

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 227
SENATE BILL 433

AN ACT TO MODIFY THE NORTH CAROLINA STATE EDUCATION
ASSISTANCE AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-201(a) reads as rewritten:

"(a) The purpose of this Article is to authorize a system of financial assistance, consisting of grants, loans, work-study or other employment, and other aids, ~~for qualified residents of the State to assist qualified students~~ to enable them to obtain an education beyond the high school level by attending public or private educational institutions. The General Assembly has found and hereby declares that it is in the public interest and essential to the welfare and well-being ~~of the inhabitants~~ of the State and to the proper growth and development of the State to foster and provide financial assistance ~~to residents of the State, to properly qualified therefor, students~~ in order to help them to obtain an education beyond the high school level. The General Assembly has further found that many ~~residents of the State~~ students who are fully qualified to enroll in appropriate educational institutions for furthering their education beyond the high school level lack the financial means and are unable, without financial assistance as authorized under this Article, to pay the cost of such education, with a consequent irreparable loss to the State of valuable talents vital to its welfare. The General Assembly has determined that the establishment of a proper system of financial assistance for such objective purpose serves a public purpose and is fully consistent with the long established policy of the State to encourage, promote and assist ~~the~~ education ~~of the people of the State to enhance economic development.~~"

Sec. 2. G.S. 116-201(b) reads as rewritten:

"(b) As used in this Article, the following terms shall have the following meanings unless the context indicates a contrary intent:

- (1) 'Article' or 'this Article' means this Article 23 of the General Statutes of North Carolina, presently comprising G.S. 116-201 through ~~416-109.23~~ ~~[116-209.23]~~ 116-209.24;
- (2) 'Authority' means the State Education Assistance Authority created by this Article or, if the Authority is abolished, the board, body, commission or agency succeeding to its principal functions, or on whom the powers given by this Article to the Authority shall be conferred by law;
- (3) 'Bond resolution' or 'resolution' when used in relation to the issuance of bonds is deemed to mean either any resolution authorizing the issuance

- of bonds or any trust agreement or other instrument securing any bonds;
- (4) 'Bonds' or 'revenue bonds' means the obligations authorized to be issued by the Authority under this Article, which may consist of revenue bonds, revenue refunding bonds, bond anticipation notes and other notes and obligations, evidencing the Authority's obligation to repay borrowed money from revenues, funds and other money pledged or made available therefor by the Authority under this Article;
 - (5) 'Eligible institution,' with respect to student loans, has the same meaning as the term has in section 1085 of Title 20 of the United States Code;
 - (6) 'Eligible institution,' with respect to grants and work-study programs, includes the constituent institutions of The University of North Carolina, all state-supported institutions organized and administered pursuant to Chapter 115A of the General Statutes and all private institutions as defined in subdivision (8) of this subsection;
 - (7) 'Student obligations' means student loan notes and other debt obligations evidencing loans to students which the Authority may make, take, acquire, buy, sell, endorse or guarantee under the provisions of this Article, and may include any direct or indirect interest in the whole or any part of any such notes or obligations;
 - (8) 'Private institution' means an institution other than a seminary, Bible school, Bible college or similar religious institution in this State that is not owned or operated by the State or any agency or political subdivision thereof, or by any combination thereof, that offers post-high school education and is accredited by the Southern Association of Colleges and Schools or, in the case of institutions that are not eligible to be considered for accreditation, accredited in those categories and by those nationally recognized accrediting agencies that the Authority may designate;
 - (9) 'Reserve Trust Fund' means the trust fund authorized under G.S. 116-209 of this Article;
 - (10) 'State Education Assistance Authority Loan Fund' means the trust fund so designated and authorized by G.S. 116-209.3 of this Article;
 - (11) 'Student, with respect to scholarships, grants, and work-study programs,' means a resident of the State, in accordance with definitions of residency that may from time to time be prescribed by the Board of Governors of The University of North Carolina and published in the residency manual of the Board, who, under regulations adopted by the Authority, has enrolled or will enroll in an eligible institution for the purpose of pursuing his education beyond the high school level, who is making suitable progress in his education in accordance with standards acceptable to the Authority and, for the purposes of G.S. 116-209.19, who has not received a bachelor's degree, or qualified for it and who is

otherwise classified as an undergraduate under those regulations that the Authority may promulgate; ~~and~~

