

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 519

Short Title: Clean Water Bonds/Natural Gas.

(Public)

Sponsors: Representatives Owens; Alexander, Baddour, Beall, Bonner, Boyd-McIntyre, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Creech, Culp, Culpepper, Dedmon, Dickson, Earle, Easterling, Eddins, Fitch, Fox, Goodwin, Gulley, Hackney, Hall, Hardaway, Hensley, Hill, H. Hunter, R. Hunter, Hurley, Jarrell, Jeffus, Kinney, Kiser, Luebke, McComas, McCrary, Mercer, Michaux, Miller, Moore, Nesbitt, Nichols, Nye, Oldham, Preston, Ramsey, Redwine, Rogers, Saunders, Sherrill, Smith, Sutton, Thompson, Tolson, Warwick, Wilkins, G. Wilson, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

March 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS NORTH CAROLINA'S URGENT INFRASTRUCTURE
3 NEEDS BY (1) AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION
4 BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS
5 OF THE STATE, TO PROVIDE FUNDS FOR GRANTS, LOANS, AND
6 REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER
7 SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS,
8 WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION
9 PROJECTS, (2) APPROPRIATING FUNDS FOR GRANTS FOR REGIONAL
10 WATER SUPPLY SYSTEM PLANNING, AND (3) EARMARKING A PORTION
11 OF GENERAL FUND INVESTMENT EARNINGS FOR GRANTS FOR
12 NATURAL GAS EXPANSION.

13 The General Assembly of North Carolina enacts:

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5 **PART I**
6 **CLEAN WATER BONDS**

7 Section 1. Short title. This Part shall be known as the "Clean Water Bond Act
8 of 1997".

9 Section 2. Purpose. It is the intent of the General Assembly by this Part to
10 provide for the issuance of general obligation bonds of the State, and to provide that the
11 proceeds realized from the sale of the bonds shall be allocated as follows:

- 12 (1) Five hundred million dollars (\$500,000,000) to provide State matching
13 funds required to receive federal wastewater or water supply assistance
14 funds and to provide additional funding for the Clean Water Revolving
15 Loan and Grant Fund established in Chapter 159G of the General
16 Statutes or to provide funding by grants and loans to local government
17 units; and
18 (2) Five hundred million dollars (\$500,000,000) to provide loans to local
19 government units to finance all or a portion of the cost of construction,
20 improvements, enlargements, extensions, and reconstruction of water
21 supply systems, wastewater collection systems, wastewater treatment
22 works, and water conservation projects.

23 The funds to be derived from the sale of the Clean Water Bonds
24 authorized by this Part are sufficient to meet no more than a fraction of
25 the needs which now exist and will arise in the immediate future. For
26 this reason, although public necessity and the criteria established by
27 Chapter 159G of the General Statutes shall be the primary consideration
28 in granting and loaning funds, great emphasis shall also be placed on the
29 creation of efficient systems of regional wastewater disposal and
30 regional water supply, and on providing funds to unserved areas and
31 high growth areas.

32 Section 3. Definitions. As used in this Part, unless the context otherwise
33 requires:

- 34 (1) "Bonds" means bonds issued under this Part.
35 (2) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of the
36 1987 Session Laws, as amended from time to time, codified as Chapter
37 159G of the General Statutes.
38 (3) "Clean Water Revolving Loan and Grant Fund" means the Clean Water
39 Revolving Loan and Grant Fund as defined in the Clean Water
40 Revolving Loan and Grant Act.
41 (4) "Cost" means, without intending thereby to limit or restrict any proper
42 definition of this term in financing the cost of facilities or purposes
43 authorized by this Part:

- 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 Part.

20 Allocations in this Part 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 (5) "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 (6) "Local government units" means local government units as defined in
39 the Clean Water Revolving Loan and Grant Act.
- 40 (7) "Notes" means notes issued under this Part.
- 41 (8) "Par formula" means any provision or formula adopted by the State to
42 provide for the adjustment, from time to time, of the interest rate or rates
43 borne by any bonds or notes, including:

- 1 a. A provision providing for such adjustment so that the purchase
2 price of such bonds or notes in the open market would be as close
3 to par as possible,
4 b. A provision providing for such adjustment based upon a
5 percentage or percentages of a prime rate or base rate, which
6 percentage or percentages may vary or be applied for different
7 periods of time, or
8 c. Such other provision as the State Treasurer may determine to be
9 consistent with this Part and will not materially and adversely
10 affect the financial position of the State and the marketing of
11 bonds or notes at a reasonable interest cost to the State.

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

13 (10) "Wastewater collection systems" means wastewater collection systems
14 as defined in the Clean Water Revolving Loan and Grant Act.

15 (11) "Wastewater treatment works" means wastewater treatment works as
16 defined in the Clean Water Revolving Loan and Grant Act.

