

GENERAL ASSEMBLY OF NORTH CAROLINA  
1993 SESSION

CHAPTER 542  
SENATE BILL 14

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR (1) CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA, (2) GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS, (3) GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION PROJECTS, AND (4) CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR NEW AND EXISTING STATE PARKS AND RECREATION AREAS.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Education, Clean Water, and Parks Bond Act of 1993".

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

- (1) Three hundred ten million dollars (\$310,000,000) to provide capital improvements for the constituent and affiliated institutions of The University of North Carolina or for the Board of Governors of The University of North Carolina.
- (2) Two hundred fifty million dollars (\$250,000,000) to provide grants to individual community colleges to finance the costs of community college capital improvements for community colleges in this State.
- (3) Forty-five million dollars (\$45,000,000) to provide State matching funds required to receive federal wastewater or water supply assistance funds and to provide additional funding for the Clean Water Revolving Loan and Grant Fund established in Chapter 159G of the General Statutes or to provide funding by grants and loans to local government units, and one hundred million dollars (\$100,000,000) to provide loans to local government units to finance all or a portion of the cost of construction, improvements, enlargements, extensions, and reconstruction of water supply systems, wastewater collection systems, wastewater treatment works, and water conservation projects.

The funds to be derived from the sale of the Clean Water bonds authorized by this act are sufficient to meet no more than a fraction of

the needs which now exist and will arise in the immediate future. For this reason, although public necessity and the criteria established by Chapter 159G of the General Statutes shall be the primary consideration in granting and loaning funds, great emphasis shall also be placed on the creation of efficient systems of regional wastewater disposal and regional water supply, and on the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning, and efficient operation and management.

- (4) Thirty-five million dollars (\$35,000,000) to provide capital improvements in the form of repairs, renovations, new construction, and land acquisition for existing State parks and recreation areas.

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

- (1) "Bonds" means bonds issued under this act.
- (2) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of the 1987 Session Laws, as the same may be amended from time to time, codified as Chapter 159G of the General Statutes.
- (3) "Clean Water Revolving Loan and Grant Fund" means the Clean Water Revolving Loan and Grant Fund as defined in the Clean Water Revolving Loan and Grant Act.
- (4) "Cost" means, without intending thereby to limit or restrict any proper definition of this term in financing the cost of facilities or purposes authorized by this act:
  - a. The cost of constructing, reconstructing, enlarging, acquiring, and improving facilities, and acquiring equipment and land therefor,
  - b. The cost of engineering, architectural, and other consulting services as may be required,
  - c. Administrative expenses and charges,
  - d. Finance charges and interest prior to and during construction and, if deemed advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction,
  - e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance, to the extent and as determined by the State Treasurer,
  - f. The cost of reimbursing the State for any payments made for any cost described above, and
  - g. Any other costs and expenses necessary or incidental to the purposes of this act.

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

- (5) "Credit facility" means an agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.
- (6) "Local government units" means local government units as defined in the Clean Water Revolving Loan and Grant Act.
- (7) "Notes" means notes issued under this act.
- (8) "Par formula" means any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:
  - a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible,
  - b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or
  - c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.
- (9) "State" means the State of North Carolina.
- (10) "Wastewater collection systems" means wastewater collection systems as defined in the Clean Water Revolving Loan and Grant Act.
- (11) "Wastewater treatment works" means wastewater treatment works as defined in the Clean Water Revolving Loan and Grant Act.
- (12) "Water conservation projects" include but are not limited to any construction, repair, renovation, expansion, replacement of components, or other capital improvement, including related equipment and land acquisition, designed to:

- a. Eliminate the wasteful or unnecessary use or loss of water in the operations of a wastewater collection system, wastewater treatment works, or water supply system; or
  - b. Enhance the operation of a wastewater collection system, wastewater treatment works, or water supply system to provide a more efficient use of water.
- (13) "Water Pollution Control Revolving Fund" means the fund described by G.S. 159G-4(a) and G.S. 159G-5(c).
- (14) "Water supply systems" means water supply systems as defined in the Clean Water Revolving Loan and Grant Act.

Sec. 4. Authorization of bonds and notes. (a) University Improvement Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing University Improvement Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina University Improvement Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding three hundred ten million dollars (\$310,000,000) for the purposes authorized in this act.

(b) Community College Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Community College Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Community College Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding two hundred fifty million dollars (\$250,000,000) for the purposes authorized in this act.

(c) Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Clean Water Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding one hundred forty-five million dollars (\$145,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

(d) State Parks Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing State Parks Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina

State Parks Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding thirty-five million dollars (\$35,000,000) for the purposes authorized in this act.

