

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

1

SENATE BILL 824

Short Title: Public Facilities/Infrastructure Bonds.

(Public)

Sponsors: Senators Daniel and Plyler.

Referred to: Capital Expenditures.

April 13, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF NINE HUNDRED MILLION
2 DOLLARS IN GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT
3 TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE
4 FUNDS FOR (1) PUBLIC SCHOOL FACILITIES FOR COUNTIES THAT HAVE
5 THE GREATEST CRITICAL SCHOOL BUILDING NEEDS, (2) THE CLEAN
6 WATER REVOLVING LOAN AND GRANT FUND, (3) LOANS TO LOCAL
7 GOVERNMENT UNITS FOR SOLID WASTE MANAGEMENT, PUBLIC
8 SCHOOL FACILITIES AND EQUIPMENT, AND COMMUNITY COLLEGE
9 EQUIPMENT, (4) CAPITAL IMPROVEMENTS FOR COMMUNITY
10 COLLEGES, AND (5) CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF
11 NORTH CAROLINA.
12

13 The General Assembly of North Carolina enacts:

14 Section 1. Short title. This act shall be known as the "North Carolina Public
15 Facilities and Infrastructure Bond Act of 1993".

16 Sec. 2. Purpose. It is the intent of the General Assembly by this act to
17 provide for the issuance of nine hundred million dollars (\$900,000,000) in general
18 obligation bonds of the State, and to provide that the proceeds realized from the sale of
19 the bonds shall be allocated as follows:

- 20 (1) Two hundred million dollars (\$200,000,000) to provide additional
21 funding for the Clean Water Revolving Loan and Grant Fund
22 established in Chapter 159G of the General Statutes to assist in the
23 financing of the cost of improvements, enlargements, extensions, and
24 reconstruction of water supply systems, wastewater collection systems,

1 and wastewater treatment works, and the construction of new such
2 systems and works.

3 The funds to be derived from the sale of the bonds authorized by
4 this act are sufficient to meet no more than a fraction of the needs
5 which now exist and will arise in the immediate future. For this
6 reason, although public necessity and the criteria established by
7 Chapter 159G of the General Statutes shall be the primary
8 consideration in granting and loaning funds, great emphasis shall also
9 be placed on the creation of efficient systems of regional wastewater
10 disposal and regional water supply, and on the willingness and ability
11 of local government units to meet their responsibilities through sound
12 fiscal policies, creative planning, and efficient operation and
13 management.

14 (2) One hundred million dollars (\$100,000,000) to provide loans to local
15 governments to facilitate the implementation of local and regional
16 solid waste programs. Loans shall be made only to those local
17 government units that are eligible for and that qualify for loans from
18 the Solid Waste Management Loan Fund created in Chapter 159I of
19 the General Statutes. These loans shall be repayable by local
20 governments from local funds available for that purpose.

21 (3) One hundred million dollars (\$100,000,000) to provide grants for
22 public school buildings to counties that have the greatest critical
23 school building needs in relation to resources available to pay for the
24 school building needs, and fifty million dollars (\$50,000,000) for loans
25 to local government units to assist in the financing of the costs of
26 improvements to existing public school facilities, the construction of
27 new facilities, and the acquisition of necessary equipment. The loans
28 shall be repayable by local governments from local funds available for
29 that purpose.

30 (4) Seventy-five million dollars (\$75,000,000) to provide grants to
31 individual community colleges to assist in the financing of the costs of
32 community college capital improvements, and seventy-five million
33 dollars (\$75,000,000) to make loans to individual community colleges
34 for the acquisition of instructional equipment. The loans shall be
35 repayable by individual community colleges from the proceeds of
36 appropriations made by the General Assembly and available for this
37 purpose and any other available moneys of the community colleges.

38 (5) Three hundred million dollars (\$300,000,000) to facilitate the
39 providing of capital improvements for certain of the constituent or
40 affiliated institutions of The University of North Carolina.

41 Sec. 3. Definitions. As used in this act, unless the context otherwise
42 requires:

43 (1) " Bonds" means bonds issued under this act.

- 1 (2) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of
2 the 1987 Session Laws, as the same may be amended from time to
3 time, codified as Chapter 159G of the General Statutes.
- 4 (3) " Clean Water Revolving Loan and Grant Fund" means the Clean
5 Water Revolving Loan and Grant Fund as defined in the Clean Water
6 Revolving Loan and Grant Act.
- 7 (4) " Cost" means, without intending thereby to limit or restrict any proper
8 definition of this term in financing the cost of facilities or purposes
9 authorized by this act:
- 10 a. The cost of constructing, reconstructing, enlarging, acquiring,
11 and improving facilities, and acquiring equipment and land
12 therefor,
- 13 b. The cost of engineering, architectural, and other consulting
14 services as may be required,
- 15 c. Administrative expenses and charges,
- 16 d. The cost of bond insurance, investment contracts, credit
17 enhancement and liquidity facilities, interest-rate swap
18 agreements, financial and legal consultants, and related costs of
19 bond and note issuance, to the extent and as determined by the
20 State Treasurer, and
- 21 e. Any other costs and expenses necessary or incidental to the
22 purposes of this act.
- 23 Allocations in this act of proceeds of bonds to the costs of a project or
24 undertaking in each case may include allocations to pay the costs set
25 forth in items c., d., and e. in connection with the issuance of bonds for
26 the project or undertaking.
- 27 (5) " Credit facility" means an agreement entered into by the State
28 Treasurer on behalf of the State with a bank, savings and loan
29 association, or other banking institution, an insurance company,
30 reinsurance company, surety company, or other insurance institution, a
31 corporation, investment banking firm, or other investment institution,
32 or any financial institution or other similar provider of a credit facility,
33 which provider may be located within or without the United States of
34 America, such agreement providing for prompt payment of all or any
35 part of the principal or purchase price (whether at maturity,
36 presentment or tender for purchase, redemption or acceleration),
37 redemption premium, if any, and interest on any bonds or notes
38 payable on demand or tender by the owner, in consideration of the
39 State agreeing to repay the provider of the credit facility in accordance
40 with the terms and provisions of such agreement.
- 41 (6) " Local government units" means local government units as defined in
42 the Clean Water Revolving Loan and Grant Act.
- 43 (7) " Notes" means notes issued under this act.

- 1 (8) " Par formula" means any provision or formula adopted by the State to
2 provide for the adjustment, from time to time, of the interest rate or
3 rates borne by any bonds or notes, including:
4 a. A provision providing for such adjustment so that the purchase
5 price of such bonds or notes in the open market would be as
6 close to par as possible,
7 b. A provision providing for such adjustment based upon a
8 percentage or percentages of a prime rate or base rate, which
9 percentage or percentages may vary or be applied for different
10 periods of time, or
11 c. Such other provision as the State Treasurer may determine to be
12 consistent with this act and will not materially and adversely
13 affect the financial position of the State and the marketing of
14 bonds or notes at a reasonable interest cost to the State.
- 15 (9) " State" means the State of North Carolina.
- 16 (10) " Wastewater collection systems" means wastewater collection
17 systems as defined in the Clean Water Revolving Loan and Grant Act.
- 18 (11) " Wastewater treatment works" means wastewater treatment works as
19 defined in the Clean Water Revolving Loan and Grant Act.
- 20 (12) " Water Pollution Control Revolving Fund" means the fund described
21 by G.S. 159G-4(a) and G.S. 159G-5(c).
- 22 (13) " Water supply systems" means water supply systems as defined in the
23 Clean Water Revolving Loan and Grant Act.

