

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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SENATE BILL 1087\*

Short Title: Head Start Bond Act.

(Public)

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Sponsors: Senator Walker.

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Referred to: Select Committee on Bonds.

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May 10, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF ELEVEN MILLION FOUR  
2 HUNDRED THOUSAND DOLLARS GENERAL OBLIGATION BONDS OF  
3 THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE  
4 STATE, TO PROVIDE FUNDS, WITH ANY OTHER AVAILABLE FUNDS,  
5 FOR CAPITAL IMPROVEMENTS FOR FACILITIES FOR THE HEAD START  
6 PROGRAM.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Short title. This act shall be known and may be cited as the "Head  
10 Start Facilities Bond Act".

11 Sec. 2. Purpose. It is the intent and purpose of the General Assembly by this  
12 act to provide for the issuance of general obligation bonds of the State in order to  
13 facilitate the payment of certain capital costs required in providing new facilities and  
14 improving existing facilities to be used by entities providing services under the "Head  
15 Start" program, a program delivering comprehensive health, educational, nutritional,  
16 social, and other services to economically disadvantaged children, primarily children  
17 who have not reached the age of compulsory school attendance. These services are  
18 delivered to the children directly as well as indirectly through parent and child services  
19 and services to disadvantaged expectant mothers.

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

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

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

- 4 a. The cost of constructing, reconstructing, enlarging, acquiring,  
5 and improving facilities, and acquiring equipment and land  
6 therefor,  
7 b. The cost of engineering, architectural, and other consulting  
8 services as may be required,  
9 c. Administrative expenses and charges,  
10 d. The cost of bond insurance, investment contracts, credit  
11 enhancement and liquidity facilities, interest-rate swap  
12 agreements or other derivative products, financial and legal  
13 consultants, and related costs of bond and note issuance, to the  
14 extent and as determined by the State Treasurer, and  
15 e. Any other costs and expenses necessary or incidental to the  
16 purposes of this act.

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

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

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

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

- 39 a. A provision providing for such adjustment so that the purchase  
40 price of such bonds or notes in the open market would be as  
41 close to par as possible,  
42 b. A provision providing for such adjustment based upon a  
43 percentage or percentages of a prime rate or base rate, which

1 percentage or percentages may vary or be applied for different  
2 periods of time, or

- 3 c. Such other provision as the State Treasurer may determine to be  
4 consistent with this act and will not materially and adversely  
5 affect the financial position of the State and the marketing of  
6 bonds or notes at a reasonable interest cost to the State.

7 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a  
8 majority of the qualified voters of the State who vote on the question of issuing Head  
9 Start Facilities Bonds in the election held as provided in this act, the State Treasurer is  
10 authorized, by and with the consent of the Council of State, to issue and sell, at one time  
11 or from time to time, general obligation bonds of the State to be designated "State of  
12 North Carolina Head Start Facilities Bonds", with any additional designations as may be  
13 determined to indicate the issuance of bonds from time to time, or notes of the State as  
14 provided in this act, in an aggregate principal amount not exceeding eleven million four  
15 hundred thousand dollars (\$11,400,000) for the purposes authorized in this act.

16 Sec. 5. Uses of bond and note proceeds. The proceeds of Head Start  
17 Facilities Bonds and notes shall be used, together with other available funds, for the  
18 purpose of providing (i) grants by the State, (ii) loans by the State, (iii) grants by the  
19 State to the Center for Community Self-Help, a nonprofit corporation, for a revolving  
20 loan fund for loans, or (iv) a combination of these grants and loans, to provide funds to  
21 local private nonprofit corporations and public agencies administering Head Start  
22 programs for the payment of the cost of acquiring, constructing, reconstructing,  
23 renovating, equipping, and improving classroom facilities for the existing Head Start  
24 programs, including, without limitation, the acquisition of land. The classroom  
25 facilities may include, in addition to classrooms, rooms in which health, educational,  
26 nutritional, social, and other services are delivered to economically disadvantaged  
27 children, disadvantaged children and their parents, and disadvantaged expectant  
28 mothers.