Sec. 5. Uses of bond and note proceeds. (a) University Improvement Bonds. The proceeds of University Improvement Bonds and notes shall be used for the purpose of (i) paying the cost of capital improvements for the constituent or affiliated institutions of The University of North Carolina, under the supervision of the Board of Governors of The University of North Carolina, including, without limitation, construction and renovation of classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeteria and activity facilities, including sports facilities, administrative office buildings, and land acquisition, (ii) paying the cost of capital improvements for the North Carolina Center for Public Television under the Board of Governors of The University of North Carolina, and (iii) making grants to nonprofit corporations and public agencies to provide capital improvements for Area Health Education Centers. Grants made to provide capital improvements for Area Health Education Centers shall be made only to nonprofit corporations and public agencies. The rules and regulations and agreements governing the Area Health Education Center Program shall contain provisions necessary to assure that the proceeds of the bonds or notes are applied for the accomplishment of public purposes only within the meaning of Article V, Section 2 of the North Carolina Constitution, including, without limitation, provisions to assure that the grant moneys are applied to the payment of the cost of capital improvements used in connection with the Area Health Education Center Program and further shall contain provisions to assure compliance with G.S. 143-6.1. The buildings constructed using the proceeds of the bonds, other than any buildings constructed with Area Health Education Centers Construction Grants, may be constructed only after consideration of the energy design guidelines developed by the Energy Division of the Department of Commerce.

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

The proceeds of University Improvement Bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of University Improvement Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for university improvements shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and

which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

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

(b) Community College Bonds. The proceeds of Community College Bonds and notes shall be used for the purpose of making grants to community colleges, as defined in Chapter 115D of the General Statutes, the proceeds of the grants to be allocated and expended for paying the cost of Community College capital improvements, including, without limitation, construction and renovation of classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeteria and activity facilities, including sports facilities, administrative office buildings, and related equipment and land acquisition. The buildings constructed using the proceeds of the bonds may be constructed only after consideration of the energy design guidelines developed by the Energy Division of the Department of Commerce.

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

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

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

(c) Clean Water Bonds. The proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans and grants to local governments as follows:

- (1) The proceeds of forty-five million dollars (\$45,000,000) of Clean Water Bonds shall be used and allocated for the same purposes for

which funds in the Clean Water Revolving Loan and Grant Fund may be used including, without limitation, to provide funds to be used to make revolving loans and grants to local government units. The revolving loans and grants shall be made for the purpose of paying the cost of water supply systems, wastewater collection systems, and wastewater treatment works.

The first priority for use of these proceeds shall be to provide State funds necessary for the 1993-95 fiscal biennium to match the federal wastewater or water supply assistance funds, deposited in the Clean Water Pollution Control Revolving Fund or another fund, that are available from year to year, unless the General Assembly has provided other funds for this purpose, in which event this priority shall cease to exist to the extent of the availability of those other funds. For the purpose of implementing this priority, the Department of Environment, Health, and Natural Resources shall certify to the State Treasurer the amount of funds required for the State match for each of the fiscal years ending June 30, 1994, and June 30, 1995, and the extent to which the General Assembly has provided other funds for this purpose. Upon certification to the State Treasurer of the amount of funds required for the State match for the fiscal year ending June 30, 1994, the State may issue up to twenty-two million five hundred thousand dollars (\$22,500,000) of Clean Water Bonds authorized by this subdivision for the purpose of funding the State match for that fiscal year and for any other purposes authorized by this subdivision. Upon certification to the State Treasurer of the amount of funds required for the State match for the fiscal year ending June 30, 1995, the State may issue the remaining balance of Clean Water Bonds authorized by this subdivision for the purpose of funding the State match for that fiscal year and for any other purposes authorized by this subdivision. The proceeds of the bonds necessary for the State match for each fiscal year shall be deposited in the Clean Water Pollution Control Revolving Fund or any other fund or account determined by the State Treasurer.

The proceeds may be (i) transferred directly to the Clean Water Revolving Loan and Grant Fund to make revolving loans or grants, (ii) used to make revolving loans or grants directly to the appropriate local government qualifying for a revolving loan or grant from the Clean Water Revolving Loan and Grant Fund, (iii) used for any combination of (i) and (ii), or (iv) used in such other manner as shall effectuate the purposes of this act. Although public necessity and the criteria established by Chapter 159G of the General Statutes shall be the primary consideration in granting and loaning funds, great emphasis shall be placed on the creation of efficient systems of regional wastewater disposal and regional water supply, and on the willingness

and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning, and efficient operation and management. Loans and grants made from bond proceeds transferred from the Clean Water Bonds Fund to the Clean Water Revolving Loan and Grant Fund shall be made and administered in accordance with the provisions of the Clean Water Revolving Loan and Grant Act. Loans and grants made from bond proceeds directly to local government units and any loan repayments shall, to the extent applicable, be made, administered, and applied in accordance with the provisions of the Clean Water Revolving Loan and Grant Act. Repayments of any direct loans may be initially placed into any fund or account as may be determined by the State Treasurer for the purpose of determining compliance with the applicable requirements of the federal tax law and shall be expended and disbursed therefrom under the direction and supervision of the Director of the Budget.

- (2) The proceeds of one hundred million dollars (\$100,000,000) of Clean Water Bonds shall be used for the purpose of making loans to local government units to pay the cost of water supply systems, water conservation projects, wastewater collection systems, and wastewater treatment works. Sixty-nine percent (69%) of the proceeds of the bonds and notes shall be allocated for loans to local government units for wastewater collection systems and wastewater treatment works. Thirty-one percent (31%) of the proceeds of the bonds and notes shall be allocated for loans to local government units for water supply systems and water conservation projects.