24 Sec. 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject to
25 a favorable vote of a majority of the qualified voters of the State who vote on the
26 question of issuing Clean Water Bonds in the election called and held as provided in
27 this act, the State Treasurer is hereby authorized, by and with the consent of the Council
28 of State, to issue and sell, at one time or from time to time, general obligation bonds of
29 the State to be designated "State of North Carolina Clean Water Bonds", with any
30 additional designations as may be determined to indicate the issuance of bonds from
31 time to time, or notes of the State as provided in this act, in an aggregate principal
32 amount not exceeding two hundred million dollars (\$200,000,000) for the purpose of
33 providing funds, with any other available funds, for the purposes authorized in this act.

34 (b) Solid Waste Management Bonds. Subject to a favorable vote of a
35 majority of the qualified voters of the State who vote on the question of issuing Solid
36 Waste Management Bonds in the election called and held as provided in this act, the
37 State Treasurer is hereby authorized, by and with the consent of the Council of State, to
38 issue and sell, at one time or from time to time, general obligation bonds of the State to
39 be designated "State of North Carolina Solid Waste Management Bonds", with any
40 additional designations as may be determined to indicate the issuance of bonds from
41 time to time, or notes of the State as provided in this act, in the aggregate principal
42 amount not exceeding one hundred million dollars (\$100,000,000) for the purposes
43 authorized in this act.

1 (c) Public School Buildings Bonds. Subject to a favorable vote of a majority
2 of the qualified voters of the State who vote on the question of issuing Public School
3 Buildings Bonds in the election held as provided in this act, the State Treasurer is
4 authorized, by and with the consent of the Council of State, to issue and sell, at one time
5 or from time to time, general obligation bonds of the State to be designated "State of
6 North Carolina Public School Buildings Bonds", with any additional designations as
7 may be determined to indicate the issuance of bonds from time to time, or notes of the
8 State as provided in this act, in the aggregate principal amount not exceeding one
9 hundred fifty million dollars (\$150,000,000) for the purposes authorized in this act.

10 (d) Community College Bonds. Subject to a favorable vote of a majority of the
11 qualified voters of the State who vote on the question of issuing Community College
12 Bonds in the election held as provided in this act, the State Treasurer is authorized, by
13 and with the consent of the Council of State, to issue and sell, at one time or from time
14 to time, general obligation bonds of the State to be designated "State of North Carolina
15 Community College Bonds", with any additional designations as may be determined to
16 indicate the issuance of bonds from time to time, or notes of the State as provided in this
17 act, in the aggregate principal amount not exceeding one hundred fifty million dollars
18 (\$150,000,000) for the purposes* authorized in this act.

19 (e) University Improvement Bonds. Subject to a favorable vote of a majority
20 of the qualified voters of the State who vote on the question of issuing University
21 Improvement Bonds in the election held as provided in this act, the State Treasurer is
22 authorized, by and with the consent of the Council of State, to issue and sell, at one time
23 or from time to time, general obligation bonds of the State to be designated "State of
24 North Carolina University Improvement Bonds", with any additional designations as
25 may be determined to indicate the issuance of bonds from time to time, or notes of the
26 State as provided in this act, in the aggregate principal amount not exceeding three
27 hundred million dollars (\$300,000,000) for the purposes authorized in this act.

28 Sec. 5. Uses of bond and note proceeds. (a) Clean Water Bonds. The
29 proceeds of Clean Water Bonds and notes shall be used and allocated for the same
30 purposes for which funds in the Clean Water Revolving Loan and Grant Fund may be
31 used including, without limitation, to provide funds to be used to make revolving loans
32 and grants to local government units. The revolving loans and grants shall be made for
33 the purpose of paying the cost of water supply systems, wastewater collection systems,
34 and wastewater treatment works. The first priority for use of proceeds shall be to
35 provide the State funds necessary to match the full amount of federal wastewater
36 assistance funds deposited into the Water Pollution Control Revolving Fund that are
37 available to the State from year to year, unless the General Assembly has provided other
38 funds for that purpose, in which event such priority shall cease to exist to the extent of
39 the availability of the other funds. The proceeds may be (i) transferred directly to the
40 Clean Water Revolving Loan and Grant Fund to make revolving loans or grants, or (ii)
41 used to make revolving loans or grants directly to the appropriate local government
42 qualifying for a revolving loan or grant from the Clean Water Revolving Loan and
43 Grant Fund, or (iii) used for any combination of (i) and (ii), or (iv) used in such other
44 manner as shall effectuate the purposes of this act.

1 Any additional moneys which may be received by means of a grant or grants
2 from the United States of America or any agency or department thereof or from any
3 other source for deposit to the State Clean Water Bond Fund may be placed in the State
4 Clean Water Bond Fund or in a separate account or fund and shall be disbursed, to the
5 extent permitted by the terms of the grant or grants, without regard to any limitations
6 imposed by this act.

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

18 (b) Solid Waste Management Bonds. The proceeds of Solid Waste
19 Management Bonds and notes shall be used and allocated for loans to local government
20 units for the same purposes for which funds in the Solid Waste Management Loan Fund
21 created in Chapter 159I of the General Statutes may be used. The purposes for which
22 moneys in the Solid Waste Management Loan Fund created in Chapter 159I of the
23 General Statutes may be used are to assist local governments in meeting:

- 24 (1) The increased costs of constructing new landfills that meet
25 current standards for the protection of the environment.
- 26 (2) The cost of constructing a local or regional incinerator that
27 would serve to reduce the volume of waste to be landfilled.
- 28 (3) The costs of implementing alternative programs to reduce the
29 amount of waste generated, to decrease the volume of waste
30 that is generated, or to recover or to recycle that part of the
31 waste stream that can be recovered or used for another purpose.

32 The Department of Environment, Health, and Natural Resources shall
33 administer the making of these loans. The proceeds may be used to make loans directly
34 to local government units qualifying for a loan from the Solid Waste Management Loan
35 Fund created in Chapter 159I of the General Statutes or used in any other manner that
36 will effectuate the purposes of this act. The form of the loans and the details thereof
37 including, without limitation, the maturity, interest rate, and amortization schedule, shall
38 be determined, from time to time, by the Department of Environment, Health, and
39 Natural Resources.

40 Repayments of the loans shall be credited to the General Fund and may be
41 used to pay, directly or indirectly, debt service on the bonds and notes issued.
42 Repayments shall be initially placed into any fund or account as may be determined by
43 the State Treasurer for the purpose of determining compliance with applicable

1 requirements of the federal tax law and shall be expended and disbursed therefrom
2 under the direction and supervision of the Director of the Budget.

