programs, as additional
34 sources of energy supply and/or energy demand reductions. To that end,
35 to require energy planning and fixing of rates in a manner to result in
36 the least cost mix of generation and demand-reduction measures which
37 is achievable, including consideration of appropriate rewards to utilities
38 for efficiency and conservation which decrease utility bills;
39 (4) To provide just and reasonable rates and charges for public utility
40 services without unjust discrimination, undue preferences or advantages,
41 or unfair or destructive competitive practices and consistent with long-
42 term management and conservation of energy resources by avoiding
43 wasteful, uneconomic and inefficient uses of energy;

- 1 (4a) To assure that facilities necessary to meet future growth can be financed
2 by the utilities operating in this State on terms which are reasonable and
3 fair to both the customers and existing investors of such utilities; and to
4 that end to authorize fixing of rates in such a manner as to result in
5 lower costs of new facilities and lower rates over the operating lives of
6 such new facilities by making provisions in the rate-making process for
7 the investment of public utilities in plants under construction;
- 8 (5) To encourage and promote harmony between public utilities, their users
9 and the environment;
- 10 (6) To foster the continued service of public utilities on a well-planned and
11 coordinated basis that is consistent with the level of energy needed for
12 the protection of public health and safety and for the promotion of the
13 general welfare as expressed in the State energy policy;
- 14 (7) To seek to adjust the rate of growth of regulated energy supply facilities
15 serving the State to the policy requirements of statewide development;
- 16 (8) To cooperate with other states and with the federal government in
17 promoting and coordinating interstate and intrastate public utility
18 service and reliability of public utility energy supply; and
- 19 (9) To facilitate the construction of facilities in and the extension of natural
20 gas service to unserved areas in order to promote the public welfare
21 throughout the State and to that end to authorize the creation of ~~an~~
22 expansion fund—funds for ~~each~~—natural gas local distribution ~~company~~
23 companies to be administered under the supervision of the North
24 Carolina Utilities Commission.

25 (b) To these ends, therefore, authority shall be vested in the North Carolina
26 Utilities Commission to regulate public utilities generally, their rates, services and
27 operations, and their expansion in relation to long-term energy conservation and
28 management policies and statewide development requirements, and in the manner and in
29 accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be
30 construed to imply any extension of Utilities Commission regulatory jurisdiction over
31 any industry or enterprise that is not subject to the regulatory jurisdiction of said
32 Commission.

33 Because of technological changes in the equipment and facilities now available and
34 needed to provide telephone and telecommunications services, changes in regulatory
35 policies by the federal government, and changes resulting from the court-ordered
36 divestiture of the American Telephone and Telegraph Company, competitive offerings of
37 certain types of telephone and telecommunications services may be in the public interest.
38 Consequently, authority shall be vested in the North Carolina Utilities Commission to
39 allow competitive offerings of local exchange, exchange access, and long distance
40 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with
41 the provisions of G.S. 62-110, and the Commission is further authorized after notice to
42 affected parties and hearing to deregulate or to exempt from regulation under any or all
43 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.

1 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or
2 exemption from regulation is in the public interest; or (ii) a public utility as defined in
3 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that
4 the service or business of such public utility is competitive and that such deregulation or
5 exemption from regulation is in the public interest.

6 The policy and authority stated in this section shall be applicable to common carriers
7 of passengers by motor vehicle and their regulation by the North Carolina Utilities
8 Commission only to the extent that they are consistent with the provisions of the Bus
9 Regulatory Reform Act of 1985.

10 The North Carolina Utilities Commission may develop regulatory policies to govern
11 the provision of telecommunications services to the public which promote efficiency,
12 technological innovation, economic growth, and permit telecommunications utilities a
13 reasonable opportunity to compete in an emerging competitive environment, giving due
14 regard to consumers, stockholders, and maintenance of reasonably affordable local
15 exchange service and long distance service."

16 Section 18. Effective date. Section 14 of this act becomes effective only if
17 the voters approve the issuance of the Clean Water Bonds authorized by this act in the
18 election required by Section 7 of this act. The remaining sections of this act are effective
19 when the act becomes law, and the Utilities Commission shall begin immediately the
20 rule-making process mandated by G.S. 62-159(d), as enacted by Section 17 of this act.