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



The Department of Environment, Health, and Natural Resources shall set the priorities and determine the eligibility of local government units for these loans in accordance with Section 10 of this act. The form of the loans and the details thereof including, without limitation, the maturity, interest rate, and amortization schedule, shall be determined, from time to time, by the State Treasurer. In making these determinations, the State Treasurer shall consider the purpose of the loans, the ability of local government units to repay the loans, and the security for the loans. The interest rates on these loans shall reflect the self-supporting nature of the loan program and shall be sufficient to cover substantially all payments of debt service on the one hundred million dollars (\$100,000,000) of Clean Water Bonds and the issuance costs and administrative expenses associated with the issuance of these bonds and the making of these loans, subject to any applicable requirements of the federal tax law.

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

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

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

(d) State Parks Bonds. The proceeds of State Parks Bonds and notes shall be used for the purpose of paying the cost of capital improvements for new and existing State parks and recreation areas including, without limitation, land acquisition and the repair, renovation, and construction of visitors' centers, parking lots and access roads, dams, picnic areas, ranger residences, tent and trailer campsites, boat and canoe

launching areas, rental cabins, boathouses, swimming facilities, trails, exhibits, storage buildings, water and wastewater systems, electrical systems, and underground fuel tanks. No more than thirty percent (30%) of the proceeds of the State Parks Bonds and notes for land acquisition may be used, however, for land acquisition.

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

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

Sec. 6. Allocation of proceeds. (a) University Improvement Bonds. The proceeds of University Improvement Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "University Improvement Bonds Fund". Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this act. The proceeds of University Improvement Bonds and notes shall be allocated and expended for paying the cost of university capital improvements, to the extent and as provided in this act and subject to change as provided in this act, as follows:

<u>Constituent or Affiliated Institution or Board of Governors Capital Improvement</u>	<u>Projected Allocation</u>
Appalachian State University	
Academic Support Services Building	\$ 8,794,900
Science/Mathematics Complex, Phase I	15,000,000
East Carolina University	
Addition to Joyner Library	28,900,000
Land	5,000,000
Elizabeth City State University	
Fine Arts and Mass Communications Building	6,432,600

Fayetteville State University	
Residence Hall Renovations	9,479,600
North Carolina A & T State University	
School of Technology Classroom/Laboratory Building	7,961,900
Renovation of Bluford Library Building	5,051,400
North Carolina Central University	
Conversion of Women's Gymnasium in Support of Academic Programs	1,970,900
Chidley Hall Complex	9,018,300
North Carolina School of the Arts	
School of Filmmaking Production Facility	6,999,200
North Carolina State University at Raleigh	
Engineering Graduate Research Center	34,918,200
Agricultural Communications Building	4,484,900
Agricultural Programs - Laboratory Animal Facilities	4,484,100
Pembroke State University	
New Administrative Office Building	5,723,300
Repairs and Renovations to Business Administration Building	422,700
The University of North Carolina at Asheville	
Conference Center	3,974,400
Physical Education Building (Health Promotion)	5,475,600
The North Carolina Arboretum	2,500,000
The University of North Carolina at Chapel Hill	
New Building, School of Business Administration	13,490,900
Addition to Lineberger Cancer Research Center	8,119,900
Carolina Living and Learning Center for Autistic Adults, Phase II	1,190,400
Addition to School of Dentistry	8,887,100
Area Health Education Centers - Construction Grants	3,370,800
The University of North Carolina at Charlotte	
Classroom and Academic Support Facility	22,610,400
The University of North Carolina at Greensboro	
New Music Building	23,357,000
The University of North Carolina at Wilmington	

Physical Sciences Building and Renovation of DeLoach Hall	18,522,900
Construct West Wing of Bear Hall and Renovate West End of Bear Hall	992,050
Western Carolina University	
Completion of Belk Building and Asbestos Removal	3,280,200
Renovate Moore Hall, Phase II	2,043,900
Renovate Camp Lab School	1,896,500
Renovate Reid Gym	2,379,400
Winston-Salem State University	
Student Services/Cafeteria/Student Union Complex	6,073,350
Renovations to O'Kelly Library	1,119,500
North Carolina School of Science and Mathematics	
Educational Technologies Center and Auditorium	8,073,700
Board of Governors	
Other Critical Needs	12,000,000
UNC Center for Public Television	
Improvements to Facilities	<u>6,000,000</u>
TOTAL	\$310,000,000

Projected allocations set forth above may be adjusted to reflect the availability of other funds.

The Board of Governors of The University of North Carolina shall allocate the funds designated above for "other critical needs" for specific projects, within the general purposes authorized for University Improvement Bonds and notes by this act, and within the aggregate amount of funds available under this section, after considering relative needs at all sixteen campuses.

The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and The University of North Carolina to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular institution or the Board of Governors within the aggregate amount of funds available under this section. The Director of the Budget may consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes. In addition, the particular capital improvements and the amount of the projected allocation therefor set forth above may be changed from time to time as the General Assembly may decide. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not

apply to proceeds of University Improvements Bonds and notes issued pursuant to the provisions of this act.

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

(b) Community College Bonds. The proceeds of Community College Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Community College Bonds Fund" and shall be disbursed as provided in this act. Moneys in the Community College Bonds Fund shall be used for making grants to community colleges, as set forth in this act.