3 Any additional moneys which may be received by means of a grant or
4 grants from the United States of America or any agency or department thereof or from
5 any other source for deposit to the State Solid Waste Management Bond Fund may be
6 placed in the State Solid Waste Management Bond Fund or in a separate account or
7 fund and shall be disbursed, to the extent permitted by the terms of the grant or grants,
8 without regard to any limitations imposed by this act.

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

20 (c) Public School Buildings Bonds. The proceeds of Public School Buildings
21 Bonds and notes shall be used as provided in this act for paying the cost of
22 improvements to existing public school facilities, the construction of new facilities, and
23 the acquisition of necessary equipment, including the planning, construction,
24 reconstruction, enlargement, improvement, repair, or renovation of public school
25 buildings, the purchase of land necessary for immediate construction of school buildings
26 and other related capital outlay projects constituting facilities for individual schools that
27 are used for instructional and related purposes, but not including centralized
28 administration, maintenance, or other facilities.

29 (1) The proceeds of one hundred million dollars (\$100,000,000) of Public
30 School Buildings Bonds and notes shall be transferred directly to the
31 Critical School Facility Needs Fund created in G.S. 115C-489.1 to be
32 used to make grants to counties with the greatest critical school facility
33 needs in relation to resources available to pay for school facility needs
34 as provided in Article 34A of Chapter 115C of the General Statutes.

35 (2) The proceeds of fifty million dollars (\$50,000,000) of Public School
36 Buildings Bonds and notes shall be used to provide loans to local
37 government units to assist in the financing of the costs of
38 improvements to existing public school facilities, the construction of
39 new facilities, and the acquisition of necessary equipment.

40 The Department of Public Education shall administer the making of
41 these loans. The form of the loans and the details thereof including,
42 without limitation, the maturity, interest rate, and amortization
43 schedule, shall be determined, from time to time, by the Department of
44 Public Education.

1 Repayments of the loans shall be credited to the General Fund and
2 may be used to pay, directly or indirectly, debt service on the bonds
3 and notes issued. Repayments shall be initially placed into any fund
4 or account as may be determined by the State Treasurer for the
5 purpose of determining compliance with applicable requirements of
6 the federal tax law and shall be expended and disbursed therefrom
7 under the direction and supervision of the Director of the Budget.

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

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

26 The Office of State Budget and Management and the Department of Public
27 Education shall provide quarterly reports to the Joint Legislative Commission on
28 Governmental Operations, the chairs of the Senate and House of Representatives
29 Appropriations Committees, and the Fiscal Research Division on the expenditure of
30 moneys from the Public School Buildings Bonds Fund.

31 (d) Community College Bonds. The proceeds of Community College Bonds and
32 notes shall be used for the purpose of making loans to community or technical colleges,
33 as defined in Chapter 115D of the General Statutes, as follows:

34 (1) The proceeds of seventy-five million dollars (\$75,000,000) of
35 Community College Bonds shall be used to make grants to community
36 or technical colleges for paying the cost of community college capital
37 improvements, including, without limitation, construction and
38 renovation of classroom buildings, laboratory buildings, research
39 facilities, libraries, physical education facilities, continuing education
40 centers, student cafeteria and activity facilities including sports
41 facilities, administrative office buildings, and land acquisition.

42 (2) The proceeds of seventy-five million dollars (\$75,000,000) of
43 Community College Bonds shall be used to provide loans to individual
44 community colleges for paying the cost of the acquisition of

1 instructional equipment including, without limitation, computer
2 systems and supporting software programs, learning laboratories,
3 audiovisual equipment, minicomputers and microcomputers,
4 computer-controlled machine tools, and computer-assisted drafting
5 machines.

6 The State Board of Community Colleges shall administer the
7 making of these loans. The form of the loans and the details thereof
8 including, without limitation, the maturity, interest rate, and
9 amortization schedule, shall be determined, from time to time, by the
10 State Board of Community Colleges.

11 Loans shall be repayable by individual community colleges from
12 the proceeds of appropriations made by the General Assembly and
13 available for that purpose and any other available moneys of the
14 community colleges. Repayments of the loans shall be credited to the
15 General Fund and may be used to pay, directly or indirectly, debt
16 service on the bonds and notes issued. Repayments shall be initially
17 placed into any fund or account as may be determined by the State
18 Treasurer for the purpose of determining compliance with applicable
19 requirements of the federal tax law and shall be expended and
20 disbursed therefrom under the direction and supervision of the Director
21 of the Budget.

22 In the making of loans to community colleges for equipment, the State Board
23 of Community Colleges shall consider:

- 24 (1) The need for the equipment proposed to be acquired;
- 25 (2) The amount of the loan requested;
- 26 (3) The availability of local funds;
- 27 (4) The estimated needs of the various community colleges throughout the
28 State; and
- 29 (5) Whether or not the applicant has previously received a loan.

30 The State Board of Community Colleges may approve the making of a loan
31 for equipment if it finds and determines, which finding and determination shall be
32 binding and conclusive, that:

- 33 (1) The community college has demonstrated to the State Board of
34 Community Colleges by appropriate documentation the need for the
35 instructional equipment; and
- 36 (2) The community college has demonstrated to the State Board of
37 Community Colleges by appropriate documentation that the
38 instructional equipment to be provided by the loan funds is needed to
39 offer a curriculum program approved by the State Board of
40 Community Colleges and that a quality program would not be offered
41 if equipment loan funds were not made available.

42 In approving the making of loans for equipment, the State Board of
43 Community Colleges shall give priority to loans to community colleges that do not have
44 additional local funds for that purpose.

1 Any additional moneys which may be received by means of a grant or grants
2 from the United States of America or any agency or department thereof or from any
3 other source to aid in financing the cost of any community college grants or loans
4 authorized by this act may be placed by the State Treasurer in the Community College
5 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
6 permitted by the terms of the grant or grants, without regard to any limitations imposed
7 by this act.

8 The proceeds of Community College Bonds and notes may be used with any
9 other moneys made available by the General Assembly for the making of community
10 college grants and loans, including the proceeds of any other State bond issues, whether
11 heretofore made available or which may be made available at the session of the General
12 Assembly at which this act is ratified or any subsequent sessions. The proceeds of
13 Community College Bonds and notes shall be expended and disbursed under the
14 direction and supervision of the Director of the Budget. The funds provided by this act
15 for community college improvements shall be disbursed for the purposes provided in
16 this act upon warrants drawn on the State Treasurer by the State Controller, which
17 warrants shall not be drawn until requisition has been approved by the Director of the
18 Budget and which requisition shall be approved only after full compliance with the
19 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

20 The State Board of Community Colleges shall provide quarterly reports to the
21 Joint Legislative Commission on Governmental Operations, the chairs of the Senate and
22 House of Representatives Appropriations Committees, and the Fiscal Research Division
23 on the expenditure of moneys from the Community College Bonds Fund.