(12) 'Student', with respect to loans, means a resident of the State as defined in (11) of this subsection and an eligible student as defined in 20 U.S.C. 1071 who is enrolled in an eligible institution located in North Carolina; and

(1213) 'Student loans' means loans to residents of this State to students defined in subdivisions (11) and (12) of this subsection to aid them in pursuing their education beyond the high school level."

Sec. 3. G.S. 116-202 reads as rewritten:

"§ 116-202. Authority may buy and sell students' obligations; undertakings of Authority limited to revenues.—In order to facilitate ~~the~~ vocational and college education of ~~residents of this State~~ and to promote the industrial and economic development of the State, the State Education Assistance Authority (hereinafter created) is hereby authorized and empowered to buy and sell obligations of students attending institutions of higher education or post-secondary business, trade, technical, and other vocational schools, which obligations represent loans made to such students for the purpose of obtaining training or education.

No bonds, as this term is defined in this Article, are deemed to constitute a debt of the State, or of any political subdivision thereof or a pledge of the faith and credit of the State or of any political subdivision, but are payable solely from the funds of the Authority. All bonds shall contain on their faces a statement to the effect that neither the State nor the Authority is obligated to pay the same or the interest thereon except from revenues of the Authority and that neither the faith and credit nor the taxing power of the State or of any political subdivision is pledged to the payment of the principal of or the interest on the bonds.

All expenses incurred in carrying out the provisions of this Article shall be payable solely from funds provided under the provisions of this Article and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this Article."

Sec. 4. G.S. 116-206 reads as rewritten:

"§ 116-206. Acquisition of obligations.—With the proceeds of bonds or any other funds of the Authority available therefor, the Authority may acquire from any bank, insurance company, ~~or other~~ educational lending institution, eligible student obligations, or any interest or participation therein in such amount, at such price or prices and upon such terms and conditions as the Authority shall determine to be in the public interest and desirable to carry out the purposes of this Article. The Authority shall take such actions and require the execution of such instruments deemed appropriate by it to permit the recovery, in connection with any such obligations or any interest or participation therein acquired by the Authority, of the amount to which the Authority may be rightfully entitled, and otherwise to enforce and protect its rights and interest thereto."

Sec. 5. G.S. 116-209 reads as rewritten:

"§ 116-209. Reserve Trust Fund created; transfer of Escheat Fund; pledge of security interest for payment of bonds; administration.—The appropriation made to

the Authority under this Article shall be used exclusively for the purpose of acquiring contingent or vested rights in obligations which it may acquire under this Article; such appropriations, payments, revenue and interest as well as other income received in connection with such obligations is hereby established as a trust fund. Such fund shall be used for the purposes of the Authority other than maintenance and operation.

The maintenance and operating expenses of the Authority shall be paid from funds specifically appropriated for such purposes. No part of the trust fund established under this section shall be expended for such purposes.

The State Treasurer shall be the custodian of the assets of the Authority and shall invest them in accordance with the provisions of G.S. 147-69.2 and 147-69.3. All payments from the accounts thereof shall be made by him issued upon vouchers signed by such persons as are designated by the Authority. A duly attested copy of a resolution of the Authority designating such persons and bearing on its face the specimen signatures of such persons shall be filed with the State Treasurer as his authority for issuing warrants upon such vouchers.

The trust fund is designated 'Reserve Trust Fund' and shall be maintained by the Authority, except as otherwise provided, pursuant to the provisions of this Article, as security for or insurance respecting any bonds or other obligations issued by the Authority under this Article. The corpus of the Escheat Fund, including all future additions other than the income, are transferred to, and become, a part of the Reserve Trust Fund and shall be accounted for, administered, invested, reinvested, used and applied as provided in ~~G.S. 116A-8, 116A-9 and 116A-10~~ Chapter 116B of the General Statutes. The Authority may pledge and vest a security interest in all or any part of the Reserve Trust Fund by resolution adopted or trust agreement approved by it as security for or insurance respecting the payment of bonds or other obligations issued under this Article. The Reserve Trust Fund shall be held, administered, invested, reinvested, used and applied as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of this Article and ~~G.S. 116A-8 through 116A-11~~ Chapter 116B of the General Statutes."

Sec. 6. G.S. 116-209.3 reads as rewritten:

"§ **116-209.3. Additional powers.**—The Authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of student loans and providing such other student loan assistance and services as the Authority shall deem necessary or desirable for carrying out the purposes of this Article and for qualifying for loans, grants, insurance and other benefits and assistance under any program of the United States now or hereafter authorized fostering student loans. There shall be established and maintained a trust fund which shall be designated 'State Education Assistance Authority Loan Fund' (the 'Loan Fund') which may be used by the Authority in making student loans directly or through agents or independent contractors, insuring student loans, acquiring, purchasing, endorsing or guaranteeing promissory notes, contracts, obligations or other legal instruments evidencing student loans made by banks, educational institutions, nonprofit corporations or other eligible lenders, and for defraying the expenses of operation and administration of the Authority for which other funds are not available to

the Authority. There shall be deposited to the credit of such Loan Fund the proceeds (exclusive of accrued interest) derived from the sale of its revenue bonds by the Authority and any other moneys made available to the Authority for the making or insuring of student loans or the purchase of obligations. There shall also be deposited to the credit of the Loan Fund surplus funds from time to time transferred by the Authority from the sinking fund. Such Loan Fund shall be maintained as a revolving fund. There is also deposited to the credit of the Loan Fund the income derived from the investment or deposit of the Escheat Fund distributed to the Authority pursuant to ~~G.S. 116A-9~~G.S. 116B-37. The income shall be held, administered and applied by the Authority as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of ~~G.S. 116A-9~~Chapter 116B of the General Statutes and this Article.

In lieu of or in addition to the Loan Fund, the Authority may provide in any resolution authorizing the issuance of bonds or any trust agreement securing such bonds that any other trust funds or accounts may be established as may be deemed necessary or convenient for securing the bonds or for making student loans, acquiring obligations or otherwise carrying out its other powers under this Article, and there may be deposited to the credit of any such fund or account proceeds of bonds or other money available to the Authority for the purposes to be served by such fund or account."

Sec. 7. G.S. 116-209.17 reads as rewritten:

"**§ 116-209.17. Establishment of student assistance program.**—The Authority is authorized, in addition to all other powers and duties vested or imposed under this Article, to establish and administer a statewide student assistance program for the purpose of removing, insofar as may be possible, the financial barriers to education beyond the high school level for eligible needy North Carolina undergraduate students at public or private institutions in this State and, with respect to loans, public, and private institutions located elsewhere. This objective shall be accomplished, consistent with Federal law or regulation, through a comprehensive program under which the financial ability of each student and of his family, under standards prescribed by the Authority, is measured against the reasonable costs, as determined by the Authority, of the educational program which the student proposes to pursue. Needs of students for financial assistance shall, to the extent of the availability of funds from federal, State, institutional or other sources, be met through work-study programs, loans, grants and out-of-term employment, or a combination of these forms of assistance. With respect to grants made pursuant to this Article, no student is eligible to receive benefits under this student assistance program for a total of more than 45 months of full-time, post-high school level education."

Sec. 8. G.S. 116-209.19 reads as rewritten:

"**§ 116-209.19. Grants to students.**—The Authority is authorized to make grants to eligible students enrolled or to be enrolled in eligible institutions in North Carolina out of such money as from time to time may be appropriated by the State or as may otherwise be available to the Authority for such grants. The Authority, subject to the provisions of this Article and any applicable appropriation act, shall adopt rules, regulations and procedures for determining the needs of the respective students for

grants and for the purpose of making such grants. The amount of any grant made by the Authority to any student, whether enrolled or to be enrolled in any private institution or any tax-supported public institution, shall be determined by the Authority upon the basis of substantially similar standards and guides that shall be set forth in the Authority's rules, regulations and procedures; provided, however, that grants made in any fiscal year to students enrolled or to be enrolled in private institutions may be increased to compensate, in whole or in part, for the average annual State appropriated tuition subsidy for such fiscal year, determined as provided herein. The average annual State appropriated subsidy for each fiscal year shall be determined by the Secretary of Administration, after consultation with the Board of Governors of The University of North Carolina and the Authority, for each of the two categories of tax-supported institutions, being (i) institutions, presently 16, that provide education of the collegiate grade and grant baccalaureate degrees and (ii) institutions, such as community colleges and technical institutes created and existing under Chapter 115A of the General Statutes. The average annual State appropriated subsidy for each of such two categories of institutions shall mean the amount of the total appropriations of the State for the respective fiscal years under the current operations budgets, pursuant to the Executive Budget Act reasonably allocable to undergraduate students enrolled in such institutions exclusive of the Division of Health Affairs of The University of North Carolina and the North Carolina School of the Arts for all institutions in such category, all as shall be determined by the Secretary of Administration after consultation as above provided, divided by the budgeted number of North Carolina undergraduate students to be enrolled in such fiscal year.

The Authority, in determining the needs of students for grants, may among other factors, give consideration to the amount of other financial assistance that may be available to the students, such as nonrepayable awards under the ~~Basic Educational Opportunity Grant Program~~ Pell Grant Program, the Health Professions Education Assistance Act or other student assistance programs created by federal law.

Prior to taking any action under this subsection, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 9. G.S. 116-209.24 reads as rewritten:

"§ 116-209.24. **Parental loans.**—(a) Policy. The General Assembly of North Carolina hereby finds and declares that the making and insuring of loans to the eligible parents of ~~resident~~ students is fully consistent with and furthers the long established policy of the State to encourage, promote and assist ~~the education of the people of the State~~ as more fully set forth in G.S. 116-201(a).

(b) Definitions. As used in this section, the following terms shall have the following meanings:

- (1) 'Obligations', 'student obligations', or 'student loan obligations' as defined under G.S. 116-201(b)(7) includes, unless the context indicates a contrary intent, parental obligations.
- (2) 'Parent' means a student's mother, father, adoptive parent, or legal guardian of the student if such guardian is required by court order to use his or her own financial resources to support that student.

- (3) 'Parental loans' means loans made or guaranteed by the Authority to a parent of an eligible student.
- (4) 'Parental obligations' means obligations evidencing loans made pursuant to subsection (c) of this section.
- (5) ~~'Resident student' means a student deemed by appropriate officials to qualify for the in-state tuition rate under some provision of G.S. 116-143.1.~~
- (65) 'Student loans' includes, unless the context indicates a contrary intent, parental loans.

(c) Parental Assistance. The Authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of loans to parents of ~~resident~~ students in order to facilitate the vocational and college education of such students who are enrolled or to be enrolled in eligible institutions. The Authority is also authorized to provide such other services and loan assistance to parents of ~~resident~~ students as the Authority shall deem necessary or desirable for carrying out the purpose of this section and for qualifying for loans, grants, insurance, and other benefits and assistance under any program of the United States now or hereafter authorized fostering loans to eligible parents of ~~resident~~ students.

(d) Authorization to Buy and Sell Parental Obligations. The Authority is hereby authorized and empowered to buy and sell parental obligations.

(e) Authorization to Issue Bonds. The Authority is hereby authorized to provide for the issuance, at one time or from time to time, of bonds or revenue bonds, as such terms are defined in G.S. 116-201(4), in conformity with provisions of this section."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of May, 1987.