I. The proceeds of grants made from the proceeds of two hundred twenty-six million one hundred thousand dollars (\$226,100,000) Community College Bonds and notes shall be allocated and expended for paying the cost of community college capital improvements, to the extent and as provided in this act and subject to change as provided in this act, as follows:

COLLEGE	CAPITAL IMPROVEMENT	PROJECTED ALLOCATION
Alamance CC	Phase III - LRC Expansion	\$3,309,855
Anson CC	Advanced Technology Center	2,998,465
Union Cty.	Advanced Technology Center	2,500,000
Asheville- Buncombe TCC	Classroom/Lab/Office Building	5,000,000
Beaufort County CC	Student Services Center	2,900,000
Bladen CC	Allied Health Care Center	1,015,472
Blue Ridge CC	Allied Health Building	5,000,000
Transylvania Cty.	Classroom/Office Bldg.	502,225
Brunswick CC	Allied Health/Classroom	4,000,000
Caldwell CC & TI	Classroom/Lab Building	6,100,000
Watauga Cty.	Classroom/Lab Bldg.	2,261,539
Cape Fear CC	Health Sciences Building	7,340,485
Pender Cty.	Classroom Building	690,212
Carteret CC	Classroom/Student Center	2,437,904

Catawba Valley CC	Physical Ed./Classroom Bldg.	5,586,218
Central Carolina CC	Classroom Building	2,000,000
Chatham Cty.	Classroom Building	2,000,000
Harnett Cty.	Classroom Building	1,000,000
Central Piedmont CC	Science Labs Expansion	3,950,000
Cleveland CC	Advanced Technology Building	2,213,022
Coastal Carolina CC	Public Service Technology Bldg.	3,000,000
College of the Albemarle	Classroom/Administration Bldg.	3,215,924
Dare Cty.	Class/Lab/Student Services Bldg.	1,500,000
Craven CC	Academic Studies/Basic Skills Bldg.	2,790,276
Davidson County CC	Advanced Technology Building	3,875,000
Davie Cty.	Class/Lab/Instructional Support Bldg.	1,980,000
Durham TCC	Classroom/Office Building	5,800,000
Edgecombe CC	Class/Lab Addition-Rocky Mount	1,200,000
Fayetteville TCC	Health & Science Facility	6,000,000
Forsyth TCC	Class/Lab/Admin. - East Campus	7,900,000
Gaston College	Work Force Preparedness Center	5,860,000
Guilford TCC	Applied Technology Building	7,740,000
Halifax CC	Literacy Ed/Science Building	2,008,592
Haywood CC	Classroom Building	1,100,000
Isothermal CC	Cultural Arts Center	5,444,444
Polk Cty.	Classrooms/Labs Addition	358,686
James Sprunt CC	Multi-Purpose Center	3,708,406
Johnston CC	Allied Health Building	3,000,000

Lenoir CC	Classroom/Auditorium Building	3,326,348
Greene Cty.	New Instructional Facility	1,500,000
Jones Cty.	New Vocational Annex	100,000
Martin CC	Equine Arena	577,553
Bertie Cty.	Class/Lab/Office Building	250,000
Mayland CC	Shop/Student Lecture Hall	4,037,566
McDowell TCC	Classroom Building	1,900,000
Mitchell CC	Renovate Main Building	2,200,000
Montgomery CC	LRC Building	2,592,709
Nash CC	LRC/Student Center	4,409,179
Pamlico CC	Multi-Purpose Class/Office Bldg.	1,164,959
Piedmont CC	Classroom/Faculty Office Bldg.	459,815
Caswell Cty.	Adult Learning Center	1,300,000
Pitt CC	Student Services Building	4,500,000
Randolph CC	Allied Hlth/Science & Tech Center	2,816,878
Richmond CC	Fine Arts Ctr/Auditorium	2,251,414
Roanoke-Chowan CC	Classroom/Student Support Center	2,549,087
Robeson CC	Teaching Theaters/Allied Hlth Classroom	1,430,228
Rockingham CC	Multi-Purpose Building	2,700,000
Rowan-Cabarrus CC	Engineering Building	4,200,000
Cabarrus Cty.	Classroom Building	1,573,312
Sampson CC	Multi-Purpose Building	2,500,000
Sandhills CC	Cont. Ed. Center/Classrooms	4,800,000
Hoke Cty.	Renovate Classrooms	300,000
Southeastern CC	Nursing/Allied Health Building	1,309,400

Southwestern CC	General Classroom Building	2,000,000
Macon Cty.	Region Law Enf. Defensive Dr. Course	300,000
Swain Cty.	Class/Lab/Office Bldg.	900,000
Stanly CC	Learning Resource Center	2,341,210
Surry CC	Health/Day Care/Library Building	4,054,417
Tri-County CC	Student Services Ctr./Classroom Bldg.	1,123,010
Graham Cty.	Class/Lab/Study Bldg.	480,000
Vance-Granville CC	Allied Health/Day Care/Classroom Bldg.	2,127,400
Franklin Cty.	Class/Lab/Office Building	1,500,000
Granville Cty.	Additional Classrooms	377,500
Warren Cty.	Campus Renovations	212,500
Wake TCC	Student Education Bldg.	11,000,000
Wayne CC	Student & Telecommunications Bldg.	6,328,622
Western Piedmont CC	Class/Office Bldg. (Bus. Tech.)	3,420,168
Wilkes CC	LRC-Student Development	4,700,000
Ashe Cty.	Classroom Building	200,000
Wilson TCC	Multi-Purpose Building	<u>1,000,000</u>
TOTAL		\$226,100,000

Projected allocations set forth above may be adjusted to reflect the availability of other funds. The Board of Trustees of an individual community college may change the projects or allocations for that college, but not for a satellite campus, within the total amount of funds allocated for that college; the Board of Trustees may not, however, change, reduce, or eliminate a project or an allocation at a satellite campus of the community college.