29 The contribution to be made by the State shall be made only to nonprofit  
30 corporations and public agencies receiving monies from the federal government under  
31 the federal Head Start program. The contribution by the State shall be made pursuant to  
32 agreements between the State by the Department of Human Resources and the nonprofit  
33 corporations or pursuant to rules and regulations of the Department of Human  
34 Resources having application to public agencies. The agreements and the rules and  
35 regulations shall contain provisions necessary to assure that the proceeds of the bonds  
36 and notes are applied for the accomplishment of public purposes only, within the  
37 meaning of Article V, Section 2(7) of the North Carolina Constitution, including,  
38 without limitation, provisions to assure that facilities provided or improved shall be  
39 used in connection with the Head Start program and further shall contain provisions to  
40 assure compliance with G.S. 143-6.1. In entering into agreements with nonprofit  
41 corporations or promulgating rules and regulations having application to public  
42 agencies, the Department of Human Resources shall incorporate requirements including  
43 the following:

- 1           (1) Title to real property shall vest in the nonprofit corporations, in the  
2 public agency, in the county in which the facilities are located, or in  
3 another public agency.
- 4           (2) If State funds are to be used in connection with the construction of  
5 facilities to be owned by a nonprofit corporation, the nonprofit  
6 corporation must comply with the applicable provision of Article 8 of  
7 Chapter 143 of the General Statutes of North Carolina concerning  
8 public bidding for construction and acquisition of equipment.
- 9           (3) State funds shall be provided at the sole discretion of the Secretary of  
10 Human Resources following a review of applications. The  
11 applications are to document the need for additional space or  
12 equipment to meet Head Start needs. The documentation shall state  
13 why funds are needed; identify companion sources of funding; contain  
14 the endorsement of the county in which the proposed project is or will  
15 be located; identify the specific activities to be achieved including a  
16 schedule of events; and contain a description of the anticipated impact  
17 in the community.
- 18           (4) The Secretary of Human Resources shall give priority to Head Start  
19 programs that must complete renovations or add new facilities in order  
20 to meet State and local safety, health, and other licensing requirements.

21 The General Assembly may change from time to time any of the foregoing  
22 requirements.

23           Sec. 6. Allocation of proceeds. The proceeds of Head Start Facilities Bonds  
24 and notes, including premium thereon, if any, except the proceeds of bonds the issuance  
25 of which has been anticipated by bond anticipation notes or the proceeds of refunding  
26 bonds or notes, shall be placed by the State Treasurer in a special fund to be designated  
27 "Head Start Facilities Bonds Fund". Moneys in the Head Start Facilities Bonds Fund  
28 shall be used for the purposes set forth in this act.

29           Projected allocations may be increased to reflect the availability of other  
30 funds, including, without limitation, contingency funds, income earned on the  
31 investment of bond and note proceeds, and the proceeds of any grants.

32           The Office of State Budget and Management shall provide quarterly reports  
33 to the Chairs of the Appropriations Committee and the Base Budget Committee in the  
34 Senate, the Chair of the Appropriations Committee in the House of Representatives, the  
35 Joint Legislative Commission on Governmental Operations, and the Fiscal Research  
36 Division as to the projects funded under this act.

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

1 and the registration of voters therefor shall be held under and in accordance with the  
2 general laws of the State. Absentee ballots shall be authorized in the election.

3 The State Board of Elections shall reimburse the counties of the State for all  
4 necessary expenses incurred in holding the election which are in addition to those which  
5 would have otherwise been incurred; this reimbursement shall be paid out of the  
6 Contingency and Emergency Fund or other funds available to the State Board of  
7 Elections.

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

11 "[] FOR the issuance of eleven million four hundred thousand dollars  
12 (\$11,400,000) State of North Carolina Head Start Facilities Bonds,  
13 constituting general obligation bonds of the State secured by a pledge  
14 of the faith and credit and taxing power of the State for making  
15 contributions by the State to public agencies and nonprofit  
16 corporations for the purpose of providing funds, together with any  
17 other available funds, to pay the cost of providing and equipping  
18 facilities for use by these entities in delivering comprehensive health,  
19 educational, nutritional, social, and other services, primarily to  
20 preschool children and their parents.

21 [] AGAINST the issuance of eleven million four hundred thousand  
22 dollars (\$11,400,000) State of North Carolina Head Start Facilities  
23 Bonds, constituting general obligation bonds of the State secured by a  
24 pledge of the faith and credit and taxing power of the State for making  
25 contributions by the State to public agencies and nonprofit  
26 corporations for the purpose of providing funds, together with any  
27 other available funds, to pay the cost of providing and equipping  
28 facilities for use by these entities in delivering comprehensive health,  
29 educational, nutritional, social, and other services, primarily to  
30 preschool children and their parents."

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

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

40 Sec. 8. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes  
41 may bear such date or dates, may be serial or term bonds or notes, or any combination  
42 thereof, may mature in such amounts and at such time or times, not exceeding 40 years  
43 from their date or dates, may be payable at such place or places, either within or without  
44 the United States of America, in such coin or currency of the United States of America

1 as at the time of payment is legal tender for payment of public and private debts, may  
2 bear interest at such rate or rates, which may vary from time to time, and may be made  
3 redeemable before maturity, at the option of the State or otherwise as may be provided  
4 by the State, at such price or prices, including a price less than the face amount of the  
5 bonds or notes, and under such terms and conditions, all as may be determined by the  
6 State Treasurer, by and with the consent of the Council of State.