24 (e) University Improvement Bonds. The proceeds of University
25 Improvement Bonds and notes shall be used for the purpose of paying (i) the cost of
26 improvements to the facilities of the constituent or affiliated institutions of The
27 University of North Carolina, under the supervision of the Board of Governors of The
28 University of North Carolina, including, without limitation, construction and renovation
29 of classroom buildings, laboratory buildings, research facilities, libraries, physical
30 education facilities, continuing education centers, student cafeteria and activity
31 facilities, including sports facilities, administrative office buildings, and land acquisition
32 and (ii) the cost of improvements to the North Carolina Center for Public Television
33 under the Board of Governors of The University of North Carolina.

34 Any additional moneys that may be received by means of a grant or grants
35 from the United States of America or any agency or department thereof or from any
36 other source to aid in financing the cost of any university improvements authorized by
37 this act may be placed by the State Treasurer in the University Improvement Bonds
38 Fund or in a separate account or fund and shall be disbursed, to the extent permitted by
39 the terms of the grant or grants, without regard to any limitations imposed by this act.

40 The proceeds of University Improvement Bonds and notes may be used with
41 any other moneys made available by the General Assembly for the making of university
42 improvements, including the proceeds of any other State bond issues, whether
43 heretofore made available or which may be made available at the session of the General
44 Assembly at which this act is ratified or any subsequent sessions. The proceeds of

1 University Improvement Bonds and notes shall be expended and disbursed under the
2 direction and supervision of the Director of the Budget. The funds provided by this act
3 for university improvements shall be disbursed for the purposes provided in this act
4 upon warrants drawn on the State Treasurer by the State Controller, which warrants
5 shall not be drawn until requisition has been approved by the Director of the Budget and
6 which requisition shall be approved only after full compliance with the Executive
7 Budget Act, Article 1 of Chapter 143 of the General Statutes.

8 The Board of Governors of The University of North Carolina shall provide
9 quarterly reports to the Joint Legislative Commission on Governmental Operations, the
10 chairs of the Senate and House of Representatives Appropriations Committees, and the
11 Fiscal Research Division on the expenditure of moneys from the University
12 Improvement Bonds Fund.

13 Sec. 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of Clean
14 Water Bonds and notes, including premium thereon, if any, except the proceeds of
15 bonds the issuance of which has been anticipated by bond anticipation notes or the
16 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
17 fund to be designated "Clean Water Bonds Fund" and shall be disbursed as provided in
18 this act. Moneys in the Clean Water Bonds Fund shall be allocated and expended as
19 provided in this act.

20 (b) Solid Waste Management Bonds. The proceeds of Solid Waste Management
21 Bonds and notes, including premium thereon, if any, except the proceeds of bonds the
22 issuance of which has been anticipated by bond anticipation notes or the proceeds of
23 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be
24 designated "Solid Waste Management Bonds Fund" and shall be disbursed as provided
25 in this act. Moneys in the Solid Waste Management Bonds Fund shall be used for the
26 purposes set forth in this act.

27 (c) Public School Buildings Bonds. The proceeds of Public School Buildings
28 Bonds and notes, including premium thereon, if any, except the proceeds of bonds the
29 issuance of which has been anticipated by bond anticipation notes or the proceeds of
30 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be
31 designated "Public School Buildings Bonds Fund" and shall be disbursed as provided in
32 this act. Moneys in the Public School Buildings Bonds Fund shall be used for the
33 purposes set forth in this act.

34 No Public School Buildings Bonds or notes shall be issued for loans as
35 provided in this act and no proceeds of Public School Buildings Bonds and notes shall
36 be allocated for loans as provided in this act, however, until the General Assembly
37 authorizes issuance of some or all of the Public School Buildings Bonds and notes and
38 appropriates the proceeds of the bonds and notes for a specific loan program within the
39 purposes provided in this act by legislative action in 1993 or at any subsequent session.

40 (d) Community College Bonds. The proceeds of Community College Bonds and
41 notes, including premium thereon, if any, except the proceeds of bonds the issuance of
42 which has been anticipated by bond anticipation notes or the proceeds of refunding
43 bonds or notes, shall be placed by the State Treasurer in a special fund to be designated
44 "Community College Bonds Fund" and shall be disbursed as provided in this act.

1 Moneys in the Community College Bonds Fund shall be used for the purposes provided
2 in this act.

3 No Community College Bonds or notes shall be issued and for grants and no
4 proceeds of Community College Bonds and notes shall be allocated for grants for the
5 purposes provided in this act, however, until the General Assembly authorizes issuance
6 of some or all Community College bonds and notes to be used for grants and
7 appropriates the proceeds of the bonds and notes for grants for specific projects within
8 these purposes by legislative action in 1993 or at any subsequent session. Nothing in
9 this act or as a result of the approval of the bonds at the election provided for in this act
10 restricts the right of the General Assembly in 1993 or at a subsequent session to:

- 11 (1) Establish a procedure whereby projected allocations set forth in
12 subsequent legislation may be increased or decreased to reflect the
13 availability of other funds, including, without limitation, contingency
14 funds, income earned on the investment of bond and notes proceeds,
15 and the proceeds of grants.
- 16 (2) Establish a contingency account and provide for an allocation of bond
17 proceeds thereto. The funds in the contingency account may be used
18 to pay the cost of projects, the costs of issuance of bonds and notes,
19 and increased project costs resulting from construction costs exceeding
20 projections, inflationary factors, and changes in projects and
21 allocations. The funds allocated to the contingency account shall be
22 placed by the State Treasurer in a separate account in the Community
23 College Bonds Fund and shall be disbursed in accordance with the
24 procedures established for disbursements from the Community College
25 Bonds Fund.
- 26 (3) Empower the State Board of Community Colleges, when the State
27 Board of Community Colleges determines it is in the best interest of
28 the State and the community college system to do so, and if the cost of
29 a particular project is less than the projected allocation, to use the
30 excess funds to increase the size of that project or increase the size of
31 any other project described by the General Assembly, or to increase
32 the amount allocated to a particular institution within the aggregate
33 amount of funds available under this section. To the extent that funds
34 are not required to be expended for the specific projects prescribed by
35 the General Assembly, the General Assembly may provide that
36 allocations authorized by it may be used for capital outlay projects at
37 any community college or colleges, including community colleges not
38 described by the General Assembly as replacement projects, but none
39 of the funds may be used for operating expenditures.

40 Allocations to the costs of a capital improvement or undertaking in each case
41 may include allocations to pay the costs set forth in Section 3(4)c., d., and e. of this act
42 in connection with the issuance of bonds for that capital improvement or undertaking.
43 The matching requirements of G.S. 115D-31(a)(1) apply to the proceeds of Community
44 College bonds and notes used to make grants to technical or community colleges.

1 (e) University Improvement Bonds. The proceeds of University
2 Improvement Bonds and notes, including premium thereon, if any, except the proceeds
3 of bonds the issuance of which has been anticipated by bond anticipation notes or the
4 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
5 fund to be designated "University Improvement Bonds Fund". Moneys in the
6 University Improvement Bonds Fund shall be used for the purposes set forth in this act.

