



1 (a) Clean Water Bonds.

2 (1) \$485,000,000 to provide State matching funds required to receive  
3 federal wastewater or water supply assistance funds and to provide  
4 additional funding for the Clean Water Revolving Loan and Grant Fund  
5 established in Chapter 159G of the General Statutes or to provide  
6 funding by grants to local government units for wastewater treatment  
7 and water supply and distribution needs.

8 (2) \$320,000,000 to provide loans to local government units to finance all  
9 or a portion of the cost of construction, improvements, enlargements,  
10 extensions, and reconstruction of water supply and distribution systems,  
11 wastewater collection systems, wastewater treatment works, and water  
12 conservation and water reuse projects.

13 The funds to be derived from the sale of the Clean Water Bonds  
14 authorized by this act are sufficient to meet no more than a fraction of  
15 the needs that now exist and will arise in the immediate future. For this  
16 reason, although public necessity shall be the primary consideration in  
17 granting and loaning funds, great emphasis shall also be placed on  
18 achieving stringent reductions in the levels of nutrients and other  
19 pollutants discharged into the State's waters, particularly in nutrient  
20 sensitive river basins, in reducing the overall volume of effluent  
21 discharged to the State's waters by using alternative methods of  
22 wastewater treatment when feasible, on the creation of efficient systems  
23 of regional wastewater disposal and regional water supply, and on the  
24 willingness and ability of local government units to meet their  
25 responsibilities through sound fiscal policies, creative planning, and  
26 efficient operation and management. The proceeds of this bond issue  
27 shall be used in a manner consistent with G.S. 143-214.5 and to address  
28 as a first priority current critical infrastructure needs. In addition, great  
29 emphasis shall also be placed on the protection and improvement of  
30 fisheries habitats for both saltwater and freshwater fish based upon  
31 recommendations made by the Director of the Marine Fisheries Division  
32 of the Department of Environment and Natural Resources.

33 (b) Natural Gas Bonds.

34 \$150,000,000 to provide grants, loans, or other financing to natural gas  
35 local distribution companies, persons seeking natural gas distribution  
36 franchises, State or local government agencies, or other entities for  
37 construction of natural gas facilities.

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

40 (1) "Bond rating" means the numerical rating of a unit of local government  
41 developed by the NCMC. The rating formula is based on 100 being a  
42 theoretically 'perfect' unit of local government and is an assessment of  
43 the creditworthiness of the unit. Units of local government with a rating

1 below 75 or with no ratings have limited, if any, access to the private  
2 markets for financing water and sewer or other debt.

3 (2) " Bonds" means bonds issued under this act.

4 (3) " Capacity grant" means a grant awarded by the Rural Economic  
5 Development Center to a local government unit to pay all or a portion of  
6 the cost associated with the planning and writing of a grant or loan  
7 application, a capital improvement plan, or other efforts that support  
8 growth and development of rural areas.

9 (4) " Capital improvement plan" means a report that identifies water and  
10 sewer infrastructure and capital needs that address planned and strategic  
11 growth. It shall include an assessment of current water and wastewater  
12 systems and a projection of those infrastructure needs over a 20-year  
13 horizon. The report shall take into consideration government mandates,  
14 usefulness of the improvements to the community and the effect on both  
15 short and long-term operation and maintenance of the scheduled  
16 improvements and identifies alternatives for meeting the identified need  
17 including regionalization, consolidation and system mergers, water  
18 reuse and conservation.

19 (5) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of  
20 the 1987 Session Laws, as amended from time to time, codified as  
21 Chapter 159G of the General Statutes.

22 (6) " Clean Water Revolving Loan and Grant Fund" means the Clean Water  
23 Revolving Loan and Grant Fund as defined in the Clean Water  
24 Revolving Loan and Grant Act.

25 (7) " Cost" means, without intending thereby to limit or restrict any proper  
26 definition of this term in financing the cost of facilities or purposes  
27 authorized by this act:

28 a. The cost of constructing, reconstructing, enlarging, acquiring,  
29 and improving facilities, and acquiring equipment and land  
30 therefor,

31 b. The cost of engineering, architectural, and other consulting  
32 services as may be required,

33 c. Administrative expenses and charges,

34 d. Finance charges and interest prior to and during construction and,  
35 if deemed advisable by the State Treasurer, for a period not  
36 exceeding two years after the estimated date of completion of  
37 construction,

38 e. The cost of bond insurance, investment contracts, credit  
39 enhancement and liquidity facilities, interest-rate swap  
40 agreements or other derivative products, financial and legal  
41 consultants, and related costs of bond and note issuance, to the  
42 extent and as determined by the State Treasurer,

- 1 f. The cost of reimbursing the State for any payments made for any  
2 cost described above, and  
3 g. Any other costs and expenses necessary or incidental to the  
4 purposes of this act.

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

- 9 (8) " Credit facility" means an agreement entered into by the State  
10 Treasurer on behalf of the State with a bank, savings and loan  
11 association, or other banking institution, an insurance company,  
12 reinsurance company, surety company, or other insurance institution, a  
13 corporation, investment banking firm, or other investment institution, or  
14 any financial institution or other similar provider of a credit facility,  
15 which provider may be located within or without the United States of  
16 America, such agreement providing for prompt payment of all or any  
17 part of the principal or purchase price (whether at maturity, presentment  
18 or tender for purchase, redemption or acceleration), redemption  
19 premium, if any, and interest on any bonds or notes payable on demand  
20 or tender by the owner, in consideration of the State agreeing to repay  
21 the provider of the credit facility in accordance with the terms and  
22 provisions of such agreement.

- 23 (9) " Economically depressed area" means any of the following:  
24 a. An economically distressed county as defined in G.S. 143B-  
25 437.01.  
26 b. That part of a rural county whose poverty rate is at least one  
27 hundred fifty percent (150%) of the State poverty rate. For the  
28 purpose of this section, the poverty rate is the percentage of the  
29 population with income below the latest annual federal poverty  
30 guidelines issued by the United States Department of Health and  
31 Human Resources.  
32 c. That part of a rural county that experiences an actual or imminent  
33 loss of manufacturing jobs in a number that is equal to or exceeds  
34 five percent (5%) of the total number of manufacturing jobs in  
35 the part.

- 36 (10) " Local government units" means local government units as defined in  
37 the Clean Water Revolving Loan and Grant Act.

- 38 (11) " NCMC" means the North Carolina Municipal Council, Inc., a  
39 nonprofit North Carolina corporation which provides bond ratings, or  
40 any successor thereto. In the event such corporation dissolves or no  
41 longer performs the functions contemplated herein, such term shall  
42 mean that comparable corporation designated by the State Treasurer.

- 43 (12) " Notes" means notes issued under this act.

- 1 (13) " 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 rates  
3 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 close  
6 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 (14) " Rural county" means a county with a density of fewer than 200 people  
16 per square mile based on the United States census.
- 17 (15) " Rural Economic Development Center" means the Rural Economic  
18 Development Center, Inc., a nonprofit North Carolina corporation, or  
19 any successor thereto. In the event such corporation dissolves or no  
20 longer performs the functions contemplated herein, such term shall  
21 mean that comparable corporation designated by the Governor.
- 22 (15a) " Rural school" means a school that is not located in any local  
23 municipality.
- 24 (15b) " School water or wastewater project" means a project to provide  
25 clean water or wastewater treatment for a school by upgrading,  
26 replacing, or constructing school water or wastewater facilities.
- 27 (16) " Supplemental grant" means a grant awarded by the Rural Economic  
28 Development Center to a local government unit to assist in financing  
29 wastewater collection systems, wastewater treatment works, water  
30 conservation projects, water reuse projects, or water supply systems.  
31 Supplemental grant funds shall supplement other funding and shall not  
32 represent more than fifty percent (50%) of the total costs of the  
33 wastewater collection systems, wastewater treatment works water  
34 conservation projects, water reuse projects, or water supply systems  
35 financed.
- 36 (17) " State" means the State of North Carolina.
- 37 (18) " Unsewered communities" means those communities lacking  
38 centralized, publicly owned wastewater collection systems and  
39 wastewater treatment works.
- 40 (19) " Wastewater collection systems" means wastewater collection systems  
41 as defined in the Clean Water Revolving Loan and Grant Act.
- 42 (20) " Wastewater treatment works" means wastewater treatment works as  
43 defined in the Clean Water Revolving Loan and Grant Act.

1 (21) " Water conservation projects" include, but are not limited to, any  
2 construction, repair, renovation, expansion, replacement of components,  
3 or other capital improvement, including related equipment and land  
4 acquisition, designed to:

- 5 a. Eliminate the wasteful or unnecessary use or loss of water in the  
6 operations of a wastewater collection system, wastewater  
7 treatment works, or water supply system; or  
8 b. Enhance the operation of a wastewater collection system,  
9 wastewater treatment works, or water supply system to provide a  
10 more efficient use of water.