7 (b) Signatures; form and denomination; registration. Bonds or notes may be  
8 issued as certificated or uncertificated obligations. If issued as certificated obligations,  
9 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his  
10 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile  
11 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be  
12 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the  
13 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature  
14 which may be that of a bond registrar, trustee, paying agent, or designated assistant of  
15 the State Treasurer. Should any officer whose signature or facsimile signature appears  
16 on bonds or notes cease to be such officer before the delivery of the bonds or notes, the  
17 signature or facsimile signature shall nevertheless have the same validity for all  
18 purposes as if the officer had remained in office until delivery and bonds or notes may  
19 bear the facsimile signatures of persons who at the actual time of the execution of the  
20 bonds or notes shall be the proper officers to sign any bond or note although at the date  
21 of the bond or note such persons may not have been such officers. The form and  
22 denomination of bonds or notes, including the provisions with respect to registration of  
23 the bonds or notes and any system for their registration, shall be as the State Treasurer  
24 may determine in conformity with this act; provided, however, that nothing in this act  
25 shall prohibit the State Treasurer from proceeding, with respect to the issuance and form  
26 of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the  
27 Registered Public Obligations Act, as well as under this act.

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

39 (d) Notes; repayment.

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

- 1 a. For anticipating the sale of bonds to the issuance of which the  
2 Council of State shall have given consent, if the State Treasurer  
3 shall deem it advisable to postpone the issuance of the bonds;  
4 b. For the payment of interest on or any installment of principal of  
5 any bonds then outstanding, if there shall not be sufficient funds  
6 in the State treasury with which to pay the interest or  
7 installment of principal as they respectively become due;  
8 c. For the renewal of any loan evidenced by notes herein  
9 authorized;  
10 d. For the purposes authorized in this act; and  
11 e. For refunding bonds or notes as herein authorized.
- 12 (2) Funds derived from the sale of bonds or notes may be used in the  
13 payment of any bond anticipation notes issued under this act. Funds  
14 provided by the General Assembly for the payment of interest on or  
15 principal of bonds shall be used in paying the interest on or principal  
16 of any notes and any renewals thereof, the proceeds of which shall  
17 have been used in paying interest on or principal of the bonds.
- 18 (e) Refunding bonds and notes. By and with the consent of the Council of  
19 State, the State Treasurer is authorized to issue and sell refunding bonds and notes  
20 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding  
21 bonds or notes issued pursuant to this act. The refunding bonds and notes may be  
22 combined with any other issues of State bonds and notes similarly secured.
- 23 (f) Tax exemption. Bonds and notes shall be exempt from all State, county,  
24 and municipal taxation or assessment, direct or indirect, general or special, whether  
25 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift  
26 taxes, income taxes on the gain from the transfer of bonds and notes, and franchise  
27 taxes. The interest on bonds and notes shall not be subject to taxation as to income.
- 28 (g) Investment eligibility. Bonds and notes are hereby made securities in  
29 which all public officers, agencies, and public bodies of the State and its political  
30 subdivisions, all insurance companies, trust companies, investment companies, banks,  
31 savings banks, savings and loan associations, credit unions, pension or retirement funds,  
32 other financial institutions engaged in business in the State, executors, administrators,  
33 trustees, and other fiduciaries may properly and legally invest funds, including capital in  
34 their control or belonging to them. Bonds and notes are hereby made securities which  
35 may properly and legally be deposited with and received by any officer or agency of the  
36 State or political subdivision of the State for any purpose for which the deposit of  
37 bonds, notes, or obligations of the State or any political subdivision is now or may  
38 hereafter be authorized by law.
- 39 (h) Faith and credit. The faith and credit and taxing power of the State are  
40 hereby pledged for the payment of the principal of and the interest on bonds and notes.  
41 In addition to the State's right to amend any provision of this act to the extent it does not  
42 impair any contractual right of a bond owner, the State expressly reserves the right to  
43 amend any provision of this act with respect to the making and repayment of loans, the  
44 disposition of any repayments of loans, and any intercept provisions relating to the

1 failure of a local government unit to repay a loan, the bonds not being secured in any  
2 respect by loans, any repayments of loans, or any intercept provisions with respect to  
3 the loans.

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

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

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

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

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

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

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



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

5           Sec. 11. Effective date. This act is effective upon ratification.