The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget may consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes. In addition, the particular capital improvements and the amount of the



projected allocation therefor set forth above may be changed from time to time as the General Assembly may decide.

II. The proceeds of grants made from the proceeds of twenty-three million nine hundred thousand dollars (\$23,900,000) Community College Bonds and notes shall be allocated and expended for particular projects to be determined as hereinafter provided. The proceeds of twenty-three million nine hundred thousand dollars (\$23,900,000) Community College Bonds or notes shall not be issued and no proceeds of twenty-three million nine hundred thousand dollars (\$23,900,000) Community College Bonds or notes shall be allocated for the purposes provided in this act, however, until the General Assembly authorizes the issuance of some or all of these Community College Bonds or notes and appropriates the proceeds of these bonds and notes for specific projects within these purposes by separate legislative action in addition to this act in 1994 or at any subsequent session.

It is the intent of the General Assembly to appropriate the proceeds of the bonds and notes in 1994 or at a subsequent session based on consideration of the recommendations of the Legislative Study Commission on Community College Capital Needs in its report to be submitted to the General Assembly by April 1994 as provided in Section 11 of this act. Actual appropriations by the General Assembly in 1994 or at a subsequent session may be made without regard to the expressed intentions set forth above.

Nothing in this act or as a result of the approval of the bonds at the election provided for in this act restricts the right of the General Assembly, in addition to the right to specify the projects and the allocations therefor, in 1994 or at a subsequent session to:

- (1) Establish a procedure whereby projected allocations set forth in subsequent legislation may be increased or decreased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bond and notes proceeds, and the proceeds of grants.
- (2) Establish a contingency account and provide for an allocation of bond proceeds thereto. The funds in the contingency account may be used to pay the cost of projects, the costs of issuance of bonds and notes, and increased project costs resulting from construction costs exceeding projections, inflationary factors, and changes in projects and allocations. The funds allocated to the contingency account shall be placed by the State Treasurer in a separate account in the Community College Bonds Fund and shall be disbursed in accordance with the procedures established for disbursements from the Community College Bonds Fund.
- (3) Empower the Director of the Budget, when the Director determines it is in the best interest of the State and the Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project authorized by the General Assembly.

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

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

(d) State Parks Bonds. The proceeds of State Parks Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "State Parks Bonds Fund", which may include such appropriate special accounts therein as may be determined by the State Treasurer, and shall be disbursed as provided in this act. Moneys in the State Parks Bonds Fund shall be used for the purposes set forth in this act, and the particular projects within such purposes to be financed in whole or in part from the proceeds shall be determined as hereinafter provided.

No State Parks Bonds or notes shall be issued and no proceeds of State Parks Bonds and notes shall be allocated for the purposes provided in this act, however, until the General Assembly authorizes issuance of some or all of State Parks Bonds and notes and appropriates the proceeds of the bonds and notes for specific projects within these purposes by separate legislative action in addition to this act in 1993 or at any subsequent session. The General Assembly shall appropriate no more than thirty percent (30%) of the proceeds of the bonds and notes for land acquisition.

It is the intent of the General Assembly to appropriate the proceeds of the bonds and notes in 1994 or at a subsequent session based on the recommendations of the Department of Environment, Health, and Natural Resources in its State parks capital improvement and land acquisition plan to be submitted to the General Assembly by May 1994 as provided in Section 11 of this act. Actual appropriations by the General Assembly in 1993 or at a subsequent session may be made without regard to the expressed intentions set forth above.

Nothing in this act or as a result of the approval of the bonds at the election provided for in this act restricts the right of the General Assembly in 1993 or at a subsequent session to:

- (1) Establish a procedure whereby projected allocations set forth in subsequent legislation may be increased or decreased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bonds and notes proceeds, and the proceeds of grants.

- (2) Establish a contingency account and provide for an allocation of bond proceeds thereto. The funds in the contingency account may be used to pay the cost of projects, the costs of issuance of bonds and notes, and increased project costs resulting from construction costs exceeding projections, inflationary factors, and changes in projects and allocations. The funds allocated to the contingency account shall be placed by the State Treasurer in a separate account in the State Parks Bonds Fund and shall be disbursed in accordance with the procedures established for disbursements from the State Parks Bonds Fund.
- (3) Empower the Director of the Budget, when the Director determines it is in the best interest of the State and the State Parks System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized by the General Assembly, or to increase the amount allocated to a particular project within the aggregate amount of funds available under this section; the Director of the Budget having the right to consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations.
- (4) Provide that to the extent that funds are not required to be expended for the specific projects identified by the General Assembly, allocations may be used for capital outlay projects at any State park as replacement projects, but no such funds may be used for operating expenditures.