17 (12) "Water conservation projects" include but are not limited to any
18 construction, repair, renovation, expansion, replacement of components,
19 or other capital improvement, including related equipment and land
20 acquisition, designed to:

21 a. Eliminate the wasteful or unnecessary use or loss of water in the
22 operations of a wastewater collection system, wastewater
23 treatment works, or water supply system; or

24 b. Enhance the operation of a wastewater collection system,
25 wastewater treatment works, or water supply system to provide a
26 more efficient use of water.

27 (13) "Water Pollution Control Revolving Fund" means the fund described by
28 G.S. 159G-4(a) and G.S. 159G-5(c).

29 (14) "Water supply systems" means water supply systems as defined in the
30 Clean Water Revolving Loan and Grant Act.

31 Section 4. Authorization of bonds and notes. Subject to a favorable vote of a
32 majority of the qualified voters of the State who vote on the question of issuing Clean
33 Water Bonds in the election called and held as provided in this Part, the State Treasurer is
34 hereby authorized, by and with the consent of the Council of State, to issue and sell, at
35 one time or from time to time, general obligation bonds of the State to be designated
36 "State of North Carolina Clean Water Bonds", with any additional designations as may be
37 determined to indicate the issuance of bonds from time to time, or notes of the State as
38 provided in this Part, in an aggregate principal amount not exceeding one billion dollars
39 (\$1,000,000,000) for the purpose of providing funds, with any other available funds, for
40 the purposes authorized in this Part.

41 The principal amounts of bonds or notes described in Section 2(1) of this Part
42 issued in any 12-month period shall not exceed one hundred million dollars
43 (\$100,000,000). In determining whether this limit has been reached, the issuance of a

1 note or bond to pay an outstanding note is not considered an issuance. This limit does not
2 apply to bonds or notes described in Section 2(2) of this Part.

3 Section 5. Uses of bond and note proceeds. The proceeds of Clean Water
4 Bonds and notes shall be used for the purpose of making loans and grants to local
5 governments as follows:

- 6 (1) The proceeds of five hundred million dollars (\$500,000,000) of Clean
7 Water Bonds shall be used and allocated for the same purposes for
8 which funds in the Clean Water Revolving Loan and Grant Fund may
9 be used including, without limitation, to provide funds to be used to
10 make revolving loans and grants to local government units. The
11 revolving loans and grants shall be made for the purpose of paying the
12 cost of water supply systems, wastewater collection systems, and
13 wastewater treatment works.

14 The first priority for use of these proceeds shall be to provide State
15 funds necessary for the 1997-99 fiscal biennium to match the federal
16 wastewater or water supply assistance funds, deposited in the Clean
17 Water Pollution Control Revolving Fund, the State Revolving Water
18 Fund account, or another fund, that are available from year to year,
19 unless the General Assembly has provided other funds for this purpose,
20 in which event this priority shall cease to exist to the extent of the
21 availability of those other funds. For the purpose of implementing this
22 priority, the Department of Environment, Health, and Natural Resources
23 shall certify to the State Treasurer the amount of funds required for the
24 State match for each of the fiscal years ending June 30, 1998, and June
25 30, 1999, and the extent to which the General Assembly has provided
26 other funds for this purpose. Upon certification to the State Treasurer of
27 the amount of funds required for the State match for the fiscal year
28 ending June 30, 1998, the State may issue up to one hundred million
29 dollars (\$100,000,000) of Clean Water Bonds authorized by this
30 subdivision for the purpose of funding the State match for that fiscal
31 year and for any other purposes authorized by this subdivision. Upon
32 certification to the State Treasurer of the amount of funds required for
33 the State match for the fiscal year ending June 30, 1999, the State may
34 issue up to one hundred million dollars (\$100,000,000) of Clean Water
35 Bonds authorized by this subdivision for the purpose of funding the
36 State match for that fiscal year and the remaining balance for any other
37 purposes authorized by this subdivision. The proceeds of the bonds
38 necessary for the State match for each fiscal year shall be deposited in
39 the Clean Water Pollution Control Revolving Fund, the State Revolving
40 Water Fund account, or any other fund or account determined by the
41 State Treasurer.

42 The proceeds may be (i) transferred directly to the Clean Water
43 Revolving Loan and Grant Fund to make revolving loans or grants, (ii)

1 used to make revolving loans or grants directly to the appropriate local
2 government qualifying for a revolving loan or grant from the Clean
3 Water Revolving Loan and Grant Fund, (iii) used for any combination
4 of (i) and (ii), or (iv) used in such other manner as shall effectuate the
5 purposes of this Part. Although public necessity and the criteria
6 established by Chapter 159G of the General Statutes shall be the
7 primary consideration in granting and loaning funds, great emphasis
8 shall be placed on the creation of efficient systems of regional
9 wastewater disposal and regional water supply, and on providing funds
10 to unserved areas and high growth areas. Except as provided in this
11 section, loans and grants made from bond proceeds transferred from the
12 Clean Water Bonds Fund to the Clean Water Revolving Loan and Grant
13 Fund shall be made and administered in accordance with the provisions
14 of the Clean Water Revolving Loan and Grant Act. Loans and grants
15 made from bond proceeds directly to local government units and any
16 loan repayments shall, to the extent applicable, be made, administered,
17 and applied in accordance with the provisions of the Clean Water
18 Revolving Loan and Grant Act. Repayments of any direct loans may
19 be initially placed into any fund or account as may be determined by the
20 State Treasurer for the purpose of determining compliance with the
21 applicable requirements of the federal tax law and shall be expended
22 and disbursed therefrom under the direction and supervision of the
23 Director of the Budget. Notwithstanding the provisions of the Clean
24 Water Revolving Loan and Grant Fund, the following provisions apply
25 to the bond proceeds to be used for grants and revolving loans pursuant
26 to this subdivision:

- 27 a. Sixty percent (60%) of the bond proceeds shall be allocated for
28 wastewater collection systems and wastewater treatment works
29 and forty percent (40%) of the bond proceeds shall be allocated
30 for water supply systems and water conservation projects.
- 31 b. Funds allocated to each category in sub-subdivision a. of this
32 subdivision shall be allocated fifty percent (50%) for grants and
33 fifty percent (50%) for revolving loans.

- 34 (2) The proceeds of five hundred million dollars (\$500,000,000) of Clean
35 Water Bonds shall be used for the purpose of making loans to local
36 government units to pay the cost of water supply systems, water
37 conservation projects, wastewater collection systems, and wastewater
38 treatment works. Sixty percent (60%) of the proceeds of the bonds and
39 notes shall be allocated for loans to local government units for
40 wastewater collection systems and wastewater treatment works. Forty
41 percent (40%) of the proceeds of the bonds and notes shall be allocated
42 for loans to local government units for water supply systems and water
43 conservation projects.

1 The proceeds shall be used to make loans directly to local
2 government units qualifying for a loan from the Clean Water Revolving
3 Loan and Grant Fund or loaned in such other manner as shall effectuate
4 the purposes of this Part. To qualify for a loan from the Clean Water
5 Bonds Fund for the purpose of paying the cost of water supply systems,
6 a local government unit must have a water supply facility plan approved
7 by the Department of Environment, Health, and Natural Resources. A
8 water supply facility plan submitted by a local government unit to the
9 Department under G.S. 143-355(l) will be sufficient to meet this
10 requirement. To qualify for a loan from the Clean Water Bonds Fund
11 for the purpose of paying the cost of wastewater collection systems or
12 wastewater treatment works, a local government unit must have a
13 wastewater facility plan approved by the Department of Environment,
14 Health, and Natural Resources. A wastewater facility plan must project
15 future wastewater treatment needs, must present a long-range plan to
16 meet those needs, and must include plans for system operations and
17 maintenance of the facilities being built with the bond proceeds.

18 The Department of Environment, Health, and Natural Resources
19 shall set the priorities and determine the eligibility of local government
20 units for these loans in accordance with Section 10 of this Part. The
21 form of the loans and the details thereof including, without limitation,
22 the maturity, interest rate, and amortization schedule, shall be
23 determined, from time to time, by the State Treasurer. In making these
24 determinations, the State Treasurer shall consider the purpose of the
25 loans, the ability of local government units to repay the loans, and the
26 security for the loans. The interest rates on these loans shall reflect the
27 self-supporting nature of the loan program and shall be sufficient to
28 cover substantially all payments of debt service on the five hundred
29 million dollars (\$500,000,000) of Clean Water Bonds and the issuance
30 costs and administrative expenses associated with the issuance of these
31 bonds and the making of these loans, subject to any applicable
32 requirements of the federal tax law.

33 Repayments of the loans shall be credited to the General Fund and
34 may be used to pay, directly or indirectly, debt service on the bonds and
35 notes issued. Repayments may be initially placed into such fund or
36 account as may be determined by the State Treasurer for the purpose of
37 determining compliance with applicable requirements of the federal tax
38 law and shall be expended and disbursed therefrom under the direction
39 and supervision of the Director of the Budget.

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

1 permitted by the terms of the grant or grants, without regard to any limitations imposed
2 by this Part.

3 The proceeds of bonds and notes may be used with any other moneys made
4 available by the General Assembly for making grants and loans authorized by this Part,
5 including the proceeds of any other State bond issues, whether heretofore made available
6 or which may be made available at the session of the General Assembly at which this Part
7 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
8 expended and disbursed under the direction and supervision of the Director of the
9 Budget. The funds provided by this Part shall be disbursed for the purposes provided in
10 this Part upon warrants drawn on the State Treasurer by the State Controller, which
11 warrants shall not be drawn until requisition has been approved by the Director of the
12 Budget and which requisition shall be approved only after full compliance with the
13 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

14 Section 6. Allocation of proceeds. The proceeds of Clean Water Bonds and
15 notes, including premium thereon, if any, except the proceeds of bonds the issuance of
16 which has been anticipated by bond anticipation notes or the proceeds of refunding bonds
17 or notes, shall be placed by the State Treasurer in a special fund to be designated "Clean
18 Water Bonds Fund", which may include such appropriate special accounts therein as may
19 be determined by the State Treasurer, and shall be disbursed as provided in this Part.
20 Moneys in the Clean Water Bonds Fund shall be allocated and expended as provided in
21 this Part.

22 Allocations to the costs of a capital improvement or undertaking in each case
23 may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this
24 Part in connection with the issuance of bonds for that capital improvement or
25 undertaking.

26 Section 7. Election. The questions of the issuance of the bonds authorized by
27 this Part shall be submitted to the qualified voters of the State at the general election in
28 November 1998. Any other primary, election, or referendum validly called or scheduled
29 by law at the time the election on the bond questions provided for in this section is held,
30 may be held as called or scheduled. Notice of the election shall be given in the manner
31 and at the times required by G.S. 163-33(8). The election and the registration of voters
32 therefor shall be held under and in accordance with the general laws of the State.
33 Absentee ballots shall be authorized in the election.

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

38 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
39 Statutes, or both may be used in accordance with rules prescribed by the State Board of
40 Elections. The bond question to be used in the ballots or voting systems shall be in
41 substantially the following form:

42 **"[] FOR [] AGAINST**

1 the issuance of one billion dollars (\$1,000,000,000) State of North Carolina Clean Water
2 Bonds constituting general obligation bonds of the State secured by a pledge of the faith
3 and credit and taxing power of the State for the purpose of providing funds, with any
4 other available funds, to make loans, revolving loans, and grants to local government
5 units to pay all or a portion of the cost of clean water projects."

6 If a majority of those voting on the Clean Water Bond question in the election
7 vote in favor of the issuance of the bonds, the bonds may be issued as provided in this
8 Part. If a majority of those voting on the Clean Water Bond question in the election vote
9 against the issuance of the bonds, the bonds shall not be issued.

10 The results of the election shall be canvassed and declared as provided by law
11 for elections for State officers; the results of the election shall be certified by the State
12 Board of Elections to the Secretary of State, in the manner and at the time provided by
13 the general election laws of the State.

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

25 (b) Signatures; Form and Denomination; Registration. Bonds or notes may
26 be issued as certificated or uncertificated obligations. If issued as certificated obligations,
27 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
28 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
29 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
30 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
31 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
32 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the
33 State Treasurer. Should any officer whose signature or facsimile signature appears on
34 bonds or notes cease to be such officer before the delivery of the bonds or notes, the
35 signature or facsimile signature shall nevertheless have the same validity for all purposes
36 as if the officer had remained in office until delivery and bonds or notes may bear the
37 facsimile signatures of persons who at the actual time of the execution of the bonds or
38 notes shall be the proper officers to sign any bond or note although at the date of the bond
39 or note such persons may not have been such officers. The form and denomination of
40 bonds or notes, including the provisions with respect to registration of the bonds or notes
41 and any system for their registration, shall be as the State Treasurer may determine in
42 conformity with this Part, except that nothing in this Part shall prohibit the State
43 Treasurer from proceeding, with respect to the issuance and form of the bonds or notes,

1 under the provisions of Chapter 159E of the General Statutes, the Registered Public
2 Obligations Act, as well as under this Part.

3 (c) Manner of Sale; Expenses. Subject to determination by the Council of
4 State as to the manner in which bonds or notes shall be offered for sale, whether at public
5 or private sale, whether within or without the United States of America and whether by
6 publishing notices in certain newspapers and financial journals, mailing notices, inviting
7 bids by correspondence, negotiating contracts of purchase or otherwise, the State
8 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
9 or rates of interest, which may vary from time to time, and at such price or prices,
10 including a price less than the face amount of the bonds or the notes, as the State
11 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
12 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
13 other available moneys.

14 (d) Notes; Repayment.

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

- 19 a. For anticipating the sale of bonds to the issuance of which the
20 Council of State shall have given consent, if the State Treasurer
21 shall deem it advisable to postpone the issuance of the bonds;
22 b. For the payment of interest on or any installment of principal of
23 any bonds then outstanding, if there shall not be sufficient funds
24 in the State treasury with which to pay the interest or installment
25 of principal as they respectively become due;
26 c. For the renewal of any loan evidenced by notes herein
27 authorized;
28 d. For the purposes authorized in this Part; and
29 e. For refunding bonds or notes as herein authorized.

30 (2) Funds derived from the sale of bonds or notes may be used in the
31 payment of any bond anticipation notes issued under this Part. Funds
32 provided by the General Assembly for the payment of interest on or
33 principal of bonds shall be used in paying the interest on or principal of
34 any notes and any renewals thereof, the proceeds of which shall have
35 been used in paying interest on or principal of the bonds.

36 (e) Refunding Bonds and Notes. By and with the consent of the Council of
37 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
38 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
39 bonds or notes issued pursuant to this Part. The refunding bonds and notes may be
40 combined with any other issues of State bonds and notes similarly secured.

41 (f) Tax Exemption. Bonds and notes shall be exempt from all State,
42 county, and municipal taxation or assessment, direct or indirect, general or special,
43 whether imposed for the purpose of general revenue or otherwise, excluding inheritance

1 and gift taxes, income taxes on the gain from the transfer of bonds and notes, and
2 franchise taxes. The interest on bonds and notes shall not be subject to taxation as to
3 income.

4 (g) Investment Eligibility. Bonds and notes are hereby made securities in
5 which all public officers, agencies, and public bodies of the State and its political
6 subdivisions, all insurance companies, trust companies, investment companies, banks,
7 savings banks, savings and loan associations, credit unions, pension or retirement funds,
8 other financial institutions engaged in business in the State, executors, administrators,
9 trustees, and other fiduciaries may properly and legally invest funds, including capital in
10 their control or belonging to them. Bonds and notes are hereby made securities which
11 may properly and legally be deposited with and received by any officer or agency of the
12 State or political subdivision of the State for any purpose for which the deposit of bonds,
13 notes, or obligations of the State or any political subdivision is now or may hereafter be
14 authorized by law.

15 (h) Faith and Credit. The faith and credit and taxing power of the State are
16 hereby pledged for the payment of the principal of and the interest on bonds and notes.
17 In addition to the State's right to amend any provision of this Part to the extent it does not
18 impair any contractual right of a bond owner, the State expressly reserves the right to
19 amend any provision of this Part with respect to the making and repayment of loans, the
20 disposition of any repayments of loans, and any intercept provisions relating to the failure
21 of a local government unit to repay a loan, the bonds not being secured in any respect by
22 loans, any repayments thereof, or any intercept provisions with respect thereto.

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

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

1 If the aggregate principal amount repayable by the State under a credit facility
2 is in excess of the aggregate principal amount of bonds or notes secured by the credit
3 facility, whether as a result of the inclusion in the credit facility of a provision for the
4 payment of interest for a limited period of time or the payment of a redemption premium
5 or for any other reason, then the amount of authorized but unissued bonds or notes during
6 the term of such credit facility shall not be less than the amount of such excess, unless the
7 payment of such excess is otherwise provided for by agreement of the State executed by
8 the State Treasurer.

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

13 (b) Clean Water Bonds Loan Fund. There is established in the Department
14 of State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may
15 include any special or segregated accounts the State Treasurer considers appropriate.
16 There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean
17 Water Bonds and notes to be used to make loans, other than loans to be made through the
18 Clean Water Revolving Loan and Grant Fund, to local government units for clean water
19 projects as provided in this Part. Funds in the various accounts may be invested from
20 time to time by the State Treasurer in the same manner permitted for investments of
21 funds belonging to the State or held in the State treasury. Any investment earnings shall
22 be credited to the particular account from which the investment was made.

23 All moneys accruing to the credit of the Clean Water Bonds Loan Fund, other
24 than funds set aside for administrative expenses, including expenses related to
25 determining compliance with applicable requirements of the federal tax law and costs of
26 issuance, shall be used to make loans for the purposes provided in this Part. The State
27 Treasurer shall be responsible for making and administering all loans pursuant to the
28 provisions of this section.

29 (c) Application for Loans; Hearings.

30 (1) Eligibility/Initial Hearing.

31 a. Prior to filing an application for a loan, a local government unit
32 shall hold a public hearing. A notice of the public hearing shall
33 be published once at least 10 days before the date fixed for the
34 hearing.

35 b. All applications for loans shall be filed with the Department of
36 Environment, Health, and Natural Resources. The form of the
37 application shall be prescribed by the Department and shall
38 require any information necessary to determine the eligibility for
39 a loan under the provisions of this section. All applications
40 approved by the Department of Environment, Health, and
41 Natural Resources shall be filed with the Local Government
42 Commission. Each applicant shall furnish to the Department of
43 Environment, Health, and Natural Resources and the Local

- 1 Government Commission information in addition or
2 supplemental to the information contained in its application,
3 upon request.
- 4 c. A local government unit shall not be eligible for a loan unless it
5 demonstrates to the satisfaction of the Department of
6 Environment, Health, and Natural Resources and the Local
7 Government Commission that:
- 8 1. The applicant is a local government unit;
 - 9 2. The applicant has the financial capacity to pay the
10 principal of and interest on its proposed loan as evidenced
11 by the approval of the Local Government Commission;
 - 12 3. The applicant has substantially complied or will
13 substantially comply with all applicable laws, rules,
14 regulations, and ordinances, whether federal, State, or
15 local; and
 - 16 4. The applicant has agreed by official resolution to adopt
17 and place into effect a schedule of fees and charges or the
18 application of other sources of revenue which will provide
19 adequate funds for proper operation, maintenance, and
20 administration of the project and repayment of all
21 principal and interest on the loan.
- 22 (2) Assessment. The Department of Environment, Health, and Natural
23 Resources may require any applicant to file with its application an
24 assessment of the impact the project for which the funds are sought will
25 have upon meeting the facility needs of the area within which the
26 project is to be located.
- 27 (3) Hearing by the Department of Environment, Health, and Natural
28 Resources or the Local Government Commission. A public hearing
29 may be held by the Department of Environment, Health, and Natural
30 Resources or the Local Government Commission at any time on any
31 application. Public hearings may also be held by the Department of
32 Environment, Health, and Natural Resources in its discretion upon
33 written request from any citizen or taxpayer who is a resident of the
34 county or counties in which the project is to be located or a resident of
35 the local government unit that proposes to borrow moneys under this
36 Part, if it appears that the public interest will be served by the hearing.
37 The written request shall set forth each objection to the proposed project
38 or other reason for requesting a hearing on the application and shall
39 contain the name and address of the persons submitting it. The
40 Department of Environment, Health, and Natural Resources may
41 consider all written objections to the proposed project and other
42 statements along with the application including any significant
43 considerations on facility needs and shall determine if the public interest

1 will be served by a hearing. The determination by the Department of
2 Environment, Health, and Natural Resources shall be conclusive and all
3 written requests for a hearing shall be retained as a permanent part of
4 the records pertaining to the application.

5 (4) Petition for Vote. A petition, demanding that the question of whether to
6 enter into a loan agreement with the State under this Part be submitted
7 to voters, may be filed with the clerk of the local government unit
8 applying for the loan within 15 days after the public hearing required by
9 this section. The petition's sufficiency shall be determined and a
10 referendum, if any, shall be conducted, according to the standards,
11 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

12 (d) Priorities.

13 (1) Determination. Determination of priorities to be assigned each eligible
14 project shall be made semiannually by the Department of Environment,
15 Health, and Natural Resources during each fiscal year. Every eligible
16 project shall be considered by the Department of Environment, Health,
17 and Natural Resources with every other project eligible during this same
18 priority period.

19 (2) Priority Factors. All applications for loans under this Part shall be
20 assigned a priority by the Department of Environment, Health, and
21 Natural Resources. The Department of Environment, Health, and
22 Natural Resources shall establish by rule the priority factors criteria.

23 (3) Assignment of Priority. A written statement relative to each priority
24 assigned shall be prepared by the Department of Environment, Health,
25 and Natural Resources and shall be attached to the application. The
26 priority assigned shall be conclusive.

27 (4) Failure to Qualify. If an application does not qualify for a loan as of the
28 prior period in which the application was eligible for consideration by
29 reason of the priority assigned, the application shall be considered
30 during the next succeeding priority period upon request of the applicant.
31 If the application again fails to qualify for a loan during the second
32 priority period by reason of the priority assigned, the application shall
33 receive no further consideration. An applicant may file a new
34 application at any time and may amend any pending application to
35 include additional data or information.

36 (5) Withdrawal of Commitment. Failure of an applicant within one year
37 after the date of acceptance of the loan to arrange for necessary
38 financing of the proposed project or award of the contract of the
39 construction of the proposed project shall constitute sufficient cause for
40 withdrawal of the commitment. Prior to withdrawal of a commitment,
41 the Department of Environment, Health, and Natural Resources shall
42 give due consideration to any extenuating circumstances presented by
43 the applicant as reasons for failure to arrange necessary financing or to

1 award a contract, and the commitment may be extended for an
2 additional period of time if, in the judgment of the Department of
3 Environment, Health, and Natural Resources, the extension is justified.

4 (e) Disbursement. To be eligible to receive the loans provided for in this
5 section, a local government unit must arrange to borrow the amounts necessary pursuant
6 to rules adopted by the Local Government Commission. No funds shall be disbursed
7 until the Department of Environment, Health, and Natural Resources gives a certificate of
8 eligibility to the effect that the applicant meets all eligibility criteria and that all
9 procedural requirements of this Part have been met. The maximum principal amount of a
10 loan shall be one hundred percent (100%) of the cost of any eligible project.

11 (f) Intercept. The governing body of a local government unit shall by
12 resolution authorize to be included in its loan agreement a provision authorizing the State
13 Treasurer, upon failure of the local government unit to make a scheduled repayment of
14 the loan, to withhold from the local government unit any State funds that would
15 otherwise be distributed to the local government unit in an amount sufficient to pay all
16 sums then due and payable to the State as a repayment of the loan. In such event,
17 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
18 and apply such funds to the repayment of the loan, except that such funds shall not be
19 withheld if (i) before the execution of the loan agreement, such funds have been legally
20 pledged to secure special obligation bonds or other obligations of the local government
21 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
22 secure special obligation bonds or other obligations of the local government unit as
23 authorized in this subsection. After the execution of a loan agreement, all or any portion
24 of the State funds specified in the loan agreement to be so withheld may be pledged to
25 secure special obligation bonds or other obligations of the local government unit only
26 with the prior written consent of the State Treasurer.

27 The State Treasurer shall notify the Secretary of Revenue and the State
28 Controller of the amount to be withheld from the local government unit, and the
29 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
30 amount so requested to be applied by the State Treasurer to the repayment of the loan.

31 (g) Inspection. Inspection of a project for which a loan has been made
32 under this Part may be performed by qualified personnel of the Department of
33 Environment, Health, and Natural Resources or may be performed by qualified engineers
34 registered in this State approved by the Department of Environment, Health, and Natural
35 Resources. No person shall be approved to perform inspections who is an officer
36 employed by the local government unit to which the loan was made or who is an owner,
37 officer, employer, or agent of a contractor or subcontractor engaged in the construction of
38 the project for which the loan was made. For the purpose of payment of inspection fees,
39 inspection services shall be included in the term "cost" as used in this Part.

40 (h) Rules. The State Treasurer, the Local Government Commission, and
41 the Department of Environment, Health, and Natural Resources may adopt, modify, and
42 repeal rules necessary for the administration of their respective duties under this Part.

1 Uniform rules may be jointly adopted where feasible and desirable, and no rule, jointly
2 adopted, may be modified or revoked except upon concurrence of all agencies involved.

3 (i) Federal Grants and Loans. In order to carry out the purposes of this Part
4 to secure the greatest possible benefits to the citizens of this State of the funds
5 appropriated, the State Treasurer, the Local Government Commission, and the
6 Department of Environment, Health, and Natural Resources shall adopt rules and criteria,
7 not inconsistent with provisions of this Part, as are necessary and appropriate to conform
8 to regulations for federal grants and loans for any of the purposes set forth in this Part.

9 (j) Reports. The Department of Environment, Health, and Natural
10 Resources shall prepare and file each year on or before July 31 with the Joint Legislative
11 Commission on Governmental Operations a report for the preceding fiscal year
12 concerning the allocation and making of loans authorized by this Part. The report shall
13 set forth for the preceding fiscal year:

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

16 (2) Identification of each loan agreement entered into by the State during
17 the preceding fiscal year and the total amount of loans authorized by
18 such loan agreements;

19 (3) The amount disbursed to each local government unit pursuant to such
20 loan agreements during the preceding fiscal year and the total amount of
21 such disbursements;

22 (4) The loan repayments made by each local government unit pursuant to
23 such loan agreements and the total amount of such loan repayments
24 during the preceding fiscal year; and

25 (5) A summary for all preceding years of the information required by
26 subdivisions (1) through (4) of this subsection.

27 The report shall be signed by the Secretary of Environment, Health, and Natural
28 Resources.

29 (k) Local Government Commission.

30 (1) Local government units may execute debt instruments payable to the
31 State in order to obtain loans provided for in this Part. Local
32 government units shall pledge or agree to apply as security for such
33 obligations:

34 a. Any available source of revenues of the local government unit,
35 including revenues from benefitted facilities or systems, provided
36 that (i) the local government unit has not otherwise pledged the
37 revenues as security for, or contractually agreed to apply the
38 revenues to, the payment of any other obligations of the local
39 government unit, (ii) the use of the revenues is not otherwise
40 restricted by law, or (iii) the revenues are not derived from the
41 exercise of the local government unit's taxing power; or

42 b. Their faith and credit; or

43 c. Any combination of a. or b. above.

1 The faith and credit of a local government unit shall not be
2 pledged or be deemed to have been pledged unless the
3 requirements of Article 4 of Chapter 159 of the General Statutes
4 have been met. The State Treasurer, with the assistance of the
5 Local Government Commission, shall develop and adopt
6 appropriate debt instruments for use under this Part.

7 (2) Nothing contained in this Part shall prohibit any local government unit
8 from applying any funds of the local government unit not otherwise
9 restricted as to use by law to the payment of any debt instrument
10 payable to the State incurred pursuant to the provisions of this Part.

11 (3) The Local Government Commission shall review and approve proposed
12 loans to local government units under this Part under the provisions of
13 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
14 Government Commission in considering the ability of a local
15 government unit to repay a loan may regard as a source of revenue for
16 repayment of a loan revenue sources that may not be available other
17 than on an annual discretionary basis and that may not be subject to a
18 pledge or agreement to apply. Loans under this Part shall be
19 outstanding debts for the purposes of Article 10 of Chapter 159 of the
20 General Statutes.

21 (4) The State Treasurer shall annually certify to the General Assembly the
22 financial condition of the loan program and identify existing
23 delinquencies.

24 Section 11. Minority business participation. The goals set by G.S. 143-128 for
25 participation in projects by minority businesses apply to projects funded by the proceeds
26 of bonds or notes issued under this Part. The Department of Environment, Health, and
27 Natural Resources shall monitor compliance with this requirement and shall report to the
28 General Assembly by January 1 of each year on the participation by minority businesses
29 in these projects.

30 Section 12. Interpretation of Part. (a) Additional Method. The foregoing
31 sections of this Part shall be deemed to provide an additional and alternative method for
32 the doing of the things authorized thereby and shall be regarded as supplemental and
33 additional to powers conferred by other laws, and shall not be regarded as in derogation
34 of any powers now existing.

