Chapter 116D.

Higher Education Bonds.

Article 1.

General Provisions.

§ 116D-1. Definitions.

The following definitions apply in this Chapter:

(1) Board of Governors. – The Board of Governors of the University.

(2) Capital facility. – Any one or more of the following for the University or for a community college:

a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. – Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.

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

c. The cost of providing personnel to ensure effective project management.

d. Finance charges, reserves for debt service, and interest prior to and during construction.

e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.

f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.

g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. – Any of the following:

a. University improvement general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. – The State of North Carolina.

(10) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) University. – The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Media, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum. (2000-3, s. 1.2; 2019-139, s. 2.1(c).)

§ 116D-2. General provisions.

(a) Signatures. – Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. – Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

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

(d) Inconsistent Laws. – All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter. (2000-3, s. 1.2.)

§ 116D-3. Reports.

(a) Board of Governors. – The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) Repealed by Session Laws 2012-142, s. 9.4(c), effective July 1, 2012.

(2) Special Obligation Bonds. – The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. – Upon issuance of university improvement general obligation bonds under Article 2 of this Chapter or community college general obligation bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the university improvement general obligation bonds issued under Article 2 of this Chapter and community college general obligation bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Repealed by Session Laws 2012-142, s. 8.3(b), effective July 1, 2012. (2000-3, s. 1.2; 2012-142, ss. 8.3(b), 9.4(c).)

§ 116D -4. Minority and historically underutilized business participation.

(a) Minority Business Participation. – The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this section. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

(b) Participation in Providing Professional Services. – The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this section. As used in this subsection, the term "historically underutilized business" means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection.(2000-3, s. 7(a), (b); 2001-487, s. 26.)

§ 116D-5: Repealed by Session Laws 2011-43, s. 1, effective April 19, 2011.

Article 2.

General Obligation Bonds for Financing Capital Facilities for The University of North Carolina.

§ 116D-6. Short title.

This Article may be cited as the University Improvement General Obligation Bonds Finance Act. (2000-3, s. 1.2.)

§ 116D-7. Definitions.

The following definitions apply in this Article:

(1) Bonds. – Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. – Notes issued under this Article.

(3) University improvement general obligation bonds. – Bonds authorized to be issued under this Article, including refunding bonds. (2000-3, s. 1.2.)

§ 116D-8. Authorization of bonds and notes.

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing university improvement general obligation bonds in the election held as provided by law, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement general obligation bonds of the State to be designated "State of North Carolina University Improvement General Obligation Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two billion five hundred million dollars ($2,500,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
2000-2001	$ 201,600,000
2001-2002	241,900,000
2002-2003	483,900,000
2003-2004	483,900,000
2004-2005	564,500,000
2005-2006	524,200,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9. (2000-3, s. 1.2.)

§ 116D-9. Designation of capital facilities and preconditions to bond issuance.

The capital facilities to be financed in whole or in part with the proceeds of university improvement general obligation bonds shall be set forth in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of university improvement general obligation bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation. (2000-3, s. 1.2.)

§ 116D-10. Faith and credit.

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner. (2000-3, s. 1.2.)

§ 116D-11. Issuance of bonds and notes.

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

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

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.
(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.
(3) For the renewal of any loan evidenced by notes authorized in this Article.
(4) For the purposes authorized in this Article.
(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) University Improvement Bonds Fund. – The proceeds of university improvement general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "University Improvement Bonds Fund". Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this Article.

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

The proceeds of university improvement general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of university improvement bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for university improvements shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. (2000-3, s. 1.2; 2001-414, s. 45; 2006-203, s. 56.)

§ 116D-12. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

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

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

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

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer. (2000-3, s. 1.2.)

§ 116D-13. Other agreements.

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary. (2000-3, s. 1.2.)

§§ 116D-14 through 116D-20. Reserved for future codification purposes.

Article 3.

Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

§ 116D-21. Purpose.

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University. (2000-3, s. 1.2.)

Article 3.

Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

§ 116D-22. Definitions.

The following definitions apply in this Article:

(1) Existing facilities. – Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. – Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Media, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. – Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including "overhead costs reimbursement" under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

d. Funds appropriated from the General Fund to the Board of Governors on behalf of a constituent institution for utilities of the institution that constitute energy savings as that term is defined in G.S. 143-64.17.

Except as provided in sub-subdivision d. of this subdivision, obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. – Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. – Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a "special obligation bond project" for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate "self-liquidating revenues" to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution. (2000-3, s. 1.2; 2011-145, s. 9.6D(h); 2019-139, s. 2.1(d).)

§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of special obligation bonds under this Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds. (2000-3, s. 1.2.)

§ 116D-24. General powers of Board of Governors.

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article. (2000-3, s. 1.2.)

§ 116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval. (2000-3, s. 1.2.)

§ 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.

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

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

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

(d) Proceeds; Additional Bonds. – The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

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

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

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

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

The proceeds of the notes shall be used solely for the purpose for which the special obligation bonds have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

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

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

Unless the context indicates otherwise, the word "bonds", wherever used in this Article, include the words "bond anticipation notes." (2000-3, s. 1.2; 2003-357, s. 1.)

§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. – In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. – All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. – Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. – Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources. (2000-3, s. 1.2.)

§ 116D-28. Fixing and collecting obligated resources.

(a) Board to Provide Sufficient Resources. – For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. – The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged. (2000-3, s. 1.2.)

§ 116D-29. Vesting powers in committee.

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines. (2000-3, s. 1.2.)

§ 116D-30. Refunding bonds.

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them. (2000-3, s. 1.2.)

§ 116D-31. Additional and alternative method.

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds. (2000-3, s. 1.2.)

§§ 116D-32 through 116D-40. Reserved for future codification purposes.

Article 4.

Community Colleges Facilities General Obligation Finance Act.

§ 116D-41. Short title.

This Article may be cited as the Community College Facilities General Obligation Finance Act. (2000-3, s. 1.2.)

§ 116D-42. Definitions.

The following definitions apply in this Article:

(1) Bonds. – Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. – Defined in G.S. 115D-2.

(3) Community college general obligation bonds. – Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. – The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. – Notes issued under this Article. (2000-3, s. 1.2.)

§ 116D-43. Authorization of bonds and notes.

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing community college general obligation bonds in the election held as provided by law, and upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college general obligation bonds of the State to be designated "State of North Carolina Community College General Obligation Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed six hundred million dollars ($600,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
2000-2001	$48,400,000
2001-2002	58,100,000
2002-2003	116,100,000
2003-2004	116,100,000
2004-2005	135,500,000
2005-2006	125,800,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44. (2000-3, s. 1.2.)

§ 116D-44. Designation of capital facilities and preconditions to bond issuance.

The capital facilities to be financed in whole or in part with the proceeds of community college general obligation bonds shall be described in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of community college general obligation bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation. (2000-3, s. 1.2.)

§ 116D-45. Faith and credit.

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner. (2000-3, s. 1.2.)

§ 116D-46. Issuance of bonds and notes.

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

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

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Community College Bonds Fund. – The proceeds of community college general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Community College Bonds Fund". Moneys in the Community College Bonds Fund shall be used for the purposes set forth in this Article.

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

The proceeds of community college general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of grants to community colleges for capital facilities, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of community college bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for grants to community colleges shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. (2000-3, s. 1.2; 2001-414, s. 46; 2006-203, s. 57.)

§ 116D-47. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

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

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

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

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer. (2000-3, s. 1.2.)

§ 116D-48. Other agreements.

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary. (2000-3, s. 1.2.)

§ 116D-49. Procurement of capital facilities.

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article. (2000-3, s. 1.2.)

Article 5.

Managing Debt Capacity.

§ 116D-55. Purpose.

The purpose of this Article is to provide tools for sound debt management at The University of North Carolina by requiring each constituent institution to conduct an annual debt affordability study, by requiring the establishment of guidelines for maintaining prudent debt levels, and by establishing a system for prioritizing University capital needs when the needs exceed the University's capacity for new debt. (2015-241, s. 31.13.)

§ 116D-56. Debt affordability study required.

(a) Study Required. – The Board of Governors shall annually advise the Governor and the General Assembly on the estimated debt capacity of The University of North Carolina for the upcoming five fiscal years. The Board shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the University's debt burden. The guidelines should include target and ceiling ratios of debt to obligated resources and target and floor percentages for the five-year payout ratio. The Board shall also recommend any other debt management policies it considers desirable and consistent with sound management of the University's debt.

(b) Board of Governors Reporting Required. – The Board shall report its findings and recommendations to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the State Treasurer, and The University of North Carolina System Office by April 1 of each year. The report shall be accompanied by each of the reports provided to the Board pursuant to subsection (c) of this section.

(c) Constituent Institution Reporting Required. – No later than February 1 of each year, each constituent institution shall report to the Board of Governors on its current and anticipated debt levels. The report shall be made in a uniform format to be prescribed by the Board of Governors. Each report shall include at least the following:

(1) The amount and type of outstanding debt of the institution.
(2) The sources of repayment of the debt.
(3) The amount of debt that the institution plans to issue or incur during the next five years.
(4) A description of projects financed with the debt.
(5) The current bond rating of the institution and information about any changes to that bond rating since the last report was submitted.
(6) Information about the constituent institution's debt management policies and any recommendations for methods to maintain or improve the University's bond rating.
(7) Debt burden comparisons to comparable peer institutions.
(8) Any other information requested by the Board of Governors.

(d) Definitions. – The following definitions apply in this section:
(1) Debt. – Debt incurred under this Chapter or any other debt that will be serviced with funds available to the institutions from gifts, grants, receipts, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including debt that will be serviced with funds appropriated from the General Fund of the State.
(2) Obligated resources. – As defined in G.S. 116D-22. (2015-241, s. 31.13; 2016-94, s. 37.6; 2018-12, s. 13.)