7 No University Improvement Bonds or notes shall be issued and no proceeds
8 of University Improvement Bonds and notes shall be allocated for the purposes
9 provided in this act, however, until the General Assembly authorizes issuance of some
10 or all of University Improvement Bonds and notes and appropriates the proceeds of the
11 bonds and notes for specific projects within these purposes by legislative action in 1993
12 or at any subsequent session. Nothing in this act or as a result of the approval of the
13 bonds at the election provided for in this act restricts the right of the General Assembly
14 in 1993 or at a subsequent session to:

- 15 (1) Establish a procedure whereby projected allocations set forth in
16 subsequent legislation may be increased or decreased to reflect the
17 availability of other funds, including, without limitation, contingency
18 funds, income earned on the investment of bond and notes proceeds,
19 and the proceeds of grants.
- 20 (2) Establish a contingency account and provide for an allocation of bond
21 proceeds thereto. The funds in the contingency account may be used
22 to pay the cost of projects, the costs of issuance of bonds and notes,
23 and increased project costs resulting from construction costs exceeding
24 projections, inflationary factors, and changes in projects and
25 allocations. The funds allocated to the contingency account shall be
26 placed by the State Treasurer in a separate account in the University
27 Improvement Bonds Fund and shall be disbursed in accordance with
28 the procedures established for disbursements from the University
29 Improvement Bonds Fund.
- 30 (3) Empower the Director of the Budget or the Board of Governors of The
31 University of North Carolina, when the Director or the Board
32 determines it is in the best interest of the State and The University of
33 North Carolina to do so, and if the cost of a particular project is less
34 than the projected allocation, to use the excess funds to increase the
35 size of that project or increase the size of any other project itemized by
36 the General Assembly, or to increase the amount allocated to a
37 particular institution or the Board of Governors within the aggregate
38 amount of funds available under this section; the Director of the
39 Budget having the right to consult with the Advisory Budget
40 Commission and the Joint Legislative Commission on Governmental
41 Operations.
- 42 (4) Provide that the provisions of G.S. 116-11(9) with respect to
43 appropriations to the Board of Governors of The University of North

1 Carolina shall not apply to proceeds of University Improvement Bonds
2 and notes issued pursuant to the provisions of this act.

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

6 Sec. 7. Election. The questions of the issuance of the nine hundred million
7 dollars (\$900,000,000) North Carolina Public Facilities and Infrastructure Bonds
8 authorized by this act shall be submitted to the qualified voters of the State at an
9 election to be held on the first Tuesday after the first Monday of November 1993. Any
10 other primary, election, or referendum validly called or scheduled by law at the time the
11 election on the bond questions provided for in this section is held may be held as called
12 or scheduled. Notice of the election on the bond questions shall be given by publication
13 twice in a newspaper or newspapers having general circulation in each county in the
14 State, and the election and the registration of voters therefor shall be held under and in
15 accordance with the general laws of the State. Absentee ballots shall be authorized in
16 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 which are in addition to those which
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 Voting machines, ballots, or both may be used in accordance with rules
22 prescribed by the State Board of Elections. The bond questions to be used in the voting
23 machines and ballots shall be in substantially the following forms:

24 "[] FOR the issuance of two hundred million dollars (\$200,000,000) State
25 of North Carolina Clean Water Bonds constituting general obligation
26 bonds of the State secured by a pledge of the faith and credit and
27 taxing power of the State for the purpose of providing funds, with any
28 other available funds, to make revolving loans and grants to assist
29 local government units in paying the cost of clean water projects.

30 [] AGAINST the issuance of two hundred million dollars (\$200,000,000)
31 State of North Carolina Clean Water Bonds constituting general
32 obligation bonds of the State secured by a pledge of the faith and credit
33 and taxing power of the State for the purpose of providing funds, with
34 any other available funds, to make revolving loans and grants to assist
35 local government units in paying the cost of clean water projects.

36 [] FOR the issuance of one hundred million dollars (\$100,000,000) State
37 of North Carolina Solid Waste Management Bonds secured by a
38 pledge of the faith and credit and taxing power of the State for
39 providing, with any other available funds, loans to units of local
40 government to finance the capital costs of solid waste management
41 programs.

42 [] AGAINST the issuance of one hundred million dollars (\$100,000,000)
43 State of North Carolina Solid Waste Management Bonds secured by a
44 pledge of the faith and credit and taxing power of the State for

- 1 providing, with any other available funds, loans to units of local
2 government to finance the capital costs of solid waste management
3 programs.
- 4 [] FOR the issuance of one hundred fifty million dollars (\$150,000,000)
5 State of North Carolina Public School Buildings Bonds constituting
6 general obligation bonds of the State secured by a pledge of the faith
7 and credit and taxing power of the State for the purpose of providing
8 funds, with any other available funds, to make grants and loans to
9 assist local government units in paying the cost of providing public
10 school buildings and other capital projects and equipment to be used
11 for instructional purposes.
- 12 [] AGAINST the issuance of one hundred fifty million dollars
13 (\$150,000,000) State of North Carolina Public School Buildings
14 Bonds constituting general obligation bonds of the State secured by a
15 pledge of the faith and credit and taxing power of the State for the
16 purpose of providing funds, with any other available funds, to make
17 grants and loans to assist local government units in paying the cost of
18 providing public school buildings and other capital projects and
19 equipment to be used for instructional purposes.
- 20 [] FOR the issuance of one hundred fifty million dollars (\$150,000,000)
21 State of North Carolina Community College Bonds secured by a
22 pledge of the faith and credit and taxing power of the State for making
23 grants and loans to community and technical colleges to pay, together
24 with other available funds, the cost of capital improvements and
25 instructional equipment.
- 26 [] AGAINST the issuance of one hundred fifty million dollars
27 (\$150,000,000) State of North Carolina Community College Bonds
28 secured by a pledge of the faith and credit and taxing power of the
29 State for making grants and loans to community and technical colleges
30 to pay, together with other available funds, the cost of capital
31 improvements and instructional equipment.
- 32 [] FOR the issuance of three hundred million dollars (\$300,000,000)
33 State of North Carolina University Improvement Bonds secured by a
34 pledge of the faith and credit and taxing power of the State for paying,
35 with any other available funds, the cost of capital improvements at the
36 constituent or affiliated institutions and the Center for Public
37 Television of The University of North Carolina.
- 38 [] AGAINST the issuance of three hundred million dollars
39 (\$300,000,000) State of North Carolina University Improvement
40 Bonds secured by a pledge of the faith and credit and taxing power of
41 the State for paying, with any other available funds, the cost of capital
42 improvements at the constituent or affiliated institutions and the Center
43 for Public Television of The University of North Carolina."

1 If a majority of those voting on a bond question in the election vote in favor
2 of the issuance of the bonds described in the question, those bonds may be issued as
3 provided in this act. If a majority of those voting on a bond question in the election vote
4 against the issuance of the bonds described in the question, those bonds shall not be
5 issued.