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

Sec. 7. Election. The questions of the issuance of the bonds authorized by this act shall be submitted to the qualified voters of the State at an election to be held on the first Tuesday after the first Monday of November 1993. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond questions provided for in this section is held, may be held as called or scheduled. Notice of the election on the bond questions shall be given by publication twice in a newspaper or newspapers having general circulation in each county in the State, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

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

Voting machines, ballots, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond questions to be used in the voting machines and ballots shall be in substantially the following forms:

- "[ ] FOR the issuance of three hundred ten million dollars (\$310,000,000) State of North Carolina University Improvement Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of capital improvements for constituent or affiliated institutions and the Center for Public Television of The University of North Carolina.
- [ ] AGAINST the issuance of three hundred ten million dollars (\$310,000,000) State of North Carolina University Improvement Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of capital improvements for constituent or affiliated institutions and the Center for Public Television of The University of North Carolina.
- [ ] FOR the issuance of two hundred fifty million dollars (\$250,000,000) State of North Carolina Community College Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, together with other available funds, to make grants to community colleges to pay all or a portion of the cost of providing capital improvements.
- [ ] AGAINST the issuance of two hundred fifty million dollars (\$250,000,000) State of North Carolina Community College Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, together with other available funds, to make grants to community colleges to pay all or a portion of the cost of providing capital improvements.
- [ ] FOR the issuance of one hundred forty-five million dollars (\$145,000,000) State of North Carolina Clean Water Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to make loans, revolving loans, and grants to local government units to pay all or a portion of the cost of clean water projects.
- [ ] AGAINST the issuance of one hundred forty-five million dollars (\$145,000,000) State of North Carolina Clean Water Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to make loans, revolving loans, and grants to local government units to pay all or a portion of the cost of clean water projects.

- [ ] FOR the issuance of thirty-five million dollars (\$35,000,000) State of North Carolina State Parks Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of land acquisition and capital improvements for new and existing State parks and recreation areas.
- [ ] AGAINST the issuance of thirty-five million dollars (\$35,000,000) State of North Carolina State Parks Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of land acquisition and capital improvements for new and existing State parks and recreation areas."

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

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

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

(b) Signatures; Form and Denomination; Registration. Bonds or notes may be issued as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State by the Governor or shall bear his facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all

purposes as if the officer had remained in office until delivery and bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this act; provided, however, that nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the Registered Public Obligations Act, as well as under this act.

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

(d) Notes; Repayment.

- (1) By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:
  - a. For anticipating the sale of bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds;
  - b. For the payment of interest on or any installment of principal of any bonds then outstanding, if there shall not be sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;
  - c. For the renewal of any loan evidenced by notes herein authorized;
  - d. For the purposes authorized in this act; and
  - e. For refunding bonds or notes as herein authorized.
- (2) Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this act. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

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

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

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

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

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

- (1) Be made payable from time to time on demand or tender for purchase by the owner thereof provided a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially or adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;
- (2) Be additionally supported by a credit facility;
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;
- (4) Bear interest at a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the

- issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and
- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

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

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

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

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

(c) Application for Loans; Hearings.

(1) Eligibility/Initial Hearing.

- a. Prior to filing an application for a loan, a local government unit shall hold a public hearing. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.
- b. All applications for loans shall be filed with the Department of Environment, Health, and Natural Resources. The form of the application shall be prescribed by the Department and shall require any information necessary to determine the eligibility



for a loan under the provisions of this section. All applications approved by the Department of Environment, Health, and Natural Resources shall be filed with the Local Government Commission. Each applicant shall furnish to the Department of Environment, Health, and Natural Resources and the Local Government Commission information in addition or supplemental to the information contained in its application, upon request.

- c. A local government unit shall not be eligible for a loan unless it demonstrates to the satisfaction of the Department of Environment, Health, and Natural Resources and the Local Government Commission that:
    - 1. The applicant is a local government unit;
    - 2. The applicant has the financial capacity to pay the principal of and interest on its proposed loan as evidenced by the approval of the Local Government Commission;
    - 3. The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations, and ordinances, whether federal, State, or local; and
    - 4. The applicant has agreed by official resolution to adopt and place into effect a schedule of fees and charges or the application of other sources of revenue which will provide adequate funds for proper operation, maintenance, and administration of the project and repayment of all principal and interest on the loan.
- (2) Assessment. The Department of Environment, Health, and Natural Resources may require any applicant to file with its application an assessment of the impact the project for which the funds are sought will have upon meeting the facility needs of the area within which the project is to be located.
- (3) Hearing by the Department of Environment, Health, and Natural Resources or the Local Government Commission. A public hearing may be held by the Department of Environment, Health, and Natural Resources or the Local Government Commission at any time on any application. Public hearings may also be held by the Department of Environment, Health, and Natural Resources in its discretion upon written request from any citizen or taxpayer who is a resident of the county or counties in which the project is to be located or a resident of the local government unit that proposes to borrow moneys under this act, if it appears that the public interest will be served by the hearing. The written request shall set forth each objection to the proposed project or other reason for requesting a hearing on the application and

shall contain the name and address of the persons submitting it. The Department of Environment, Health, and Natural Resources may consider all written objections to the proposed project and other statements along with the application including any significant considerations on facility needs and shall determine if the public interest will be served by a hearing. The determination by the Department of Environment, Health, and Natural Resources shall be conclusive and all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application.

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

(d) Priorities.