11 (22) " Water Pollution Control Revolving Fund" means the fund described  
12 by G.S. 159G-4(a) and G.S. 159G-5(c).

13 (23) " Water reuse" means the actual use or application of treated wastewater  
14 in or on areas which require water but do not require potable water  
15 quality.

16 (24) " Water supply systems" means water supply systems as defined in the  
17 Clean Water Revolving Loan and Grant Act.

18 Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject  
19 to a favorable vote of a majority of the qualified voters of the State who vote on the  
20 question of issuing Clean Water Bonds in the election called and held as provided in this  
21 act, the State Treasurer is hereby authorized, by and with the consent of the Council of  
22 State, to issue and sell, at one time or from time to time, general obligation bonds of the  
23 State to be designated "State of North Carolina Clean Water Bonds", with any additional  
24 designations as may be determined to indicate the issuance of bonds from time to time, or  
25 notes of the State as provided in this act, in an aggregate principal amount not exceeding  
26 eight hundred five million dollars (\$805,000,000) for the purpose of providing funds,  
27 with any other available funds, for the purposes authorized in this act.

28 (b) Natural Gas Bonds. Subject to a favorable vote of a majority of the  
29 qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the  
30 election called and held as provided in this act, the State Treasurer is hereby authorized,  
31 by and with the consent of the Council of State, to issue and sell, at one time or from time  
32 to time, general obligation bonds of the State to be designated "State of North Carolina  
33 Natural Gas Bonds", with any additional designations as may be determined to indicate  
34 the issuance of bonds from time to time, or notes of the State as provided in this act, in an  
35 aggregate principal amount not exceeding one hundred fifty million dollars  
36 (\$150,000,000) for the purpose of providing funds, with any other available funds, for the  
37 purposes authorized in this act.

38 Section 5. Uses of bond and note proceeds.

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

- 41 (1) The proceeds of three hundred sixty-five million dollars (\$365,000,000)  
42 of Clean Water Bonds shall be used by the Department of Environment  
43 and Natural Resources to provide State matching funds required to

1 receive federal wastewater or water supply assistance funds and for  
2 grants to local government units for the same purposes for which funds  
3 in the Clean Water Revolving Loan and Grant Fund may be used. The  
4 grants shall be made for the purpose of paying the cost of water supply  
5 systems, wastewater collection systems, wastewater treatment works,  
6 water conservation projects, water reuse projects, and school water or  
7 wastewater projects.

8 Of the proceeds of the three hundred sixty-five million dollars  
9 (\$365,000,000) referred to in this Section 5(a)(1) above, the sum of  
10 three hundred thirty million dollars (\$330,000,000) shall be allocated as  
11 follows:

- 12 a. High-Unit Cost Wastewater Account
  - 13 1. Reserved for grants to local government units  
14 whose bond rating is less than 75 or who have no bond  
15 rating....\$85,000,000
  - 16 2. Reserved for grants to local government units whose bond  
17 rating is 75 or more.....\$80,000,000
- 18 b. High-Unit Cost Water Supply Account
  - 19 1. Reserved for grants to local government units  
20 whose bond rating is less than 75 or who have no bond  
21 rating...\$85,000,000
  - 22 2. Reserved for grants to local government units whose bond  
23 rating is 75 or greater.....\$80,000,000.

24 However, funds shall not be expended for the repair, installation or  
25 replacement of a low pressure pipe wastewater system with another low  
26 pressure pipe wastewater system.

27 The proceeds may be (i) transferred directly to the Clean Water Revolving  
28 Loan and Grant Fund to make grants, (ii) used to make grants directly to  
29 the appropriate local government qualifying for a grant from the Clean  
30 Water Revolving Loan and Grant Fund, (iii) used for any combination  
31 of (i) and (ii), or (iv) used in such other manner as shall effectuate the  
32 clean water purposes of this act.

33 Although public necessity and the criteria established by Chapter  
34 159G of the General Statutes shall be the primary considerations in  
35 granting funds, great emphasis shall also be placed on achieving  
36 stringent reductions in the levels of nutrients and other pollutants  
37 discharged into the State's waters, particularly in nutrient sensitive river  
38 basins, in reducing the overall volume of effluent discharged to the  
39 State's waters by using alternative methods of wastewater treatment  
40 when feasible, on the creation of efficient systems of regional  
41 wastewater disposal and regional water supply, on the willingness and  
42 ability of local government units to meet their responsibilities through  
43 sound fiscal policies, creative planning, and efficient operation and

1 management, and on having a capital improvement plan. In addition,  
2 great emphasis shall also be placed on the protection and improvement  
3 of fisheries habitats for both saltwater and freshwater fish based upon  
4 recommendations made by the Director of the Marine Fisheries Division  
5 of the Department of Environment and Natural Resources. Also,  
6 significant consideration and weight in awarding a clean water grant or  
7 loan to an eligible local government unit for expanding infrastructure to  
8 support significant additional development shall be given if the local  
9 government unit has adopted a comprehensive land-use plan that meets  
10 the requirements of G.S. 159G-10 for the local government unit. Any  
11 point scheme developed for awarding clean water grants or loans from  
12 the clean water bond proceeds for expanding infrastructure to support  
13 significant additional development shall assign a significant number of  
14 points for having a comprehensive land-use plan that is approved or  
15 adopted by the applicant local government unit. Grants made from  
16 bond proceeds transferred from the Clean Water Bonds Fund to the  
17 Clean Water Revolving Loan and Grant Fund shall be made and  
18 administered in accordance with the provisions of the Clean Water  
19 Revolving Loan and Grant Act. Grants made from bond proceeds  
20 directly to local government units shall, to the extent applicable, be  
21 made, administered, and applied in accordance with the provisions of  
22 the Clean Water Revolving Loan and Grant Act.

23 A county may apply for a grant or loan on behalf of a rural school  
24 located in the county for a school water or wastewater project.

25 Of the proceeds of the three hundred sixty-five million dollars  
26 (\$365,000,000) referred to in this Section 5(a)(1) above, the sum of  
27 thirty-five million dollars (\$35,000,000) shall be used to provide State  
28 funds necessary for the 1999-2000, 2000-2001, 2001-2002, 2002-2003,  
29 and 2003-2004 fiscal years to match the federal wastewater or water  
30 supply assistance funds deposited in the Water Pollution Control  
31 Revolving Fund or another fund that is used to pay the cost of water  
32 supply systems, wastewater collection systems, or wastewater treatment  
33 works and is eligible to receive federal matching funds, unless the  
34 General Assembly has provided the required match through other  
35 sources, in which event this priority shall cease to exist to the extent of  
36 the availability of the other sources. For the purpose of implementing  
37 this priority, the Department of Environment and Natural Resources  
38 shall certify to the State Treasurer the amount of funds required for the  
39 State match for each of the fiscal years ending June 30, 1999, June 30,  
40 2000, June 30, 2001, June 30, 2002, June 30, 2003, and June 30, 2004,  
41 and the extent to which the General Assembly has provided other funds  
42 for this purpose. Upon certification each year of the amount of funds  
43 required for the State match for that fiscal year, the State Treasurer may



1 issue from the thirty-five million dollars (\$35,000,000) the amount  
2 certified up to thirty-five million dollars (\$35,000,000). Upon  
3 certification for the State match required for the fiscal year ending June  
4 30, 2004, the State Treasurer may issue the remaining balance of the  
5 thirty-five million dollars (\$35,000,000) of the Clean Water Bonds  
6 authorized by this subdivision for the purpose of funding the State  
7 match for that fiscal year and for any other purposes authorized by this  
8 subdivision. The proceeds of the bonds necessary for the State match  
9 for each fiscal year shall be deposited in the Water Pollution Control  
10 Revolving Fund or another appropriate fund or account determined by  
11 the State Treasurer.

- 12 (2) The proceeds of fifty million dollars (\$50,000,000) of Clean Water  
13 Bonds shall be used to provide grants to eligible local government units  
14 to assist with wastewater treatment works and wastewater collection  
15 systems. Such grants shall be awarded and administered by the Rural  
16 Economic Development Center.

17 The proceeds of this fifty million dollars (\$50,000,000) of Clean  
18 Water Bonds shall be awarded on the following criteria:

- 19 a. The applicant shall be a local government unit.  
20 b. The applicant's population shall not exceed 5,000 persons using  
21 the most recently available certified population estimates.  
22 c. The applicant shall be an unsewered community.  
23 d. The applicant's median household income shall not exceed ninety  
24 percent (90%) of the national median household income using  
25 the most recently updated income figures made available from  
26 the Bureau of the Census.

27 Although public necessity and the criteria listed above shall be the  
28 primary consideration for granting funds, great emphasis shall also be  
29 placed on achieving stringent reductions in the levels of nutrients and  
30 other pollutants discharged into the State's waters, particularly in  
31 nutrient sensitive river basins, in reducing the overall volume of effluent  
32 discharged to the State's waters by using alternative methods of  
33 wastewater treatment when feasible, on the creation of efficient systems  
34 of regional wastewater disposal and regional water supply, and on the  
35 willingness and ability of local government units to meet their  
36 responsibilities through sound fiscal policies, creative planning, and  
37 efficient operation and management. In addition, great emphasis shall  
38 also be placed on the protection and improvement of fisheries habitats  
39 for both saltwater and freshwater fish based upon recommendations  
40 made by the Director of the Marine Fisheries Division of the  
41 Department of Environment and Natural Resources. However, funds  
42 shall not be expended for the repair, installation or replacement of a low

1 pressure pipe wastewater system with another low pressure pipe  
2 wastewater system.

3 An applicant may be eligible for up to ninety percent (90%) of the  
4 total project cost subject to average annual water and wastewater cost  
5 per household (combined average annual charge per user rate)  
6 calculated at one and one-half percent (1 1/2%) of the median household  
7 income of the applicant. If the applicant is an unsewered community, it  
8 must submit as a part of the application packet a preliminary  
9 engineering report including an analysis of possible wastewater service  
10 alternatives, and an environmental assessment. In addition, special  
11 consideration shall also be placed on having a capital improvement plan.

12 A county may apply for a grant or loan on behalf of a rural school  
13 located in the county for a school water or wastewater project.

14 The Rural Economic Development Center shall award grants to units  
15 of local government for the purposes authorized by this Section 5(a)(2)  
16 in accordance with the criteria set forth above. The proceeds of the  
17 Clean Water Bonds issued for the purpose described in this Section  
18 shall be held in the Clean Water Bonds Fund until needed for  
19 expenditure by the grantee for the payment of costs for the purposes for  
20 which the grant is made. The Rural Economic Development Center  
21 shall maintain records that document the timing and purpose for which  
22 each expenditure of proceeds of a grant is made and shall furnish such  
23 records to the Secretary of Commerce at the time a request for payment  
24 to or on behalf of a grantee is to be made.

25 At the end of each fiscal year the Secretary of Commerce shall review  
26 the grants awarded by the Rural Economic Development Center with  
27 proceeds from the Clean Water Bonds to verify that the grants awarded  
28 comply with the requirements of this act. The Secretary of Commerce  
29 shall provide his or her findings regarding compliance in writing to the  
30 State Treasurer.

31 At the time that the Rural Economic Development Center provides  
32 information to the Secretary of Commerce as to the grants awarded  
33 during the preceding fiscal year, the Rural Economic Development  
34 Center shall also provide the Secretary of Commerce with a copy of all  
35 records of the Rural Economic Development Center from the preceding  
36 fiscal year (to the extent not previously provided to the Secretary) that  
37 document the timing and purposes of the expenditures by the grantee  
38 units of local government of the proceeds of the grants funded from the  
39 proceeds of the Clean Water Bonds.

- 40 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water  
41 Bonds shall be used to provide supplemental and capacity grants to  
42 eligible local government units to match federal, State, and other grant  
43 or loan program funds to plan or improve needed water and sewer

1 projects in economically depressed areas of North Carolina. Such  
2 grants shall be awarded and administered by the Rural Economic  
3 Development Center. Those proceeds shall be allocated as follows:

- 4 a. Supplemental Grants.....\$40,000,000  
5 b. Capacity Grants.....\$10,000,000

6 The Rural Economic Development Center shall certify to the State  
7 Treasurer the amount of funds required, not to exceed eight million  
8 dollars (\$8,000,000) for supplemental grants, not to exceed two million  
9 dollars (\$2,000,000) for capacity grants, and not to exceed a total of ten  
10 million dollars (\$10,000,000) in supplemental and capacity grants, for  
11 each of the fiscal years ending June 30, 1999, June 30, 2000, June 30,  
12 2001, June 30, 2002, June 30, 2003, and June 30, 2004. Upon  
13 certification each year of the amount of funds required for that fiscal  
14 year, the State Treasurer may issue the amount certified up to ten  
15 million dollars (\$10,000,000). Upon certification for the fiscal year  
16 ending June 30, 2004, the State Treasurer may issue the remaining  
17 balance of the fifty million dollars (\$50,000,000) of the Clean Water  
18 Bonds authorized by this subdivision for any other purposes authorized  
19 by this subdivision.

20 Grants made from the proceeds of this fifty million dollars  
21 (\$50,000,000) for supplemental grants or capacity grants shall be based  
22 on the following criteria:

- 23 a. The applicant shall be a local government unit.  
24 b. The applicant shall be a rural county or a local government unit  
25 located in a rural county.  
26 c. Second priority shall be given to a water supply system,  
27 wastewater collection system, or wastewater treatment work that  
28 creates or retains jobs. First priority shall be given to a water  
29 supply system, wastewater collection system, or wastewater  
30 treatment work that eliminates an imminent and identifiable  
31 threat to public health. A water supply system, wastewater  
32 collection system, or wastewater treatment work shall also  
33 receive funding priority if such project is located in an  
34 economically distressed county as defined in G.S. 143B-437.01.  
35 A water supply system, wastewater collection system, or  
36 wastewater treatment work shall also receive funding priority if:  
37 (i) the system is located within an economically distressed county  
38 as defined in G.S. 143B-437.01, (ii) the system proposes water  
39 conservation or water reuse as a project component, or (iii) the  
40 system proposes an alternative management structure such as, but  
41 not limited to, regionalization, consolidation or system merger.  
42 d. A water supply system, wastewater collection system, or  
43 wastewater treatment work that is proposed in a nondistressed

1 county must meet at least one of the following criteria: (i) be  
2 located in that part of a rural nondistressed county where the  
3 poverty rate is at least one hundred fifty percent (150%) of the  
4 State poverty rate, (ii) be located in that part of a rural  
5 nondistressed county where the unemployment rate is at least  
6 double the State unemployment rate for the most recent reporting  
7 period available, (iii) be located in that part of a rural  
8 nondistressed county that experiences an actual or imminent loss  
9 of jobs in a number that equals or exceeds five percent (5%) of  
10 the total number of jobs in that part of the county, or (iv) be a  
11 water or sewer project located in an economically distressed  
12 community experiencing health-related or environmental quality  
13 problems. Any grant awarded for a water supply system,  
14 wastewater collection system, or wastewater treatment work in a  
15 nondistressed county shall be matched by the applicant on a  
16 dollar-for-dollar basis in the amount of the grant awarded.

17 Although public necessity and the criteria listed above shall be the  
18 primary consideration in granting these funds, great emphasis shall also  
19 be placed on achieving stringent reductions in the levels of nutrients and  
20 other pollutants discharged into the State's waters, particularly in  
21 nutrient sensitive river basins, in reducing the overall volume of effluent  
22 discharged to the State's waters by using alternative methods of  
23 wastewater treatment when feasible, on the creation of efficient systems  
24 of regional wastewater disposal and regional water supply, on the  
25 willingness and ability of local government units to meet their  
26 responsibilities through sound fiscal policies, creative planning, and  
27 efficient operation and management, and on having a capital  
28 improvement plan. In addition, great emphasis shall also be placed on  
29 the protection and improvement of fisheries habitats for both saltwater  
30 and freshwater fish based upon recommendations made by the Director  
31 of the Marine Fisheries Division of the Department of Environment and  
32 Natural Resources. However, funds shall not be expended for the  
33 repair, installation or replacement of a low pressure pipe wastewater  
34 system with another low pressure pipe wastewater system. Also,  
35 significant consideration and weight in awarding a clean water grant or  
36 loan to an eligible local government unit for expanding infrastructure to  
37 support significant additional development shall be given if the local  
38 government unit has adopted a comprehensive land-use plan that meets  
39 the requirements of G.S. 159G-10 for the local government unit. Any  
40 point scheme developed for awarding clean water grants or loans from  
41 the clean water bond proceeds for expanding infrastructure to support  
42 significant additional development shall assign a significant number of

1 points for having a comprehensive land-use plan that is approved or  
2 adopted by the applicant local government unit.

3 A county may apply for a grant or loan on behalf of a rural school  
4 located in the county for a school water or wastewater project.

5 The Rural Economic Development Center shall award grants to units  
6 of local government for the purposes authorized by this Section 5(a)(3)  
7 in accordance with the criteria set forth above. The proceeds of the  
8 Clean Water Bonds issued for the purpose described in this Section  
9 shall be held in the Clean Water Bonds Fund until needed for  
10 expenditure by the grantee for the payment of costs for the purposes for  
11 which the grant is made. The Rural Economic Development Center  
12 shall maintain records that document the timing and purpose for which  
13 each expenditure of proceeds of a grant is made and shall furnish such  
14 records to the Secretary of Commerce at the time a request for a  
15 payment to or on behalf of a grantee is to be made.

16 At the end of each fiscal year the Secretary of Commerce shall review  
17 the grants awarded by the Rural Economic Development Center with  
18 proceeds from the Clean Water Bonds to verify that the grants awarded  
19 comply with the requirements of this act. The Secretary of Commerce  
20 shall provide his or her findings regarding compliance in writing to the  
21 State Treasurer. At the time the Rural Economic Development Center  
22 provides information to the Secretary of Commerce as to the grants  
23 awarded during the preceding fiscal year, the Rural Economic  
24 Development Center shall also provide the Secretary of Commerce with  
25 a copy of all records of the Rural Economic Development Center from  
26 the preceding fiscal year (to the extent not previously provided to the  
27 Secretary) that document the timing and purposes of the expenditures by  
28 the grantee units of local government of the proceeds of the grants  
29 funded from proceeds of the Clean Water Bonds.

- 30 (4) The proceeds of twenty million dollars (\$20,000,000) of Clean Water  
31 Bonds shall be used for the purpose of making grants to local  
32 government units to pay the cost of clean water projects in connection  
33 with the location of industry to, and expansion of industry in, the State.  
34 These grants shall be awarded and administered by the Department of  
35 Commerce.

36 Ten million dollars (\$10,000,000) of the amount available for grants  
37 pursuant to this Section 5(a)(4) shall be applied to pay the costs of  
38 grants awarded in the same manner as funds in the Industrial  
39 Development Fund created in G.S. 143B-437.01(a), for use in  
40 accordance with G.S. 143B-437.01(a), subject to the further limitations  
41 on the provisions of G.S. 143B-437.01(a) set forth below. Ten million  
42 dollars (\$10,000,000) of the amount available for grants pursuant to this  
43 Section 5(a)(4) shall be applied to pay the costs of grants awarded in the

1 same manner as funds in the Utility Account of the Industrial  
2 Development Fund created in G.S. 143B-437.01(b), for use in  
3 accordance with G.S. 143B-437.01(b), subject to the further limitations  
4 on the provisions of G.S. 143B-437.01(b) set forth below. In applying  
5 the provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b), as the  
6 case may be, the following exceptions shall apply:

- 7 a. The funds shall be used only for grants to local governments, not  
8 for loans.
- 9 b. Grants shall be awarded only to projects the Secretary of  
10 Commerce finds will have a favorable impact on the clean water  
11 objectives of the State.
- 12 c. The only purposes for which grants may be made are  
13 construction of or improvements to new or existing water or  
14 sewer distribution lines or equipment or construction of or  
15 improvements to new or existing wastewater treatment works.
- 16 d. The amendments to G.S. 143B-437.01 enacted by the 1997  
17 General Assembly during the 1998 Regular Session also govern  
18 the use of these funds, to the extent they are not inconsistent with  
19 this Section 5(a)(4).
- 20 e. The provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b),  
21 as the case may be, that limit the expenditure of funds to costs of  
22 utility lines or facilities located on the site of the new or proposed  
23 industrial building or that are directly related to the operation of  
24 the specific industrial activity at the building, shall not apply if  
25 the utility lines or facilities being provided will further the clean  
26 water objectives of the State.

27 The General Assembly finds that the purpose of providing water and  
28 sewer distribution lines and wastewater treatment works in  
29 economically distressed counties is to provide clean water in North  
30 Carolina in several different ways. First, these projects will reduce  
31 industrial reliance on wells, septic tanks, and other similar facilities.  
32 Second, when a distribution line is extended to an industrial facility in  
33 an area not otherwise served by water and sewer infrastructure,  
34 residents, other businesses, and local governments can hook into the  
35 distribution line, bringing clean water, wastewater treatment, or both to  
36 the unserved area. Also, the installation and expansion of water supply  
37 and wastewater treatment facilities to provide water supply and  
38 wastewater treatment in connection with new or expanding industry will  
39 result in additional water supply and treatment facilities available to the  
40 residents, other businesses, and local governments in the area where the  
41 installation or expansion occurs. Also, significant consideration and  
42 weight in awarding a clean water grant or loan to an eligible local  
43 government unit for expanding infrastructure to support significant

1 additional development shall be given if the local government unit has  
2 adopted a comprehensive land-use plan that meets the requirements of  
3 G.S. 159G-10 for the local government unit. Any point scheme  
4 developed for awarding clean water grants or loans from the clean water  
5 bond proceeds for expanding infrastructure to support significant  
6 additional development shall assign a significant number of points for  
7 having a comprehensive land-use plan that is approved or adopted by  
8 the applicant local government unit.

9 A county may apply for a grant or loan on behalf of a rural school  
10 located in the county for a school water or wastewater project.

11 The proceeds of the Clean Water Bonds, issued for the purpose  
12 described in this Section 5(a)(4), shall be held in the Clean Water Bonds  
13 Fund until needed for expenditure by the grantee for the payment of the  
14 cost for the purpose for which the grant is made. The Department of  
15 Commerce shall maintain records that document the timing and purpose  
16 for which each expenditure of proceeds of a grant is made.

17 (5) The proceeds of three hundred twenty million dollars (\$320,000,000) of  
18 Clean Water Bonds shall be used for the purpose of making loans to  
19 local government units to pay the cost of water supply systems, water  
20 conservation projects, water reuse projects, wastewater collection  
21 systems, and wastewater treatment works. The proceeds shall be  
22 allocated as follows:

- 23 a. Wastewater collection systems and wastewater treatment works.
  - 24 1. Reserved for loans to local government units  
25 whose bond rating is less than 75 or who have no bond  
26 rating.....\$10,000,000
  - 27 2. Reserved for loans to local government units whose bond  
28 rating is 75 or more.....\$150,000,000
- 29 b. Water supply systems and water conservation projects.
  - 30 1. Reserved for loans to local government units  
31 whose bond rating is less than 75 or who have no bond  
32 rating.....\$10,000,000
  - 33 2. Reserved for loans to local government units whose bond  
34 rating is 75 or more.....\$150,000,000

35 The proceeds shall be used to make loans directly to local government  
36 units qualifying for a loan from the Clean Water Revolving Loan and  
37 Grant Fund or loaned in such other manner as shall effectuate the  
38 purposes of this act. To qualify for a loan for the purpose of paying the  
39 cost of water supply systems, a local government unit must have a water  
40 supply facility plan approved by the Department of Environment and  
41 Natural Resources. A water supply facility plan submitted by a local  
42 government unit to the Department under G.S. 143-355(l) will be  
43 sufficient to meet this requirement. To qualify for a loan for the

1 purpose of paying the cost of wastewater collection systems or  
2 wastewater treatment works, a local government unit must have a  
3 wastewater facility plan approved by the Department of Environment  
4 and Natural Resources. A wastewater facility plan must project future  
5 wastewater treatment needs, must present a long-range plan to meet  
6 those needs, and must include plans for system operations and  
7 maintenance of the facilities being built with the bond proceeds. In  
8 addition, great emphasis shall also be placed on having a capital  
9 improvement plan. However, funds shall not be expended for the  
10 repair, installation or replacement of a low pressure pipe wastewater  
11 system with another low pressure pipe wastewater system. Also,  
12 significant consideration and weight in awarding a clean water grant or  
13 loan to an eligible local government unit for expanding infrastructure to  
14 support significant additional development shall be given if the local  
15 government unit has adopted a comprehensive land-use plan that meets  
16 the requirements of G.S. 159G-10 for the local government unit. Any  
17 point scheme developed for awarding clean water grants or loans from  
18 the clean water bond proceeds for expanding infrastructure to support  
19 significant additional development shall assign a significant number of  
20 points for having a comprehensive land-use plan that is approved or  
21 adopted by the applicant local government unit.

22 A county may apply for a grant or loan on behalf of a rural school  
23 located in the county for a school water or wastewater project.

24 The Department of Environment and Natural Resources shall set the  
25 priorities and determine the eligibility of local government units for  
26 these loans in accordance with Section 10 of this act. In addition to  
27 those priorities, great emphasis shall also be placed on the protection  
28 and improvement of fisheries habitats for both saltwater and freshwater  
29 fish based upon recommendations made by the Director of the Marine  
30 Fisheries Division of the Department of Environment and Natural  
31 Resources. The form of the loans and the details thereof including,  
32 without limitation, the maturity, interest rate, and amortization schedule  
33 shall be determined, from time to time, by the State Treasurer. In  
34 making these determinations, the State Treasurer shall consider the  
35 purpose of the loans, the ability of local government units to repay the  
36 loans, and the security for the loans. The interest rates on these loans  
37 shall reflect the self-supporting nature of the loan program and shall be  
38 sufficient to cover substantially all payments of debt service on the three  
39 hundred twenty million dollars (\$320,000,000) of Clean Water Bonds  
40 and the issuance costs and administrative expenses associated with the  
41 issuance of these bonds and the making of these loans, subject to any  
42 applicable requirements of the federal tax law.



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 and  
3           notes issued. Repayments may be initially placed into such fund or  
4           account as may be determined by the State Treasurer for the purpose of  
5           determining compliance with applicable requirements of the federal tax  
6           law and shall be expended and disbursed therefrom under the direction  
7           and supervision of the Director of the Budget.

8           (6) The General Assembly may at this Session or at any subsequent Session  
9           increase or decrease the allocations of the proceeds of the Clean Water  
10          Bonds set forth in (1), (2), (3), (4), and (5) above, so long as the  
11          aggregate amount of the allocations does not exceed eight hundred five  
12          million dollars (\$805,000,000).

13          (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be  
14          used for the purpose of providing grants, loans, or other financing to natural gas local  
15          distribution companies, persons seeking natural gas distribution franchises, State or local  
16          government agencies, or other entities for the costs of constructing natural gas facilities,  
17          including pipelines, compressors, interests in real property, and related equipment for the  
18          delivery of natural gas in order to facilitate the expansion of natural gas facilities to  
19          unserved areas of the State in accordance with the findings of the General Assembly  
20          described in Section 16 of this act.

21          Section 5A. Prohibited uses of water and sewer bond proceeds. Proceeds from  
22          the sale of the Clean Water Bonds shall not be used to construct new water or sewer lines  
23          to provide water or sewer connections in any area that has been designated as WS-I or the  
24          critical area of any area that has been designated as WS-II, WS-III, or WS-IV by the  
25          Environmental Management Commission pursuant to G.S. 143-214.5. The Secretary of  
26          Environment and Natural Resources may grant a waiver to allow construction of new  
27          water or sewer lines and to provide water or sewer connections if the Secretary finds that  
28          granting the waiver is necessary to protect public health or water quality. A waiver  
29          granted by the Secretary under this section shall include a requirement that the water or  
30          sewer line shall be designed and sized to address only the public health or water quality  
31          concerns on which the waiver is based and shall not allow for additional connections  
32          beyond those necessary to protect public health and water quality. This section does not  
33          prohibit the repair or replacement of existing water or sewer lines.

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

42          Any additional moneys which may be received by means of a grant or grants  
43          from the United States of America or any agency or department thereof or from any other

1 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water  
2 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent  
3 permitted by the terms of the grant or grants, without regard to any limitations imposed  
4 by this act.

5 Moneys in the Clean Water Bonds Fund or in any separate clean water fund or  
6 account established under this act may be invested from time to time by the State  
7 Treasurer in the same manner permitted for investment of moneys belonging to the State  
8 or held in the State treasury, except with respect to grant money to the extent otherwise  
9 directed by the terms of the grant. Investment earnings, except investment earnings with  
10 respect to grant moneys to the extent otherwise directed or restricted by the terms of the  
11 grant, may be (i) credited to the Clean Water Bonds Fund, or any separate clean water  
12 fund or account established under this act, (ii) used to pay debt service on the Clean  
13 Water Bonds authorized by this act, (iii) used to satisfy compliance with applicable  
14 requirements of the federal tax law, or (iv) transferred to the General Fund of the State.

15 The proceeds of bonds and notes may be used with any other moneys made  
16 available by the General Assembly for making grants and loans authorized by this act,  
17 including the proceeds of any other State bond issues, whether heretofore made available  
18 or which may be made available at the session of the General Assembly at which this act  
19 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be  
20 expended and disbursed under the direction and supervision of the Director of the  
21 Budget. The funds provided by this act shall be disbursed for the purposes provided in  
22 this act upon warrants drawn on the State Treasurer by the State Controller, which  
23 warrants shall not be drawn until requisition has been approved by the Director of the  
24 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 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,  
27 including premium thereon, if any, except the proceeds of bonds the issuance of which  
28 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or  
29 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural  
30 Gas Bonds Fund", which may include such appropriate special accounts therein as may  
31 be determined by the State Treasurer, and shall be disbursed as provided in this act.  
32 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in  
33 this act. The proceeds may be used in accordance with G.S. 62-159 or may be distributed  
34 in accordance with the provisions of legislation enacted by the General Assembly in 1998  
35 or later providing for the allocation of the bond proceeds for the purposes provided in this  
36 act.

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

1 Moneys in the Natural Gas Bonds Fund or any separate natural gas fund or  
2 account established under this act may be invested from time to time by the State  
3 Treasurer in the same manner permitted for investment of moneys belonging to the State  
4 or held in the State treasury, except with respect to grant money to the extent otherwise  
5 directed by the terms of the grant. Investment earnings, except investment earnings with  
6 respect to grant money to the extent otherwise directed or restricted by the terms of the  
7 grant, may be (i) credited to the Natural Gas Bonds Fund or any separate natural gas fund  
8 or account established under this act; (ii) used to pay debt service on the Natural Gas  
9 Bonds authorized by this act; (iii) used to satisfy compliance with applicable  
10 requirements of the federal tax law; or (iv) transferred to the General Fund of the State.

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

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

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

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

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

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

5 "[ ] FOR [ ] AGAINST  
6 the issuance of eight hundred five million dollars (\$805,000,000) State of North Carolina  
7 Clean Water Bonds constituting general obligation bonds of the State secured by a pledge  
8 of the faith and credit and taxing power of the State for the purpose of providing funds,  
9 with any other available funds, to make loans and grants to local government units to pay  
10 all or a portion of the cost of clean water projects."

11 "[ ] FOR [ ] AGAINST  
12 the issuance of one hundred fifty million dollars (\$150,000,000) State of North Carolina  
13 Natural Gas Bonds constituting general obligation bonds of the State secured by a pledge  
14 of the faith and credit and taxing power of the State for the purpose of providing funds,  
15 with any other available funds, to provide grants, loans, or other financing to public or  
16 private entities for construction of natural gas facilities in order to facilitate the  
17 expansion of natural gas facilities to unserved portions of the State."

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

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

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

38 (b) Signatures; Form and Denomination; Registration. Bonds or notes may be  
39 issued as certificated or uncertificated obligations. If issued as certificated obligations,  
40 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his  
41 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile  
42 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be  
43 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the

1 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature  
2 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the  
3 State Treasurer. Should any officer whose signature or facsimile signature appears on  
4 bonds or notes cease to be such officer before the delivery of the bonds or notes, the  
5 signature or facsimile signature shall nevertheless have the same validity for all purposes  
6 as if the officer had remained in office until delivery and bonds or notes may bear the  
7 facsimile signatures of persons who at the actual time of the execution of the bonds or  
8 notes shall be the proper officers to sign any bond or note although at the date of the bond  
9 or note such persons may not have been such officers. The form and denomination of  
10 bonds or notes, including the provisions with respect to registration of the bonds or notes  
11 and any system for their registration, shall be as the State Treasurer may determine in  
12 conformity with this act; provided, however, that nothing in this act shall prohibit the  
13 State Treasurer from proceeding, with respect to the issuance and form of the bonds or  
14 notes, under the provisions of Chapter 159E of the General Statutes, the Registered  
15 Public Obligations Act, as well as under this act.

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

27 (d) Notes; Repayment.

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

- 32 a. For anticipating the sale of bonds to the issuance of which the  
33 Council of State shall have given consent, if the State Treasurer  
34 shall deem it advisable to postpone the issuance of the bonds;
- 35 b. For the payment of interest on or any installment of principal of  
36 any bonds then outstanding, if there shall not be sufficient funds  
37 in the State treasury with which to pay the interest or installment  
38 of principal as they respectively become due;
- 39 c. For the renewal of any loan evidenced by notes herein  
40 authorized;
- 41 d. For the purposes authorized in this act; and
- 42 e. For refunding bonds or notes as herein authorized.

1 (2) Funds derived from the sale of bonds or notes may be used in the  
2 payment of any bond anticipation notes issued under this act. Funds  
3 provided by the General Assembly for the payment of interest on or  
4 principal of bonds shall be used in paying the interest on or principal of  
5 any notes and any renewals thereof, the proceeds of which shall have  
6 been used in paying interest on or principal of the bonds.

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

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

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

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

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

38 (1) Be made payable from time to time on demand or tender for purchase  
39 by the owner thereof provided a credit facility supports the bonds or  
40 notes, unless the State Treasurer specifically determines that a credit  
41 facility is not required upon a finding and determination by the State  
42 Treasurer that the absence of a credit facility will not materially or

1 adversely affect the financial position of the State and the marketing of  
2 the bonds or notes at a reasonable interest cost to the State;

3 (2) Be additionally supported by a credit facility;

4 (3) Be made subject to redemption or a mandatory tender for purchase prior  
5 to maturity;

6 (4) Bear interest at a rate or rates that may vary for such period or periods  
7 of time, all as may be provided in the proceedings providing for the  
8 issuance of the bonds or notes, including, without limitation, such  
9 variations as may be permitted pursuant to a par formula; and

10 (5) Be made the subject of a remarketing agreement whereby an attempt is  
11 made to remarket bonds or notes to new purchasers prior to their  
12 presentment for payment to the provider of the credit facility or to the  
13 State.

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

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

26 (b) Clean Water Bonds Loan Account. There is established in the Clean Water  
27 Bonds Fund a special account to be known as the Clean Water Bonds Loan Account,  
28 which may include any special or segregated accounts the State Treasurer considers  
29 appropriate. There shall be deposited in the Clean Water Bonds Loan Account proceeds  
30 of the Clean Water Bonds and notes to be used to make loans, other than loans to be  
31 made through the Clean Water Revolving Loan and Grant Fund, to local government  
32 units for clean water projects as provided in this act.

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

40 (c) Application for Loans; Hearings.

41 (1) Eligibility/Initial Hearing.

42 a. Prior to filing an application for a loan, a local government unit  
43 shall hold a public hearing. A notice of the public hearing shall

- 1 be published once at least 10 days before the date fixed for the  
2 hearing.
- 3 b. All applications for loans shall be filed with the Department of  
4 Environment and Natural Resources. The form of the application  
5 shall be prescribed by the Department and shall require any  
6 information necessary to determine the eligibility for a loan  
7 under the provisions of this section. All applications approved  
8 by the Department of Environment and Natural Resources shall  
9 be filed with the Local Government Commission. Each applicant  
10 shall furnish to the Department of Environment and Natural  
11 Resources and the Local Government Commission information  
12 in addition or supplemental to the information contained in its  
13 application, upon request.
- 14 c. A local government unit shall not be eligible for a loan unless it  
15 demonstrates to the satisfaction of the Department of  
16 Environment and Natural Resources and the Local Government  
17 Commission that:
- 18 1. The applicant is a local government unit;
  - 19 2. The applicant has the financial capacity to pay the  
20 principal of and interest on its proposed loan as evidenced  
21 by the approval of the Local Government Commission;
  - 22 3. The applicant has substantially complied or will  
23 substantially comply with all applicable laws, rules,  
24 regulations, and ordinances, whether federal, State, or  
25 local; and
  - 26 4. The applicant has agreed by official resolution to adopt  
27 and place into effect a schedule of fees and charges or the  
28 application of other sources of revenue which will provide  
29 adequate funds for proper operation, maintenance, and  
30 administration of the project and repayment of all  
31 principal and interest on the loan.
- 32 (2) Assessment. The Department of Environment and Natural Resources  
33 may require any applicant to file with its application an assessment of  
34 the impact the project for which the funds are sought will have upon  
35 meeting the facility needs of the area within which the project is to be  
36 located.
- 37 (3) Hearing by the Department of Environment and Natural Resources or  
38 the Local Government Commission. A public hearing may be held by  
39 the Department of Environment and Natural Resources or the Local  
40 Government Commission at any time on any application. Public  
41 hearings may also be held by the Department of Environment and  
42 Natural Resources in its discretion upon written request from any citizen  
43 or taxpayer who is a resident of the county or counties in which the



1 project is to be located or a resident of the local government unit that  
2 proposes to borrow moneys under this act, if it appears that the public  
3 interest will be served by the hearing. The written request shall set forth  
4 each objection to the proposed project or other reason for requesting a  
5 hearing on the application and shall contain the names and addresses of  
6 the persons submitting it. In deciding whether to grant a request for a  
7 hearing on an application, the Department of Environment and Natural  
8 Resources may consider the application, the written objections to the  
9 proposed project, and the facility needs and shall determine if the public  
10 interest will be served by a hearing. The determination by the  
11 Department of Environment and Natural Resources shall be conclusive,  
12 and all written requests for a hearing shall be retained as a permanent  
13 part of the records pertaining to the application.

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

21 (d) Priorities.

- 22 (1) Determination. Determination of priorities to be assigned each eligible  
23 project shall be made semiannually by the Department of Environment  
24 and Natural Resources during each fiscal year. Every eligible project  
25 shall be considered by the Department of Environment and Natural  
26 Resources with every other project eligible during this same priority  
27 period.
- 28 (2) Priority Factors. All applications for loans under this act shall be  
29 assigned a priority by the Department of Environment and Natural  
30 Resources. The Department of Environment and Natural Resources  
31 shall establish other priority factors criteria by rule.
- 32 (3) Assignment of Priority. A written statement relative to each priority  
33 assigned shall be prepared by the Department of Environment and  
34 Natural Resources and shall be attached to the application. The priority  
35 assigned shall be conclusive.
- 36 (4) Failure to Qualify. If an application does not qualify for a loan as of the  
37 prior period in which the application was eligible for consideration by  
38 reason of the priority assigned, the application shall be considered  
39 during the next succeeding priority period upon request of the applicant.  
40 If the application again fails to qualify for a loan during the second  
41 priority period by reason of the priority assigned, the application shall  
42 receive no further consideration. An applicant may file a new

1 application at any time and may amend any pending application to  
2 include additional data or information.

- 3 (5) Withdrawal of Commitment. Failure of an applicant within one year  
4 after the date of acceptance of the loan to arrange for necessary  
5 financing of the proposed project or award of the contract of the  
6 construction of the proposed project shall constitute sufficient cause for  
7 withdrawal of the commitment. Prior to withdrawal of a commitment,  
8 the Department of Environment and Natural Resources shall give due  
9 consideration to any extenuating circumstances presented by the  
10 applicant as reasons for failure to arrange necessary financing or to  
11 award a contract, and the commitment may be extended for an  
12 additional period of time if, in the judgment of the Department of  
13 Environment and Natural Resources, the extension is justified.

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

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

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

41 (g) Inspection. Inspection of a project for which a loan has been made under  
42 this act may be performed by qualified personnel of the Department of Environment and  
43 Natural Resources or may be performed by qualified engineers registered in this State

1 approved by the Department of Environment and Natural Resources. No person shall be  
2 approved to perform inspections who is an officer employed by the local government unit  
3 to which the loan was made or who is an owner, officer, employer, or agent of a  
4 contractor or subcontractor engaged in the construction of the project for which the loan  
5 was made. For the purpose of payment of inspection fees, inspection services shall be  
6 included in the term "cost" as used in this act.

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

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

18 (j) Report by Department of Environment and Natural Resources. The  
19 Department of Environment and Natural Resources shall prepare and file each year on or  
20 before July 31 with the Joint Legislative Commission on Governmental Operations and  
21 the Fiscal Research Division a report for the preceding fiscal year concerning the  
22 allocation and making of loans authorized by this act. The report shall set forth for the  
23 preceding fiscal year:

- 24 (1) Itemized and total allocations of loans authorized and unallocated funds  
25 for the loan program as of the end of the preceding fiscal year;
- 26 (2) Identification of each loan agreement entered into by the State during  
27 the preceding fiscal year and the total amount of loans authorized by  
28 such loan agreements;
- 29 (3) The amount disbursed to each local government unit pursuant to such  
30 loan agreements during the preceding fiscal year and the total amount of  
31 such disbursements;
- 32 (4) The loan repayments made by each local government unit pursuant to  
33 such loan agreements and the total amount of such loan repayments  
34 during the preceding fiscal year; and
- 35 (5) A summary for the five preceding years of the information required by  
36 subdivisions (1) through (4) of this subsection.

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

38 (k) Local Government Commission.

39 (1) Local government units may execute debt instruments payable to the  
40 State in order to obtain loans provided for in this act. Local government  
41 units shall pledge or agree to apply as security for such obligations:

- 42 a. Any available source of revenues of the local government unit,  
43 including revenues from benefitted facilities or systems, provided

1 that (i) the local government unit has not otherwise pledged the  
2 revenues as security for, or contractually agreed to apply the  
3 revenues to, the payment of any other obligations of the local  
4 government unit, (ii) the use of the revenues is not otherwise  
5 restricted by law, or (iii) the revenues are not derived from the  
6 exercise of the local government unit's taxing power; or

7 b. Their faith and credit; or

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

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

15 (2) Nothing contained in this act shall prohibit any local government unit  
16 from applying any funds of the local government unit not otherwise  
17 restricted as to use by law to the payment of any debt instrument  
18 payable to the State incurred pursuant to the provisions of this act.

19 (3) The Local Government Commission shall review and approve proposed  
20 loans to local government units under this act under the provisions of  
21 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local  
22 Government Commission in considering the ability of a local  
23 government unit to repay a loan may regard as a source of revenue for  
24 repayment of a loan revenue sources that may not be available other  
25 than on an annual discretionary basis and that may not be subject to a  
26 pledge or agreement to apply. Loans under this act shall be outstanding  
27 debts for the purposes of Article 10 of Chapter 159 of the General  
28 Statutes.

29 (4) The State Treasurer shall annually certify to the General Assembly the  
30 financial condition of the loan program and identify existing  
31 delinquencies.

32 Section 11. Reports. (a) The Rural Economic Development Center shall  
33 prepare and file each year on or before July 31 with the Joint Legislative Commission on  
34 Governmental Operations and the Fiscal Research Division a report for the preceding  
35 fiscal year concerning the allocation and making of grants authorized by this act. The  
36 report shall set forth for the preceding fiscal year:

37 (1) Itemized and total allocations of grants authorized and unallocated funds  
38 for the grant program as of the end of the preceding fiscal year;

39 (2) Identification of each grant agreement entered into by the Rural  
40 Economic Development Center during the preceding fiscal year and the  
41 total amount of grants authorized by such grant agreements;

1 (3) The amount disbursed to each local government unit pursuant to such  
2 grant agreements during the preceding fiscal year and the total amount  
3 of such disbursements; and

4 (4) A summary for the five preceding years of the information required by  
5 subdivisions (1) through (3) of this subsection.

6 The report shall be signed by the Chair of the Board of Directors of the Rural Economic  
7 Development Center.

8 (b) The Department of Environment and Natural Resources shall prepare and file  
9 each year on or before July 31 with the Joint Legislative Commission on Governmental  
10 Operations and the Fiscal Research Division a report for the preceding fiscal year  
11 concerning the allocation and making of grants authorized by this act. The report shall  
12 set forth for the preceding fiscal year:

13 (1) Itemized and total allocations of grants authorized and unallocated funds  
14 for the grant program as of the end of the preceding fiscal year;

15 (2) Identification of each grant agreement entered into by the Department of  
16 Environment and Natural Resources during the preceding fiscal year  
17 and the total amount of grants authorized by such grant agreements;

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

21 (4) A summary for the five preceding years of the information required by  
22 subdivisions (1) through (3) of this subsection.

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

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

29 (1) Itemized and total allocations of grants authorized and unallocated funds  
30 for the grant program as of the end of the preceding fiscal year;

31 (2) Identification of each grant agreement entered into by the Department of  
32 Commerce during the preceding fiscal year and the total amount of  
33 grants authorized by the grant agreements;

34 (3) The amount disbursed to each local government unit pursuant to the  
35 grant agreements during the preceding fiscal year and the total amount  
36 of the disbursements; and

37 (4) A summary for the five preceding years of the information required by  
38 subdivisions (1) through (3) of this subsection.

39 Section 12. Minority business participation. The goals set by G.S. 143-128 for  
40 participation in projects by minority businesses apply to projects funded by the proceeds  
41 of bonds or notes issued under this act. The Department of Environment and Natural  
42 Resources, the Department of Commerce, and the Rural Economic Development Center

1 shall monitor compliance with this requirement and shall report to the General Assembly  
2 by January 1 of each year on the participation by minority businesses in these projects.

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

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

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

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

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

20 Section 14. Chapter 143 of the General Statutes is amended by adding a new  
21 Article to read:

22 **"ARTICLE 72.**

23 **"STATE INFRASTRUCTURE COUNCIL.**

24 **"§ 143-690. Council established; purpose; members; terms of office; quorum;**  
25 **compensation; termination.**

26 (a) Establishment. – There is established the State Infrastructure Council. The  
27 Council shall be located within the Department of Environment and Natural Resources  
28 for organizational, budgetary, and administrative purposes.

29 (b) Purpose. – The purpose of the Council is to develop a State strategic plan that  
30 addresses North Carolina's water supply and distribution and wastewater treatment needs.

31 (c) Membership. – The Council shall consist of 17 members, five of whom are ex  
32 officio and 12 of whom are appointed as follows:

33 (1) Four persons appointed by the Governor.

34 (2) Four persons appointed by the President Pro Tempore of the Senate.

35 (3) Four persons appointed by the Speaker of the House of Representatives.

36 (4) The following persons or their designees, ex officio:

37 a. The Secretary of Commerce.

38 b. The Secretary of Environment and Natural Resources.

39 c. The State Treasurer.

40 d. The Executive Director of the League of Municipalities.

41 e. The Executive Director of the North Carolina Association of  
42 County Commissioners.

1       The members appointed to the State Infrastructure Council shall be chosen from  
2 among individuals who have the ability and commitment to promote and fulfill the  
3 purposes of the Council, including individuals who have demonstrated expertise in the  
4 fields of environmental science, particularly the areas of wastewater treatment and water  
5 supply and distribution, public planning, public financing, public health, and economic  
6 development.

7       (d) Terms. – Members shall serve for two-year terms, with no prohibition against  
8 being reappointed, except initial appointments shall be for terms as follows:

9           (1) The Governor shall initially appoint two members for a term of two  
10 years and two members for a term of three years.

11           (2) The President Pro Tempore of the Senate shall initially appoint two  
12 members for a term of two years and two members for a term of three  
13 years.

14           (3) The Speaker of the House of Representatives shall initially appoint two  
15 members for a term of two years and two members for a term of three  
16 years.

17       Initial terms shall begin on July 1, 1998.

18       (e) Chair. – The chair shall be appointed biennially by the Governor from among  
19 the membership of the Council. The initial term shall begin on July 1, 1998.

20       (f) Vacancies. – A vacancy in the Council or as chair of the Council resulting  
21 from the resignation of a member or otherwise shall be filled in the same manner in  
22 which the original appointment was made and the term shall be for the balance of the  
23 unexpired term.

24       (g) Compensation. – The Council members shall receive no salary as a result of  
25 servng on the Council but shall receive per diem, subsistence, and travel expenses in  
26 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

27       (h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if  
28 that section applied to this Article.

29       (i) Meetings. – The chair shall convene the Council. Meetings shall be held as  
30 often as necessary, but not less than four times a year.

31       (j) Quorum. – A majority of the members of the Council shall constitute a quorum  
32 for the transaction of business. The affirmative vote of a majority of the members present  
33 at meetings of the Council shall be necessary for action to be taken by the Council.

34 **"§ 143-691. Duties of the Council.**

35       (a) Duties. – The Council shall have the following duties:

36           (1) To plan and develop a State strategic plan that addresses North  
37 Carolina's water supply and distribution and wastewater treatment  
38 needs.

39           (2) To evaluate the State's natural resource base and existing water and  
40 sewer systems and to project statewide future needs for water and sewer  
41 systems.

42           (3) To analyze current and proposed statutes, rules, and programs that  
43 address or affect State water and sewer needs.

1           (4) To analyze the roles of State and local government and other parties in  
2           addressing water and sewer needs and to recommend the appropriate  
3           roles for each with regard to addressing future water and sewer needs.

4           (5) To anticipate and minimize the impact of infrastructure development on  
5           natural resources.

6 **"§ 143-692. Staff and offices.**

7           The Department of Environment and Natural Resources shall provide office space and  
8           staff for the State Infrastructure Council as requested by the Council.

9 **"§ 143-693. Council reports.**

10           The Council shall report to the Joint Legislative Commission on Governmental  
11           Operations, with a written report to the Fiscal Research Division, by October 1, 1998, and  
12           annually thereafter, regarding the implementation of this Article. In its report the Council  
13           shall include any recommendations regarding statewide water and sewer needs that  
14           require review or action by the General Assembly."

15           Section 15. G.S. 159G-6 reads as rewritten:

16 **"§ 159G-6. Distribution of funds.**

17           (a) Revolving loans and grants.

18           (1) All funds appropriated or accruing to the Clean Water Revolving Loan  
19           and Grant Fund, other than funds set aside for administrative expenses,  
20           shall be used for revolving loans and grants to local government units  
21           for construction costs of wastewater treatment works, wastewater  
22           collection systems and water supply systems and other assistance as  
23           provided in this Chapter.

24           (2) The maximum principal amount of a revolving loan or a grant may be  
25           one hundred percent (100%) of the nonfederal share of the construction  
26           costs of any eligible project. The maximum principal amount of  
27           revolving loans made to any one local government unit during any fiscal  
28           year shall be ~~three ten million dollars (\$3,000,000).~~ (\$10,000,000). The  
29           maximum principal amount of grants made to any one local government  
30           unit during any fiscal year shall be ~~one three million dollars (\$1,000,000).~~  
31           (\$3,000,000).

32           (3) The State Treasurer shall be responsible for investing and distributing  
33           all funds appropriated or accruing to the Clean Water Revolving Loan  
34           and Grant Fund for revolving loans and grants under this Chapter. In  
35           fulfilling his responsibilities under this section, the State Treasurer shall  
36           make a written request to the Department of Environment and Natural  
37           Resources to arrange for the appropriated funds to be (i) transferred  
38           from the appropriate accounts to a local government unit to provide  
39           funds for one or more revolving loans or grants or (ii) invested as  
40           authorized by this Chapter with the interest on and the principal of such  
41           investments to be transferred to the local government unit to provide  
42           funds for one or more revolving loans or grants.



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

7 (1) General Wastewater Revolving Loan and Grant Account. – The funds in  
8 the General Wastewater Revolving Loan and Grant Account shall be  
9 used exclusively for the purpose of providing for revolving construction  
10 loans or grants in connection with approved wastewater treatment work  
11 or wastewater collection system projects.

12 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost  
13 Wastewater Account shall be available for grants to applicants for high-  
14 unit cost wastewater projects. Eligibility of an applicant for such a grant  
15 shall be determined by comparing estimated average household user  
16 fees for water and sewer service, for debt service and operation and  
17 maintenance costs, to one and one-half percent (1.5%) of the median  
18 household income in the ~~county~~ local government unit in which the  
19 project is located. The projects which would require estimated average  
20 household water and sewer user fees greater than one and one-half  
21 percent (1.5%) of the median household income are defined as high-unit  
22 cost wastewater projects and will be eligible for a grant equal to the  
23 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of  
24 this section.

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

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

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

42 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit  
43 Cost Water Supply Account shall be available for grants to applicants

1 for high-unit cost water supply systems, on the same basis as provided  
2 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

- 3 (3) Emergency Water Supply Revolving Loan Account. – The funds in the  
4 Emergency Water Supply Revolving Loan Account shall be available  
5 for revolving emergency loans to applicants in the event the Division of  
6 Environmental Health certifies that a serious public health hazard,  
7 related to the water supply system, is present or imminent in a  
8 community.

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

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

14 Section 16. The General Assembly finds that:

- 15 (1) The General Assembly has previously found that it is the policy of this  
16 State to facilitate the extension of natural gas facilities to unserved areas  
17 of the State; and  
18 (2) The extension of natural gas facilities to unserved areas of the State is  
19 necessary for the health of the people and of the environment; and  
20 (3) The extension of natural gas facilities to unserved areas of the State will  
21 aid and encourage the location of manufacturing enterprises and  
22 industrial facilities in those areas of the State, will encourage new  
23 construction, homes, and other businesses in those areas of the State,  
24 will increase the population, taxable property, agricultural industries and  
25 business prospects in the State; and  
26 (4) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws  
27 directed the North Carolina Utilities Commission to require the  
28 franchised natural gas local distribution companies to file reports with  
29 the Commission detailing their plans for providing natural gas service in  
30 areas of the State where natural gas service is not available, and directed  
31 the Commission and the Public Staff to provide independent analyses  
32 and summaries of those reports together with status reports of natural  
33 gas service in the State to the Joint Legislative Utility Review  
34 Committee; and  
35 (5) The reports of the utilities, the Commission, and the Public Staff  
36 indicate that the construction of facilities and the extension of natural  
37 gas service in some areas of the State may not be economically feasible  
38 with traditional funding methods; and  
39 (6) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)  
40 authorizing special funding methods, including the use of supplier  
41 refunds and customer surcharges, to facilitate the expansion of natural  
42 gas service; and

1 (7) While the 1991 legislation has been successful in providing some  
2 natural gas service to previously unserved areas of the State, that  
3 legislation has not been sufficient to facilitate the extension of service  
4 that is necessary and in the public interest and there are still counties  
5 with no gas service or virtually no gas service; and

6 (8) It is therefore necessary to authorize additional funding methods,  
7 including appropriations from the General Assembly and the proceeds  
8 of general obligation bonds, to further facilitate the expansion of natural  
9 gas service.

10 Section 17. Chapter 62 of the General Statutes is amended by adding a new  
11 section to read:

12 **"§ 62-159. Additional funding for natural gas expansion.**

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

20 (b) The use of funds provided under this section shall be pursuant to an order of  
21 the Commission after a public hearing. The Commission shall ensure that all projects for  
22 which funds are provided under this section are consistent with the intent of this section  
23 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular  
24 project pursuant to this section, the Commission shall consider the scope of a proposed  
25 project, including the number of unserved counties and the number of anticipated  
26 customers that would be served, the total cost of the project, the extent to which the  
27 project is considered feasible, and other relevant factors affecting the public interest. In  
28 determining economic feasibility, the Commission shall employ the net present value  
29 method of analysis on a project specific basis. Only those projects with a negative net  
30 present value shall be determined to be economically infeasible for the company, person,  
31 or gas district to construct. In no event shall the Commission provide funding under this  
32 section of an amount greater than the negative net present value of any proposed project  
33 as determined by the Commission. If at any time a project is determined by the  
34 Commission to have become economically feasible, the Commission may require the  
35 recipient of funding to remit to the Commission appropriate funds related to the project,  
36 and the Commission may order those funds to be returned with interest in a reasonable  
37 amount to be determined by the Commission. Funds returned, together with interest,  
38 shall be deposited in a special account with the State Treasurer to be used for other  
39 expansion projects pursuant to the provisions of this section. Utility plant acquired with  
40 expansion funds shall be included in a local distribution company's rate base at zero cost  
41 except to the extent such funds have been remitted by the company pursuant to order of  
42 the Commission. In the event a gas district wishes to sell or otherwise dispose of  
43 facilities financed with funds received under this section, it must first notify the

1 Commission which shall determine the method of repayment or accounting for those  
2 funds.

3 (c) To the extent that one or more of the counties included in a proposed  
4 project to be funded pursuant to this section are counties affected by the loss of exclusive  
5 franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the  
6 public interest requires that the person obtaining the franchise or funding pursuant to this  
7 section be given an exclusive franchise and that the existing franchise be canceled. Any  
8 new exclusive franchise granted under this subsection shall be subject to the provisions of  
9 G.S. 62-36A(b). This subsection does not apply to gas districts formed under Article 28  
10 of Chapter 160A of the General Statutes.

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

15 Section 18. G.S. 62-2 reads as rewritten:

16 "**§ 62-2. Declaration of policy.**

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

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

1 lower costs of new facilities and lower rates over the operating lives of  
2 such new facilities by making provisions in the rate-making process for  
3 the investment of public utilities in plants under construction;

4 (5) To encourage and promote harmony between public utilities, their users  
5 and the environment;

6 (6) To foster the continued service of public utilities on a well-planned and  
7 coordinated basis that is consistent with the level of energy needed for  
8 the protection of public health and safety and for the promotion of the  
9 general welfare as expressed in the State energy policy;

10 (7) To seek to adjust the rate of growth of regulated energy supply facilities  
11 serving the State to the policy requirements of statewide development;

12 (8) To cooperate with other states and with the federal government in  
13 promoting and coordinating interstate and intrastate public utility  
14 service and reliability of public utility energy supply; and

15 (9) To facilitate the construction of facilities in and the extension of natural  
16 gas service to unserved areas in order to promote the public welfare  
17 throughout the State and to that end to authorize the creation of ~~an~~  
18 expansion fund—funds for each—natural gas local distribution company  
19 companies or gas districts to be administered under the supervision of  
20 the North Carolina Utilities Commission.

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

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

1 the service or business of such public utility is competitive and that such deregulation or  
2 exemption from regulation is in the public interest.

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

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

13 Section 19. Effective date. Sections 14 and 15 of this act become effective  
14 only if the voters approve the issuance of the Clean Water Bonds authorized by this act in  
15 the election required by Section 7 of this act. The remaining sections of this act are  
16 effective when the act becomes law, and the Utilities Commission shall begin  
17 immediately the rule-making process mandated by G.S. 62-159(d), as enacted by Section  
18 17 of this act.