35 (b) Statutory References. References in this Part to specific sections or
36 Chapters of the General Statutes or to specific acts are intended to be references to these
37 sections, Chapters, or acts as they may be amended from time to time by the General
38 Assembly.

39 (c) Liberal Construction. This Part, being necessary for the health and
40 welfare of the people of the State, shall be liberally construed to effect the purposes
41 thereof.

1 (d) Inconsistent Provisions. Insofar as the provisions of this Part are
2 inconsistent with the provisions of any general laws, or parts thereof, the provisions of
3 this Part shall be controlling.

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

9 PART II

10 GRANTS FOR REGIONAL WATER SUPPLY SYSTEM PLANNING

11 Section 13. G.S. 159G-3(4) reads as rewritten:

12 "(4) 'Construction costs' means the actual costs of planning, designing and
13 constructing any project for which a revolving loan or grant is made
14 under this Chapter including planning; environmental assessment;
15 wastewater system analysis, evaluation and rehabilitation; engineering;
16 legal, fiscal, administrative and contingency costs for water supply
17 systems, wastewater collection systems, wastewater treatment works
18 and any extensions, improvements, remodeling, additions, or alterations
19 to existing systems. Construction costs may include excess or reserve
20 capacity costs, attributable to no more than 20-year projected domestic
21 growth, plus ten percent (10%) unspecified industrial growth. In
22 addition, construction costs shall include any fees payable to the
23 Environmental Management Commission or the Division of
24 Environmental Health for review of applications and grant of permits,
25 and fees for inspections under G.S. 159G-14. Construction costs may
26 also include the costs for purchase or acquisition of real property. The
27 term may also include the costs for planning and designing a regional
28 water supply project, including a project that was not actually
29 constructed because the planning and designing phase demonstrated that
30 the project was not feasible. A regional project is one involving two or
31 more local government units located in two or more counties."

32 Section 14. There is appropriated from the General Fund to the Department of
33 Environment, Health, and Natural Resources the sum of two million dollars (\$2,000,000)
34 for the 1997-98 fiscal year and the sum of two million dollars (\$2,000,000) for the 1998-
35 99 fiscal year to be deposited in water supply accounts of the Clean Water Revolving
36 Loan and Grant Fund. Notwithstanding G.S. 159G-4, the funds appropriated by this act
37 and deposited to the water supply accounts shall be used only for the planning and
38 designing of regional water supply projects, even if the project is not constructed because
39 the planning and design phase demonstrated that the project was not feasible.

40 PART III

41 GRANTS FOR NATURAL GAS EXPANSION

42 Section 15. Effective June 30, 1998, and expiring August 1, 2002, G.S. 147-
43 69.1(d) reads as rewritten:

1 "(d) Unless otherwise provided by law, the interest or income received and accruing
2 from all deposits or investments of such cash balances shall be paid into the State's
3 General Fund, except that all interest or income received and accruing on the monthly
4 balance of the Highway Fund shall be paid into the State Highway Fund. The cash
5 balances of the several funds may be combined for deposit or investment purposes; and
6 when such combined deposits or investments are made, the interest or income received
7 and accruing from all deposits or investments shall be prorated among the funds in
8 conformity with applicable law and the rules and regulations adopted by the Governor
9 and Council of State. Within 30 days after the end of each fiscal year, the State Treasurer
10 shall credit fifteen million dollars (\$15,000,000) of the interest or income that accrued to
11 the General Fund during that fiscal year to the Natural Gas Assistance Fund, established
12 under G.S. 143B-450.2."

13 Section 16. Part 8 of Chapter 143B of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 143B-450.2. Natural Gas Assistance Fund.**

16 The Natural Gas Assistance Fund is established as a special revenue fund within the
17 Department of Commerce. The Department of Commerce shall administer the Natural
18 Gas Assistance Fund, and shall use the Fund to provide grants to cities, counties, and
19 regional natural gas districts for the funding of projects to expand natural gas service into
20 any county that is totally unserved for natural gas.

21 The Department shall adopt rules providing for the administration of the Fund. In
22 developing and administering those rules, the Department shall consult with the Utilities
23 Commission and the Public Staff of the North Carolina Utilities Commission on the
24 regulatory aspects and economic feasibility of projects under consideration for grants
25 from the Fund. A grant made from the Fund shall not exceed one-half of the total cost of
26 the project for which it is made.

27 The Department of Commerce shall report annually to the General Assembly on
28 grants made from the Fund and the impact of those grants on the expansion on natural gas
29 service into unserved areas of the State."

30 **PART IV**

31 **EFFECTIVE DATES**

32 Section 17. Effective dates. Part II of this act becomes effective July 1, 1997.
33 Section 15 of Part III of this act becomes effective June 30, 1998, and expires August 1,
34 2002. The remainder of this act is effective when it becomes law.