- (1) Determination. Determination of priorities to be assigned each eligible project shall be made semiannually by the Department of Environment, Health, and Natural Resources during each fiscal year. Every eligible project shall be considered by the Department of Environment, Health, and Natural Resources with every other project eligible during this same priority period.
- (2) Priority Factors. All applications for loans under this act shall be assigned a priority by the Department of Environment, Health, and Natural Resources. The Department of Environment, Health, and Natural Resources shall establish by rule the priority factors criteria.
- (3) Assignment of Priority. A written statement relative to each priority assigned shall be prepared by the Department of Environment, Health, and Natural Resources and shall be attached to the application. The priority assigned shall be conclusive.
- (4) Failure to Qualify. If an application does not qualify for a loan as of the prior period in which the application was eligible for consideration by reason of the priority assigned, the application shall be considered during the next succeeding priority period upon request of the applicant. If the application again fails to qualify for a loan during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application at any time and may amend any pending application to include additional data or information.
- (5) Withdrawal of Commitment. Failure of an applicant within one year after the date of acceptance of the loan to arrange for necessary financing of the proposed project or award of the contract of the

construction of the proposed project shall constitute sufficient cause for withdrawal of the commitment. Prior to withdrawal of a commitment, the Department of Environment, Health, and Natural Resources shall give due consideration to any extenuating circumstances presented by the applicant as reasons for failure to arrange necessary financing or to award a contract, and the commitment may be extended for an additional period of time if, in the judgment of the Department of Environment, Health, and Natural Resources, the extension is justified.

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

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

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

(g) Inspection. Inspection of a project for which a loan has been made under this act may be performed by qualified personnel of the Department of Environment, Health, and Natural Resources or may be performed by qualified engineers registered in this State approved by the Department of Environment, Health, and Natural Resources. No person shall be approved to perform inspections who is an officer employed by the local government unit to which the loan was made or who is an owner, officer, employer, or agent of a contractor or subcontractor engaged in the construction of the project for

which the loan was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "cost" as used in this act.

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

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

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

- (1) Itemized and total allocations of loans authorized and unallocated funds for the loan program as of the end of the preceding fiscal year;
- (2) Identification of each loan agreement entered into by the State during the preceding fiscal year and the total amount of loans authorized by such loan agreements;
- (3) The amount disbursed to each local government unit pursuant to such loan agreements during the preceding fiscal year and the total amount of such disbursements;
- (4) The loan repayments made by each local government unit pursuant to such loan agreements and the total amount of such loan repayments during the preceding fiscal year; and
- (5) A summary for all preceding years of the information required by subdivisions (1) through (4).

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

(k) Local Government Commission.

- (1) Local government units may execute debt instruments payable to the State in order to obtain loans provided for in this act. Local government units shall pledge or agree to apply as security for such obligations:
  - a. Any available source of revenues of the local government unit, including revenues from benefitted facilities or systems, provided that (i) the local government unit has not otherwise pledged the revenues as security for, or contractually agreed to apply the revenues to, the payment of any other obligations of

the local government unit, (ii) the use of the revenues is not otherwise restricted by law, or (iii) the revenues are not derived from the exercise of the local government unit's taxing power; or

- b. Their faith and credit; or
- c. Any combination of a. or b. above.

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

- (2) Nothing contained in this act shall prohibit any local government unit from applying any funds of the local government unit not otherwise restricted as to use by law to the payment of any debt instrument payable to the State incurred pursuant to the provisions of this act.
- (3) The Local Government Commission shall review and approve proposed loans to local government units under this act under the provisions of Articles 4 and 5 of Chapter 159 of the General Statutes. The Local Government Commission in considering the ability of a local government unit to repay a loan may regard as a source of revenue for repayment of a loan revenue sources that may not be available other than on an annual discretionary basis and that may not be subject to a pledge or agreement to apply. Loans under this act shall be outstanding debts for the purposes of Article 10 of Chapter 159 of the General Statutes.
- (4) The State Treasurer shall annually certify to the General Assembly the financial condition of the loan program and identify existing delinquencies.

Sec. 11. Community college and State parks reports. (a) Community Colleges Projects Report.

- (1) There is established the Legislative Study Commission on Community College Capital Needs. The Commission shall be composed of twelve members: (i) five Senators appointed by the President Pro Tempore of the Senate; (ii) five Representatives appointed by the Speaker of the House of Representatives, and (iii) the President of the Community College System and the Chair of the State Board of Community Colleges each of whom shall serve as an ex officio, nonvoting member. All voting members shall be appointed within 30 days after adjournment of the 1993 Regular Session of the 1993 General Assembly.
- (2) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one appointee as cochair.

These cochairs shall jointly call the first meeting and shall preside at alternate meetings.

- (3) The Commission shall study and evaluate the issue of present and future capital needs of the Community College System. The Commission shall evaluate all objective, meaningful factors relevant to determining capital needs and shall design a mechanism for establishing and ranking legitimate capital need priorities for the Community College System. This mechanism shall be designed to enable the State to generate, from time to time, priority rankings of community college projects to which public funds can be allocated with confidence and integrity. The Commission shall also recommend a list of valid, priority projects to be funded with the remaining proceeds of the Community College Bonds not already allocated in this act. The Commission's study and recommendations shall be based on all of the following:

- a. Consideration of the fundamental mission of the Community College System to provide job training and workforce preparedness.
- b. Assignment of high priority to facilities that will enhance occupational training by programs with high or critical occupational demands.
- c. Assignment of high priority to facilities to be used in regional programs.
- d. Consideration of the ability of students to have access to existing programs through the availability of technology and transportation.
- e. Consideration of the possible negative impact of new facilities on other existing colleges, campuses, and centers.
- f. Consideration of the adequacy of existing facilities in relation to the number of full-time equivalent students.
- g. Consideration of trends of increasing and decreasing enrollment at some colleges.
- h. Consideration of whether the project is needed to meet a current need as opposed to a projected future need.
- i. Consideration, in evaluating the rank order for capital projects, of the following criteria, which are included in the State Board of Community Colleges' capital outlay resource allocation funding formula:
  - Space to population ratio.
  - Population served ratio.
  - Capacity enrollment ratio.
  - Local to State and vocational education ratios.
  - Type of project.
  - Readiness to implement.