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

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

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

42 (c) Manner of sale; expenses. Subject to determination by the Council of State as
43 to the manner in which bonds or notes shall be offered for sale, whether at public or
44 private sale, whether within or without the United States of America and whether by

1 publishing notices in certain newspapers and financial journals, mailing notices, inviting
2 bids by correspondence, negotiating contracts of purchase or otherwise, the State
3 Treasurer is authorized to sell bonds or notes at one time or from time to time at such
4 rate or rates of interest, which may vary from time to time, and at such price or prices,
5 including a price less than the face amount of the bonds or the notes, as the State
6 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
7 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes
8 or other available moneys.

9 (d) Notes; repayment.

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

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

25 (2) Funds derived from the sale of bonds or notes may be used in the
26 payment of any bond anticipation notes issued under this act. Funds
27 provided by the General Assembly for the payment of interest on or
28 principal of bonds shall be used in paying the interest on or principal
29 of any notes and any renewals thereof, the proceeds of which shall
30 have been used in paying interest on or principal of the bonds.

31 (e) Refunding bonds and notes. By and with the consent of the Council of
32 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
33 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
34 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
35 combined with any other issues of State bonds and notes similarly secured.

36 (f) Tax exemption. Bonds and notes shall be exempt from all State, county,
37 and municipal taxation or assessment, direct or indirect, general or special, whether
38 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift
39 taxes. The gain from the transfer of bonds and notes shall be exempt from State income
40 taxation to the same extent as gain from the transfer of federal obligations. The interest
41 on bonds and notes shall not be subject to taxation as to income, to the same extent as
42 the interest on federal obligations.

43 (g) Investment eligibility. Bonds and notes are hereby made securities in
44 which all public officers, agencies, and public bodies of the State and its political

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

10 (h) Faith and credit. The faith and credit and taxing power of the State are
11 hereby pledged for the payment of the principal of and the interest on bonds and notes.

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

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

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

40 Sec. 10. Special Provisions Governing Loans.

41 (a) Definition. "Receiving agency" means the agency, charged with
42 responsibility by this act, to receive applications for loans in their respective categories
43 of projects.

44 (b) Loan Fund.

- 1 (1) There is established in the Department of State Treasurer a fund to be
2 known as the Public Facility and Infrastructure Loan Fund. The
3 various accounts of the Fund shall be administered as required and
4 provided for in this act. The funds in the various accounts may be
5 invested in the same manners permitted for investments of funds
6 belonging to the State or held in the State treasury. Interest earnings
7 derived from these investments shall be credited to the respective
8 accounts from which funds were used to make the loans.
- 9 (2) Distribution of funds. All appropriated or bond funds accruing to each
10 account of the Public Facility and Infrastructure Loan Fund, other than
11 funds set aside for administrative expenses, shall be used for loans for
12 the purposes provided in this act.
- 13 (3) The maximum principal amount of a loan may be one hundred percent
14 (100%) of the cost of any eligible project. The maximum amount of
15 loans made to any one local government unit during any fiscal year
16 shall be _____ million dollars.
- 17 (4) The State Treasurer shall be responsible for investing and distributing
18 all funds appropriated or accruing to the Public Facility and
19 Infrastructure Loan Fund. The State Treasurer shall arrange for the
20 appropriated funds to be transferred from the appropriate accounts to a
21 local government unit to provide funds for one or more loan programs
22 or shall invest the funds as authorized by this act with the interest on
23 and the principal of the investments to be transferred to the local
24 government unit to provide funds for one or more loans.
- 25 (c) Application for Loans; Hearings.
- 26 (1) Eligibility/Initial Hearing.
- 27 a. Prior to filing an application for a loan, a unit of local
28 government shall hold a public hearing. A notice of the public
29 hearing shall be published once at least 10 days before the date
30 fixed for the hearing.
- 31 b. All applications for loans shall be filed with the designated
32 receiving agency. If the application is denied, the application
33 shall then be considered at the next available period. All
34 applications approved by the receiving agency shall be filed
35 with the Local Government Commission. Each applicant shall
36 furnish information in addition or supplemental to the
37 information contained in its application upon request.
- 38 c. Local Loans. No unit of local government shall be eligible for a
39 loan unless it demonstrates to the satisfaction of the receiving
40 agency that:
- 41 1. The applicant is a local government unit;
- 42 2. The applicant has the financial capacity to pay the
43 principal of and interest on its proposed obligations and

- 1 loans, as evidenced by the approval of the Local
2 Government Commission;
- 3 3. The applicant has substantially complied or will
4 substantially comply with all applicable laws, rules,
5 regulations, and ordinances, whether federal, State, or
6 local; and
- 7 4. The applicant has agreed by official resolution to adopt
8 and place into effect on or before completion a schedule
9 of fees and charges and other sources of revenue which
10 will provide adequate funds for proper operation,
11 maintenance, and administration of the project and
12 repayment of all principal and interest on loans.
- 13 (2) State Facilities and Improvement Loans. No State agency shall be
14 eligible for a loan unless it demonstrates the capital project's financing
15 feasibility in light of the agency's appropriations and revenue history
16 and projections.
- 17 (3) Assessment. Every applicant shall file with its application an
18 assessment of the impact the project for which the funds are sought
19 will have upon meeting the facility needs of the area within which the
20 project is to be located.
- 21 (4) Hearing by Receiving Agency. A public hearing may be held by the
22 receiving agency or the Local Government Commission at any time on
23 any application. Public hearings may also be held by the receiving
24 agency upon written request from any citizen or taxpayer who is a
25 resident of the county or counties in which the project is to be located
26 if it appears that the public interest will be served by the hearing. The
27 written request will set forth each objection to the proposed project or
28 other reason for requesting a hearing on the application and shall
29 contain the name and address of the persons submitting it. The
30 receiving agency may consider all written objections to the proposed
31 project and other statements along with the application including any
32 significant considerations on facility needs and shall determine if the
33 public interest will be served by a hearing. The determination by the
34 receiving agency will be conclusive that all written requests for a
35 hearing shall be retained as a permanent part of the records pertaining
36 to the application.
- 37 (5) To be eligible to receive the loans provided for in this act, local
38 government units shall arrange to borrow the amounts necessary
39 pursuant to rules adopted by the Local Government Commission.
- 40 (6) A petition, demanding that the question of whether to enter into a loan
41 agreement with the State under this act be submitted to voters, may be
42 filed with the clerk within ___ days after the public hearing, required
43 by the local government unit. The petition's sufficiency shall be
44 determined and a referendum, if any, shall be conducted, according to

1 the standards, procedures, and limitations set out in G.S. 159-60
2 through G.S. 159-62.

3 (d) Priorities.

4 (1) Determination. Determination of priorities to be assigned each eligible
5 application shall be made semiannually by each receiving agency
6 during each fiscal year. Every eligible application shall be considered
7 by the receiving agency with every other application eligible during
8 this same priority period.

9 (2) Priority Factors. All applications for loans under this act shall be
10 assigned a priority by the receiving agency. The receiving agency
11 shall establish by rule the priority factors criteria.

12 (3) Assignment of Priority. A written statement relative to each priority
13 assigned shall be prepared by the receiving agency and shall be
14 attached to the receiving application. The priority assigned shall be
15 conclusive.

16 (4) Failure to Qualify. If an application does not qualify for a loan as of
17 the prior period in which the application was eligible for consideration
18 by reason of the priority assigned, the application shall be considered
19 during the next succeeding priority period upon request of the
20 applicant. If the application again fails to qualify for a loan during the
21 second priority period by reason of the priority assigned, the
22 application shall receive no further consideration. An applicant may
23 file a new application at any time and may amend any pending
24 application to include additional data or information.

25 (5) Withdrawal of Commitment. Failure of an applicant within one year
26 after the date of acceptance of the loan to arrange for necessary
27 financing of the proposed project or award of the contract of the
28 construction of the proposed project shall constitute sufficient cause
29 for withdrawal of the commitment. Prior to withdrawal of a
30 commitment, the receiving agency shall give due consideration to any
31 extenuating circumstances presented by the applicant as reasons for
32 failure to arrange necessary financing or to award a contract, and the
33 commitment may be extended for an additional period of time if, in the
34 judgment of the receiving agency, the extension is justified.

35 (e) Disbursement.

36 (1) No funds shall be disbursed until the receiving agency gives a
37 certificate of eligibility to the effect that the applicant meets all
38 eligibility criteria and that all procedural requirements of this act have
39 been met.

40 (2) In the event that the loan payments are to be made in installments, no
41 payments shall be disbursed until the receiving agency submits a
42 request for disbursement.

43 (f) Failure to Pay Loans. In the event repayment of a loan is not received or
44 is in apparent likelihood of not being received in a timely manner from a local

1 government unit, as determined conclusively by the State Treasurer, then,
2 notwithstanding any other provision of law, upon determination by the State Treasurer
3 of the default, any distributions which might otherwise be made to a unit of local
4 government from any funds of the State shall be withheld and used, as required, in
5 payment of the loan until notice from the State Treasurer that the local government unit
6 is no longer in default.

7 In the event repayment of a loan is not received or is in apparent likelihood of
8 not being received in a timely manner from the State agency which originally received
9 the loan, as determined conclusively by the State Treasurer, then, notwithstanding any
10 other provision of law, upon determination by the State Treasurer as to the default or
11 likely default, the State Treasurer shall notify the Director of the Budget to take
12 immediate steps to make available other funds and distributions that might otherwise be
13 made to the State agency that originally received the loan for repayment of the loan.
14 These funds may include appropriations and unrestricted revenues statutorily designated
15 for the agency.

16 (g) Intercept.

17 (1) Before the issuance of any bonds or the issuance of any other
18 obligations entered into by a local government, the governing board of
19 the local government may include within the resolution authorizing the
20 obligations, authorization and direction to the State Treasurer that in
21 the event the local government fails to pay when due any amount owed
22 pursuant to the bond or other obligation, the State Treasurer be
23 authorized to notify the Secretary of Revenue and the State Controller
24 to withhold from the unit of local government sufficient moneys to
25 repay the obligation from State revenues that local government may
26 thereafter receive from the State, and for which distribution is not
27 directed by the Constitution or by statute to be otherwise withheld or
28 used and which have not been specifically designated by the unit as a
29 source of payment of revenue bonds or special obligation bonds. The
30 resolution may also authorize the State Treasurer to notify the
31 Secretary of Revenue or the State Controller to apply the withheld
32 funds as necessary to make all payments due on the bonds or other
33 obligations until all delinquent payments have been paid. The unit of
34 local government shall provide the State Treasurer with (i) a copy of
35 the resolution, (ii) the payment schedule for the bonds or other
36 obligations, and (iii) the name and address of the custodian, trustee, or
37 paying agent for the bonds or obligations to whom any payment
38 should be made.

39 (2) Whenever the custodian, trustee, or paying agent for the bonds or
40 obligations subsequently notifies the State Treasurer in writing that the
41 unit of local government has failed to effect a payment when due, the
42 State Treasurer shall immediately notify the Secretary of Revenue and
43 the State Controller.

- 1 (3) When the Secretary of Revenue or the State Controller receives notice
2 from the State Treasurer and the Secretary of Revenue or the State
3 Controller verifies the information with the State Treasurer, the
4 Secretary of Revenue or the State Controller shall immediately
5 withhold all further payment to the unit which issued the bonds or
6 entered into the obligations of all State funds or any part thereof
7 allocated or attributed to the unit for distributions or payments to the
8 unit, except for funds required by the Constitution or by statute to be
9 otherwise withheld or used or which have been specifically designated
10 by the unit as a source of payment of revenue bonds or special
11 obligation bonds.
- 12 (4) From the funds so withheld, the Secretary of Revenue or the State
13 Controller, as appropriate, shall pay to the custodian, trustee, or paying
14 agent for the owners or to the owners of the bonds or obligations, as
15 directed by the State Treasurer, the amount required to pay the
16 principal of or interest on the bonds or obligations so as to avoid or
17 remedy a default with respect thereto by the unit issuing the bonds.
18 The Secretary of Revenue and the State Controller shall continue so to
19 withhold and pay the funds as necessary, in accordance with advice
20 from the State Treasurer, to avoid or remedy the default.
- 21 (5) The Secretary of Revenue and the State Controller shall report each
22 payment made pursuant to subdivision (4) of this subsection to the
23 board of the unit and to the State Treasurer and shall reduce, by the
24 amount of the payment, the subsequent distributions or payments to
25 which the unit would otherwise be entitled.
- 26 (6) Nothing in this subsection shall be construed to create any obligation
27 on the part of the Secretary of Revenue, the State Controller, or this
28 State to make any payment on behalf of a unit other than from funds
29 payable or distributable to the unit as provided in this Article.
- 30 (h) Inspection. Inspection of a project for which a loan has been made under
31 this act may be performed by qualified personnel of the receiving agency or may be
32 performed by qualified engineers registered in this State approved by the receiving
33 agency. No person shall be approved to perform inspections who is an officer
34 employed by the unit of government to which the loan was made or who is an owner,
35 officer, employer, or agent of a contractor or subcontractor engaged in the construction
36 of the project for which the loan was made. For the purpose of payment of inspection
37 fees, inspection services shall be included in the term "construction cost" as used in this
38 act.
- 39 (i) Rules. The Council of State, the State Treasurer, the Local Government
40 Commission, and receiving agencies may adopt, modify, and repeal rules necessary for
41 the administration of their respective duties under this act. Uniform rules may be jointly
42 adopted where feasible and desirable, and no rule, jointly adopted, may be modified or
43 revoked except upon concurrence of all agencies involved.

1 (j) Federal Grants and Loans. In order to carry out the purposes of this act to
2 secure the greatest possible benefits to the citizens of this State of the funds
3 appropriated, the departments and receiving agencies shall adopt rules and criteria, not
4 inconsistent with provisions of this act, as are necessary and appropriate to conform to
5 regulations for federal grants and loans for any of the purposes set forth in this act.

6 (k) Reports. The receiving agencies shall prepare and file each year on or
7 before July 31 with the Joint Legislative Commission on Governmental Operations a
8 consolidated report for the preceding fiscal year concerning the allocation of loans
9 authorized by this act. The report shall set forth for the preceding fiscal year itemized
10 and total allocations of loans authorized and unallocated funds on hand in each as of the
11 end of the preceding fiscal year; identification of each loan made by the receiving
12 agency during the preceding fiscal year; the total amount of the loans the sums actually
13 paid during the preceding fiscal year to each loan and to each loan previously
14 committed but unpaid; the total loans paid during the preceding fiscal year; and
15 summary for all preceding years and the total number of the loans made and the total
16 funds committed to the loans and the total sum actually paid to the loans and grants.

17 The report shall be signed by each of the chief executive officers of the State
18 agencies preparing the report.

19 (l) Local Government Commission.

20 (1) Local government units may execute debt instruments payable to the
21 State in order to obtain loans provided for in this act. Local
22 government units shall pledge as security for such obligations:

- 23 a. The revenues from benefited facilities or systems;
- 24 b. Nonlocally levied tax revenues that are not otherwise pledged
25 as security for other obligations of the local government unit or
26 otherwise restricted by law;
- 27 c. Their faith and credit; or
- 28 d. Any combination of a., b., and c. above. The faith and credit of
29 such local government units shall not be pledged or be deemed
30 to have been pledged unless the requirements of Article 4 of
31 Chapter 159 of the General Statutes have been met. The State
32 Treasurer, with the assistance of the Local Government
33 Commission, shall develop and adopt appropriate debt
34 instruments for use under this act. The Local Government
35 Commission shall develop and adopt appropriate procedures for
36 the delivery of debt instruments to the State without any public
37 bidding therefor.

38 (2) The Local Government Commission shall review and approve
39 proposed loans to units of local government under this act under the
40 provisions of Articles 4 and 5 of Chapter 159 of the General Statutes.
41 Loans under this act shall be outstanding debts for the purposes of
42 Article 10 of Chapter 159 of the General Statutes.

1 (3) The State Treasurer shall annually certify to the General Assembly the
2 financial condition of the loan program and identify existing
3 delinquencies.

4 Sec. 11. G.S 143-59 reads as rewritten:

5 **"§ 143-59. Preference given to North Carolina products and citizens, and articles**
6 **manufactured by State agencies.**

7 The Secretary of Administration and any State or local government agency
8 authorized to purchase foodstuff or other products, shall, in the purchase of or in the
9 contracting for foods, supplies, materials, equipment, printing or services give
10 preference as far as may be practicable to such products or services manufactured or
11 produced in North Carolina or furnished by or through citizens of North Carolina:
12 Provided, however, that in giving such preference no sacrifice or loss in price or quality
13 shall be permitted; and provided further, that preference in all cases shall be given to
14 surplus products or articles produced and manufactured by other State departments,
15 institutions, or agencies which are available for distribution."

16 Sec. 12. Article 8 of Chapter 143 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 143-129.1. Preference given to North Carolina citizens.**

19 The Secretary of Administration and any State or local government agency
20 authorized to contract for construction or repair work to which G.S. 143-129 applies
21 shall, in awarding the contract, give preference as far as may be practicable to such
22 contractors who are domiciled in or whose principal place of business is in North
23 Carolina, except that in giving this preference no sacrifice or loss in price or quality
24 shall be permitted."

25 Sec. 13. (a) Effective July 1, 1994, G.S. 115C-489.1 reads as rewritten:

26 **"§ 115C-489.1. Creation of Fund; administration.**

27 (a) There is created the Critical School Facility Needs Fund.

28 (b) ~~On or before January 15, 1988, the Secretary of Revenue shall estimate the~~
29 ~~amount of additional tax revenue that will be collected during the twelve months ending~~
30 ~~June 30, 1988, as a result of Section 9 of the School Facilities Finance Act of 1987. The~~
31 ~~Secretary shall, prior to February 1, 1988, deposit with the State Treasurer in the~~
32 ~~Critical School Facility Needs Fund, an amount equal to that estimate. These funds~~
33 ~~shall be drawn from individual income tax net collections received by the Department~~
34 ~~of Revenue under Division II of Article 4 of Chapter 105 of the General Statutes.~~

35 ~~The Secretary of Revenue shall, on or before February 1, 1988, deposit with the~~
36 ~~State Treasurer in the Critical School Facility Needs Fund the sum of forty million~~
37 ~~dollars (\$40,000,000). These funds shall be drawn from sales and use tax net~~
38 ~~collections received by the Department of Revenue under Article 5 of Chapter 105 of~~
39 ~~the General Statutes.~~

40 ~~Effective July 1, 1988, the Secretary of Revenue shall, on a quarterly basis, deposit~~
41 ~~with the State Treasurer in the Critical School Facility Needs Fund the sum of two~~
42 ~~million five hundred thousand dollars (\$2,500,000). These funds shall be drawn from~~
43 ~~the corporate income tax collections received by the Department of Revenue under~~
44 ~~Division I of Article 4 of Chapter 105 of the General Statutes.~~

1 All funds deposited in the Critical School Facility Needs Fund shall be invested as
2 provided in G.S. 147-69.2 and G.S. 147-69.3.

3 (c) The Fund shall be administered by the State Board of Education. Monies in
4 the Fund shall be used only for the purposes specified in this Article."

5 (b) Effective June 30, 2003, G.S. 115C-489.1, as amended by subsection (a) of
6 this section, reads as rewritten:

7 "**§ 115C-489.1. Creation of Fund; administration.**

8 (a) There is created the Critical School Facility Needs Fund.

9 (b) The Secretary of Revenue shall, on a quarterly basis, deposit with the State
10 Treasurer in the Critical School Facility Needs Fund the sum of two million five
11 hundred thousand dollars (\$2,500,000). These funds shall be drawn from the corporate
12 income tax collections received by the Department of Revenue under Division I of
13 Article 4 of Chapter 105 of the General Statutes. All funds deposited in the Critical
14 School Facility Needs Fund shall be invested as provided in G.S. 147-69.2 and G.S.
15 147-69.3.

16 (c) The Fund shall be administered by the State Board of Education. Monies in
17 the Fund shall be used only for the purposes specified in this Article."

18 Sec. 14. Interpretation of act. (a) Additional Method. The foregoing sections of
19 this act shall be deemed to provide an additional and alternative method for the doing of
20 the things authorized thereby and shall be regarded as supplemental and additional to
21 powers conferred by other laws, and shall not be regarded as in derogation of any
22 powers now existing.

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

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

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

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

35 Sec. 15. Effective date. Except as provided in Section 13, this act is effective
36 upon ratification.