

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 633**

Short Title: Modify UNC Bond Law.

(Public)

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Sponsors: Senator Clodfelter.

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Referred to: Finance.

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April 1, 2003

A BILL TO BE ENTITLED  
AN ACT TO REVISE THE UNIVERSITY OF NORTH CAROLINA SPECIAL  
OBLIGATION BOND LAW.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 116D-26 reads as rewritten:

**"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.**

(a) Authority. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

1 (b) Approval Required. – The Board of Governors shall not issue any special  
2 obligation bonds for a project at an institution unless the board of trustees of that  
3 institution has approved the issuance of bonds for that project. The Board of Governors  
4 shall not issue special obligation bonds under this Article until the effective date of  
5 legislation enacted by the General Assembly authorizing the undertaking of the special  
6 obligation bond project to be financed and fixing the maximum aggregate principal  
7 amount of special obligation bonds that shall be issued for that purpose. In submitting  
8 proposed special obligation bond projects to the General Assembly for approval, the  
9 Board of Governors shall submit information on the need for each project, project costs,  
10 estimates of increased operating costs upon completion, estimated debt service  
11 requirements, and the sources and amounts of obligated resources to be pledged for the  
12 repayment of the bonds. If the obligated resources to repay the bonds or to operate the  
13 proposed project potentially involve increased costs to students or to the General Fund,  
14 these costs shall be identified in the Board of Governors' submission.

15 Except as provided in this Article, special obligation bond projects may be  
16 undertaken, special obligation bonds may be issued, and other powers vested in the  
17 Board of Governors under this Article may be exercised by the Board without obtaining  
18 the consent of any department, division, commission, board, bureau, or agency of the  
19 State and without any other proceedings or the happening of any other conditions or  
20 things other than those proceedings, conditions, or things which are specifically  
21 required by this Article.

22 (c) Term; Form. – The special obligation bonds of each issue shall be dated, shall  
23 mature at any times not exceeding ~~25~~30 years from their dates, shall bear interest at any  
24 rates as may be determined by the Board of Governors, and may be redeemable before  
25 maturity at the option of the Board, at any prices and under any terms and conditions as  
26 may be fixed by the Board prior to the issuance of the special obligation bonds. The  
27 Board of Governors shall determine the form and manner of execution of the special  
28 obligation bonds and shall fix the denominations of the special obligation bonds and the  
29 places of payment of principal and interest, which may be at any bank or trust company  
30 within or without the State. Notwithstanding any of the other provisions of this Article  
31 or any recitals in any special obligation bonds issued under the provisions of this  
32 Article, all special obligation bonds shall be negotiable instruments under the laws of  
33 this State, subject only to the provisions for registration in a resolution authorizing the  
34 issuance of the special obligation bonds or a trust agreement securing the bonds. The  
35 Board of Governors may sell the special obligation bonds in any manner, at public or  
36 private sale, and for any price, as it may determine to be for its best interests.

37 (d) Proceeds; Additional Bonds. – The proceeds of the special obligation bonds  
38 of each issue shall be used solely for the purpose for which the bonds have been  
39 authorized and shall be disbursed in the manner and under such restrictions, if any, as  
40 the Board of Governors may provide in the resolution authorizing the issuance of the  
41 bonds or in the trust agreement securing them. Unless otherwise provided in the  
42 authorizing resolution or in the trust agreement securing the special obligation bonds, if  
43 the proceeds of the special obligation bonds, by error of estimates or otherwise, are less  
44 than the cost of the special obligation bond project, additional bonds may in like manner

1 be issued to provide the amount of the deficit and shall be deemed to be of the same  
2 issue and shall be entitled to payment from the same fund without preference or priority  
3 of the bonds first issued for the same purpose.

4 The resolution providing for the issuance of special obligation bonds, and any trust  
5 agreement securing them, may also contain limitations upon the issuance of additional  
6 special obligation bonds as the Board of Governors considers proper, and the additional  
7 special obligation bonds must be issued under the restrictions and limitations prescribed  
8 by the resolution or trust agreement.

9 (e) Temporary Bonds; Notes. – Before preparing definitive bonds, the Board of  
10 Governors may, under like restrictions, issue interim receipts or temporary bonds  
11 exchangeable for definitive bonds when the bonds have been executed and are available  
12 for delivery. The Board may also provide for the replacement of any bonds which  
13 become mutilated, destroyed, or lost.

14 The Board of Governors may enter into or negotiate a note with an acceptable bank  
15 or trust company in lieu of issuing special obligation bonds for the financing of special  
16 obligation bond projects covered under this Article. The terms and conditions of any  
17 note of this nature shall be in accordance with the terms and conditions surrounding  
18 issuance of the special obligation bonds.

19 (f) Bond Anticipation Notes. – The Board of Governors may issue, subject to the  
20 approval of the Director of the Budget, at one time or from time to time, bond  
21 anticipation notes of the Board of Governors in anticipation of the issuance of special  
22 obligation bonds authorized by this Article. The principal of and the interest on these  
23 notes shall be payable solely from the proceeds of special obligation bonds or renewal  
24 notes or, in the event bond or renewal note proceeds are not available, from the  
25 obligated resources designated for their payment. The notes of each issue shall be dated,  
26 shall mature at any times not exceeding ~~two~~ 30 years from their dates, shall bear interest  
27 at any rates as may be determined by the Board of Governors, and may be redeemable  
28 before maturity, at the option of the Board of Governors, at any prices and under any  
29 terms and conditions as may be fixed by the Board of Governors prior to the issuance of  
30 the notes. If the Board of Governors issues a bond anticipation note for a term in excess  
31 of three years, no individual project may be funded from the proceeds of the note for  
32 longer than three years. The Board shall determine the form and the manner of  
33 execution of the notes and shall fix the denominations of the notes and the places of  
34 payment of principal and interest, which may be at any bank or trust company within or  
35 without the State. Notwithstanding any of the other provisions of this Article or any  
36 recitals in any notes issued under the provisions of this Article, all notes shall be  
37 negotiable instruments under the laws of this State, subject only to the provisions for  
38 registration in a resolution authorizing the issuance of the notes or any trust agreement  
39 securing the bonds in anticipation of which the notes are being issued. The Board of  
40 Governors may sell the notes in any manner, at public or private sale, and for any price,  
41 as it may determine to be for its best interests.

42 The proceeds of the notes ~~of each issue~~ shall be used solely for the purpose for  
43 which the special obligation bonds ~~in anticipation of which the notes are being issued~~  
44 have been authorized, and the note proceeds shall be disbursed in any manner and under

1 any restrictions as the Board of Governors may provide in the resolution authorizing the  
2 issuance of the notes or bonds or in the trust agreement securing the special obligation  
3 bonds.

4 The resolution providing for the issuance of notes, and any trust agreement securing  
5 the special obligation bonds in anticipation of which the notes are being authorized, may  
6 also contain limitations upon the issuance of additional notes as the Board of Governors  
7 considers proper, and such additional notes shall be issued under the restrictions and  
8 limitations prescribed by the resolution or trust agreement. The Board may also provide  
9 for the replacement of any notes which shall become mutilated, destroyed, or lost.

10 Except as provided in this Article, notes may be issued under this Article and other  
11 powers vested in the Board of Governors under this Article may be exercised by the  
12 Board without obtaining the consent of any department, division, commission, board,  
13 bureau, or agency of the State and without any other proceedings or the happening of  
14 any other conditions or things than those proceedings, conditions, or things which are  
15 specifically required by this Article.

16 Unless the context indicates otherwise, the word 'bonds', wherever used in this  
17 Article, include the words 'bond anticipation notes.' "

18 **SECTION 2.** This act is effective when it becomes law.