- (4) Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.
- (5) The Commission cochairs may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02 and may purchase or contract for the materials and services the Commission needs.

The Legislative Services Commission, through the Legislative Administrative Officer, may assign professional staff to assist in the work of the Commission. The Supervisors of Clerks of the House of Representatives and of the Senate, upon the direction of the Legislative Services Commission, shall assign clerical staff to the Commission. The expenses related to the clerical employees shall be borne by the Commission.

- (6) The Commission, with the approval of the Legislative Services Commission, may meet in the Legislative Building or the Legislative Office Building.
- (7) The Commission shall make a final report to the General Assembly by April 1, 1994.
- (8) Upon the request of the Commission, all State departments and agencies, all local governments and their subdivisions, and all institutions and departments under the jurisdiction of the State Board of Community Colleges shall furnish the Commission with any information in their possession or available to them.
- (9) The Legislative Services Commission shall allocate funds for the work of the Legislative Study Commission on Community College Capital Needs from funds appropriated in Chapter 321 of the 1993 Session Laws to the General Assembly for the 1993-94 fiscal year.

(b) State Parks Capital Improvement and Land Acquisition Plan. The Department of Environment, Health, and Natural Resources shall develop a State parks capital improvement and land acquisition plan that recommends two priority lists of needed projects for the entire park system, one priority list for renovations, repairs, and new construction, and one priority list for land acquisition. The priority lists shall be based on objective criteria and shall include the costs of each project and the basis for calculating the costs. The priority list for land acquisition shall include total projected costs equal to no more than thirty percent (30%) of the total amount of State Parks Bonds authorized in this act. The Department of Environment, Health, and Natural Resources shall report its recommendations to the 1993 General Assembly by the first day of the 1994 Regular Session.

Sec. 12. (a) G.S. 159G-4(b) reads as rewritten:

"(b) Of the appropriations made from the General Fund to the Clean Water Revolving Loan and Grant Fund for use of the Department of Environment, Health, and Natural Resources as provided in this Chapter, allocations are made as follows after first subtracting the amounts allocated under subsection (a) of this section, to the extent that there are any excess funds available:

Wastewater Accounts

General Wastewater Revolving Loan Account	45.00%
<u>39.00%</u>	
Emergency Wastewater Revolving Loan Account	14.00%
<u>10.00%</u>	
High-Unit Cost Wastewater Account	10.00%
<u>20.00%</u>	
Water Supply Accounts	
General Water Supply Revolving Loan Account	23.00%
<u>21.00%</u>	
High-Unit Cost Water Supply Account	3.00%
<u>5.00%</u>	
Emergency Water Supply Revolving Loan Account	5.00%".

(b) G.S. 159G-6(a) reads as rewritten:

"(a) Revolving loans and grants.

- (1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.
- (2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit during any fiscal year shall be three million dollars (\$3,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be ~~five hundred thousand dollars (\$500,000)~~ one million dollars (\$1,000,000).
- (3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment, Health, and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the



principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants."

(c) If a majority of those voting on the question of the issuance of one hundred forty-five million dollars (\$145,000,000) State of North Carolina Clean Water Bonds in the election held as provided in Section 7 of this act vote in favor of the issuance of the bonds, this section becomes effective January 1, 1994. If a majority of those voting on the question of the issuance of one hundred forty-five million dollars (\$145,000,000) State of North Carolina Clean Water Bonds in the election held as provided in Section 7 of this act vote against the issuance of the bonds, this section does not become effective.

Sec. 13. G.S. 142-29.5 reads as rewritten:

**"§ 142-29.5. Authorization of refunding obligations.**

By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell, from time to time, refunding obligations for the purpose of refunding outstanding obligations as and to the extent authorized by this Article. The principal amount of any such refunding obligations shall not exceed the principal amount of outstanding obligations to be ~~refunded~~ refunded unless (i) the refunding results in an aggregate debt service savings and (ii) the increase in the principal amount issued does not create cash-in-hand available for new capital improvements.

Refunding obligations issued pursuant to the provisions of this Article shall not be subject to limitations imposed by any other law including, without limitation, the other Articles of this Chapter."

Sec. 14. Minority business participation. The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of University Improvement Bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Department of Community Colleges shall monitor compliance with regard to projects funded by the proceeds of Community College Bonds and notes. The Department of Environment, Health, and Natural Resources shall monitor compliance with regard to projects funded by the proceeds of Clean Water Bonds and notes.

Sec. 15. Interpretation of act. (a) Additional Method. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

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

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

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

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

Sec. 16. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

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Marc Basnight  
President Pro Tempore of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives