

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1242

Short Title: University Improvement Bond Act.

(Public)

Sponsors: Senators Daniel; Warren, Marvin, Forrester, and Seymour.

Referred to: Finance.

June 8, 1992

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS, WITH ANY OTHER AVAILABLE FUNDS, FOR CAPITAL IMPROVEMENTS FOR CERTAIN OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "University Improvement Bond Act."

Sec. 2. Findings and determinations. It is the intent and purpose of the General Assembly by this act to provide for the issuance of general obligation bonds of the State in order to provide for certain of the constituent institutions of The University of North Carolina.

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

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

(2) " Cost" means, without intending thereby to limit or restrict any proper definition of such word in financing the cost of facilities or purposes authorized by this act:

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

- 1 b. The cost of engineering, architectural, and other consulting
2 services as may be required,
3 c. Administrative expenses and charges,
4 d. The cost of bond insurance, investment contracts, credit
5 enhancement and liquidity facilities, interest-rate swap
6 agreements, financial and legal consultants, and related costs of
7 bond and note issuance, to the extent and as determined by the
8 State Treasurer, and
9 e. Any other costs and expenses necessary or incidental to the
10 purposes of this act.

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

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

29 (4) " Notes" means notes issued under this act.

30 (5) " Par formula" means any provision or formula adopted by the State to
31 provide for the adjustment, from time to time, of the interest rate or
32 rates borne by any bonds or notes, including:

- 33 a. A provision providing for such adjustment so that the purchase
34 price of such bonds or notes in the open market would be as
35 close to par as possible,
36 b. A provision providing for such adjustment based upon a
37 percentage or percentages of a prime rate or base rate, which
38 percentage or percentages may vary or be applied for different
39 periods of time, or
40 c. Such other provision as the State Treasurer may determine to be
41 consistent with this act and will not materially and adversely
42 affect the financial position of the State and the marketing of
43 bonds or notes at a reasonable interest cost to the State.

1 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a
 2 majority of the qualified voters of the State who vote on the question of issuing
 3 University Improvement Bonds in the election called and held as hereinafter provided,
 4 the State Treasurer is hereby authorized, by and with the consent of the Council of
 5 State, to issue and sell, at one time or from time to time, general obligation bonds of the
 6 State to be designated "State of North Carolina University Improvement Bonds,"with
 7 such additional designations as may be determined to indicate the issuance of bonds
 8 from time to time, or notes of the State as herein provided, in an aggregate principal
 9 amount for the purposes authorized in this act.

10 Sec. 5. Uses of bond and note proceeds. The proceeds of University
 11 Improvement Bonds and notes shall be used for the constituent institutions of The
 12 University of North Carolina, under the supervision of the Board of Governors of The
 13 University of North Carolina.

14 Sec. 6. Allocation of proceeds. The proceeds of University Improvement
 15 Bonds and notes, including premium thereon, if any, except the proceeds of bonds the
 16 issuance of which has been anticipated by bond anticipation notes or the proceeds of
 17 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be
 18 designated "University Improvement Bonds Fund." Moneys in the University
 19 Improvement Bonds Fund shall be used for the purposes set forth in this section. The
 20 proceeds of University Improvement Bonds and notes shall be allocated and expended
 21 as follows:

<u>Constituent</u>		<u>Projected</u>
<u>Institution or Board</u>	<u>Project</u>	<u>Allocation</u>
<u>of Governors</u>		

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

30 The Director of the Budget is empowered, when the Director of the Budget
 31 determines it is in the best interest of the State and The University of North Carolina to
 32 do so, and if the cost of a particular project is less than the projected allocation, to use
 33 the excess funds to increase the size of that project or increase the size of any other
 34 project itemized in this section, or to increase the amount allocated to a particular
 35 institution or the Board of Governors within the aggregate amount of funds available
 36 under this section; provided that the Director of the Budget may consult with the
 37 Advisory Budget Commission and the Joint Legislative Commission on Governmental
 38 Operations. In addition, the particular capital improvements and the amount of the
 39 projected allocation therefor set forth above may be changed from time to time as the
 40 General Assembly may decide. The provisions of G.S. 116-9 with respect to
 41 appropriations to the Board of Governors of The University of North Carolina shall not
 42 apply to proceeds of University Improvements Bonds and notes issued pursuant to the
 43 provisions of this act.

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

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

19 Sec. 7. Election. The question of the issuance of the North Carolina
20 University Improvement Bonds authorized by this act shall be submitted to the qualified
21 voters of the State at an election to be held on a date to be fixed by the Governor by
22 proclamation issued by him, but in any event not later than November 3, 1992. Any
23 other primary, election, or referendum validly called or scheduled by law at the time the
24 election on the bond questions provided for in this section is held may be held as called
25 or scheduled. Notice of the election on the bond question shall be given by publication
26 twice in a newspaper or newspapers having general circulation in each county in the
27 State, and the election and the registration of voters therefor shall be held under and in
28 accordance with the general laws of the State. Absentee ballots shall be authorized in
29 the election.

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

34 Voting machines may be used in accordance with the rules and regulations
35 prescribed by the State Board of Elections. The State Board of Elections may also
36 cause to be printed and distributed, to the extent necessary, ballots for use in the
37 election. The bond question to be used in the voting machines and any ballots shall be
38 in substantially the following form:

39 "[] FOR the issuance of State of North Carolina University Improvement
40 Bonds secured by a pledge of the faith and credit and taxing power of
41 the State for paying, with any other available funds, the cost of
42 improvements at the constituent institutions and the Center for Public
43 Television of The University of North Carolina.

1 [] AGAINST the issuance of State of North Carolina University
2 Improvement Bonds secured by a pledge of the faith and credit and
3 taxing power of the State for paying, with any other available funds,
4 the cost of improvements at the constituent institutions and the Center
5 for Public Television of The University of North Carolina."

6 If a majority of those voting on the bond question in the election shall vote in
7 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a
8 majority of those voting on the bond question in the election shall vote against the
9 issuance of the bonds, such bonds shall not be issued.

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

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

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

1 of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the
2 Registered Public Obligations Act, as well as under this act.

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

14 (d) Notes; repayment.

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

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

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

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

41 (f) Tax exemption. Bonds and notes and their transfer(including any profit
42 made on the sale thereof) shall be exempt from all State, county, and municipal taxation
43 or assessment, direct or indirect, general or special, whether imposed for the purpose of
44 general revenue or otherwise, excluding inheritance and gift taxes. The interest on

1 bonds and notes shall not be subject to taxation as to income, nor shall the bonds and
2 notes be subject to taxation when constituting a part of the surplus of any bank, trust
3 company, or other corporation.

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

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

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

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

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

1 Sec. 10. Interpretation of act. (a) Additional method. The foregoing sections of
2 this act shall be deemed to provide an additional and alternative method for the doing of
3 the things authorized thereby and shall be regarded as supplemental and additional to
4 powers conferred by other laws, and shall not be regarded as in derogation of any
5 powers now existing.

6 (b) References in this act to specific sections or Chapters of the General Statutes
7 are intended to be references to such sections as they may be amended from time to time
8 by the General Assembly.

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

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

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

18 Sec. 11. This act is effective upon ratification.