

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 631
HOUSE BILL 1100

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION 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 FOR GRANTS TO COUNTIES FOR PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS, IN ORDER TO PROMOTE EQUITY IN LOCAL SCHOOL FACILITIES ACROSS THE STATE AND TO ENABLE LOCAL GOVERNMENTS TO GIVE LOCAL PROPERTY TAX RELIEF, AND TO ENSURE THAT CERTAIN GRANTS FOR SCHOOL FACILITY NEEDS CONTINUE TO BE MADE IN ACCORDANCE WITH THE 1988 PRIORITY LIST.

The General Assembly of North Carolina enacts:

Section 1. Short Title. – This act shall be known and may be cited as the "Public School Building Bond Act of 1996".

Sec. 2. Purpose. – It is the intent of the General Assembly by this act to provide for the issuance of one billion eight hundred million dollars (\$1,800,000,000) general obligation bonds of the State to facilitate the providing of public school buildings by making grants to counties to provide funds for public school capital outlay projects.

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 this term in financing the cost of public school capital outlay projects authorized by this act:
 - a. The cost of constructing, reconstructing, enlarging, acquiring, and improving projects, and acquiring equipment and land therefor,
 - b. The cost of engineering, architectural, and other consulting services as may be required,
 - c. Administrative expenses and charges,
 - d. Finance charges and interest prior to and during construction and, if deemed advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction,

- e. 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, to the extent and as determined by the State Treasurer,
- f. The cost of reimbursing the State for any payments made for any cost described above, and
- g. Any other costs and expenses necessary or incidental to the purposes of this act.

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

- (3) "Credit facility" means 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 of America, such agreement 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 agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.
- (4) "Notes" means notes issued under this act.
- (5) "Par formula" means any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:
 - a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible,
 - b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or
 - c. Such other provision as the State Treasurer may determine to be consistent with this act 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.
- (6) "Public School Capital Outlay Projects" means the construction of new public school buildings or the renovation of existing public school

buildings, the purchase of equipment for a newly constructed public school building or equipment related to the improvement of an existing public school building, the purchase of land necessary for immediate construction of school buildings, and other related capital outlay projects constituting facilities for individual schools that are used for instructional and related purposes, but not including centralized administration, maintenance, trailers, relocatable classrooms, or mobile classrooms.

(7) "State" means the State of North Carolina.

Sec. 4. 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 Public School Building Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Public School Building Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding one billion eight hundred million dollars (\$1,800,000,000) for the purposes authorized in this act. The principal amounts of bonds or notes issued in any 12-month period shall not exceed four hundred fifty million dollars (\$450,000,000). In determining whether this limit has been reached, the issuance of a note or bond to pay an outstanding note is not considered an issuance.

Sec. 5. Uses of Bond and Note Proceeds. – The proceeds of Public School Building Bonds and notes shall be used for the purpose of making grants to counties for paying the cost of public school capital outlay projects.

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 public school capital outlay projects authorized by this act may be placed by the State Treasurer in the Public School Building 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 act.

Moneys in the Public School Building Bonds Fund or in any separate fund or account may be invested from time to time by the State Treasurer in the same manner permitted for investment of moneys belonging to the State or held in the State treasury except with respect to grant money to the extent otherwise directed by the terms of the grant, and any investment earnings shall be credited to the Public School Building Bonds Fund or the particular fund or account from which the investment was made.

All moneys deposited in, or accruing to the credit of, the Public School Building Bonds Fund, other than moneys set aside for administrative expenses, including expenses related to determining compliance with applicable requirements of the federal tax law and cost of issuance, shall be used to pay the cost of public school capital outlay projects in the manner authorized by this act.

The proceeds of Public School Building Bonds and notes may be used with any other moneys made available by the General Assembly for public school capital outlay projects, including the proceeds of any other State bond issues, whether heretofore made available or that may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of Public School Building Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for public school capital outlay projects shall be disbursed for the purposes provided in this act 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 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

The Director of the Budget shall provide quarterly reports to the State Board of Education, the Superintendent of Public Instruction, and the General Assembly on the expenditure of moneys from the Public School Building Bonds Fund. Reports to the General Assembly shall be filed with the Legislative Library, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Fiscal Research Division.

Sec. 6. (a) Allocation of Proceeds. – The proceeds of Public School Building 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 "Public School Building Bonds Fund". Moneys in the Public School Building Bonds Fund shall be used for the purposes set forth in this act. The proceeds of Public School Building Bonds and notes shall be allocated to counties and expended for paying the cost of public school capital outlay projects, to the extent and as provided in this act and subject to change as provided in this act.

(b) Small county school system allocation. – The State Board of Education shall allocate the proceeds of thirty million dollars (\$30,000,000) Public School Building Bonds and notes as grants to counties that have a small county school system, after considering whether the counties demonstrate both greater than average school construction needs and high property tax rates. A "small county school system" is a school system who was entitled to receive small school system supplemental funding under section 17.2 of Chapter 507 of the 1995 Session Laws, known as The Expansion and Capital Improvements Act of 1995.

(c) Primary allocation. – The proceeds of one billion seven hundred seventy million dollars (\$1,770,000,000) Public School Building Bonds and notes shall be allocated to each county on the basis of the distribution amounts provided in the following table for the local school administrative units in the State. In the case of a local school administrative unit located entirely in one county, the unit's total distribution amount shall be allocated to that county. In the case of a local school administrative unit located in more than one county, the unit's distribution amount shall be allocated among the counties in which the unit is located in proportion to average

daily membership of the unit in each county. A unit's distribution amount allocated to a county may be used only with respect to public school facilities of that unit.

Local School Administrative Unit	Distribution Based on High Growth	Distribution Based on Ability to Pay	Distribution Based on Average Daily Membership	Total
Alamance Co.	\$8,084,430	\$0	\$11,080,174	\$19,164,604
Alexander Co.	1,216,676	4,941,875	2,995,962	9,154,513
Alleghany Co.	0	175,362	865,997	1,041,359
Anson Co.	0	6,981,548	2,612,710	9,594,258
Ashe Co.	0	2,134,326	2,045,190	4,179,516
Avery Co.	0	0	1,422,920	1,422,920
Beaufort Co.	0	7,070,465	4,514,843	11,585,308
Bertie Co.	0	8,211,510	2,324,829	10,536,339
Bladen Co.	245,118	7,579,706	3,315,045	11,139,869
Brunswick Co.	2,321,934	0	5,535,672	7,857,606
Buncombe Co.	7,723,439	0	14,461,155	22,184,594
Asheville City	365,448	0	2,736,340	3,101,788
Burke Co.	5,610,969	11,153,769	8,017,098	24,781,837
Cabarrus Co.	13,049,180	0	9,724,956	22,774,136
Kannapolis City	0	467,915	2,374,281	2,842,196
Caldwell Co.	2,558,138	10,265,914	7,055,141	19,879,193
Camden Co.	352,078	2,160,704	711,754	3,224,537
Carteret Co.	1,947,572	0	4,972,273	6,919,845
Caswell Co.	227,291	5,725,252	2,055,198	8,007,741
Catawba Co.	7,032,652	0	8,559,304	15,591,956
Hickory City	784,377	0	2,533,234	3,317,610
Newton City	0	0	1,620,728	1,620,728
Chatham Co.	3,458,389	0	4,010,315	7,468,705
Cherokee Co.	44,567	4,476,625	2,054,610	6,575,801
Chowan Co.	0	3,147,395	1,530,066	4,677,461
Clay Co.	173,811	828,575	729,416	1,731,802
Cleveland Co.	2,740,863	5,485,707	5,219,533	13,446,102
Kings Mtn. City	1,149,825	2,527,920	2,464,354	6,142,100
Shelby City	864,597	2,073,363	2,009,867	4,947,828
Columbus Co.	0	12,395,869	4,506,012	16,901,881
Whiteville City	0	4,539,719	1,640,744	6,180,463
Craven Co.	539,259	12,666,532	8,751,224	21,957,016
Cumberland Co.	21,530,255	21,491,991	30,284,593	73,306,839
Currituck Co.	1,243,416	0	1,759,076	3,002,491
Dare Co.	3,324,689	0	2,559,137	5,883,825
Davidson Co.	5,330,198	6,774,659	10,606,260	22,711,117
Lexington City	668,503	1,167,549	1,827,366	3,663,419

Thomasville City	690,786	832,854	1,299,879	2,823,520
Davie Co.	1,301,353	0	2,911,188	4,212,540
Duplin Co.	1,778,218	11,475,816	4,931,652	18,185,686
Durham Co.	5,379,221	0	17,059,147	22,438,368
Edgecombe Co.	0	9,341,292	4,682,626	14,023,918
Forsyth Co.	16,561,049	0	24,585,259	41,146,308
Franklin Co.	3,275,665	10,121,787	4,047,993	17,445,446
Gaston Co.	2,433,351	0	17,544,835	19,978,187
Gates Co.	1,154,282	3,704,201	1,159,765	6,018,248
Graham Co.	0	2,154,379	726,472	2,880,852
Granville Co.	3,445,019	9,667,973	4,335,874	17,448,866
Greene Co.	503,606	4,127,357	1,679,599	6,310,562
Guilford Co.	22,657,797	0	34,566,305	57,224,102
Halifax Co.	0	10,065,828	3,723,023	13,788,852
Roanoke Rapids	1,368,203	5,067,206	1,894,480	8,329,888
Weldon City	276,315	1,979,352	744,134	2,999,801
Harnett Co.	9,777,971	24,759,550	8,448,037	42,985,558
Haywood Co.	1,648,974	1,522,867	4,418,294	7,590,135
Henderson Co.	4,492,341	0	6,562,388	11,054,728
Hertford Co.	0	8,502,768	2,514,395	11,017,162
Hoke Co.	3,231,098	14,748,672	3,445,739	21,425,510
Hyde Co.	0	0	1,000,000	1,000,000
Iredell Co.	6,007,614	0	8,590,505	14,598,119
Mooreville City	2,081,273	0	2,012,811	4,094,084
Jackson Co.	378,818	0	2,098,763	2,477,582
Johnston Co.	11,279,875	17,733,652	10,319,556	39,333,083
Jones Co.	49,024	1,548,899	924,280	2,522,202
Lee Co.	2,589,335	931,071	4,953,434	8,473,841
Lenoir Co.	0	7,202,394	6,167,361	13,369,755
Lincoln Co.	4,550,277	3,281,461	5,750,552	13,582,290
Macon Co.	1,555,384	0	2,263,603	3,818,987
Madison Co.	289,685	3,244,452	1,534,187	5,068,323
Martin Co.	365,448	5,532,445	2,947,688	8,845,581
McDowell Co.	0	7,226,827	3,628,829	10,855,656
Mecklenburg Co.	65,228,072	0	54,601,986	119,830,058
Mitchell Co.	0	2,332,411	1,387,597	3,720,009
Montgomery Co.	766,550	5,188,325	2,551,484	8,506,359
Moore Co.	4,452,230	0	6,160,297	10,612,527
Nash Co.	3,690,137	14,725,007	10,539,735	28,954,879
New Hanover Co.	7,830,399	0	12,515,457	20,345,856
Northampton Co.	160,441	7,155,039	2,244,764	9,560,244
Onslow Co.	5,673,363	38,447,459	12,123,374	56,244,195
Orange Co.	2,571,508	0	3,408,650	5,980,159
Chapel Hill-				

Carrboro	6,172,512	0	4,823,329	10,995,840
Pamlico Co.	57,937	2,360,084	1,229,822	3,647,844
Pasquotank Co.	1,439,510	8,125,362	3,681,225	13,246,097
Pender Co.	3,890,688	5,690,671	3,502,844	13,084,204
Perquimans Co.	17,827	2,984,367	1,130,918	4,133,112
Person Co.	1,586,581	829,294	3,269,125	5,685,000
Pitt Co.	6,261,645	10,985,395	11,426,926	28,673,967
Polk Co.	356,535	0	1,289,871	1,646,406
Randolph Co.	7,166,353	9,257,230	9,163,323	25,586,906
Asheboro City	1,778,218	2,376,181	2,420,201	6,574,600
Richmond Co.	699,700	14,419,990	4,922,821	20,042,511
Robeson Co.	2,353,131	47,978,887	13,636,956	63,968,974
Rockingham Co.	597,196	8,453,474	8,394,464	17,445,134
Rowan Co.	10,776,269	8,743,009	11,392,192	30,911,471
Rutherford Co.	1,501,904	7,997,008	5,969,553	15,468,465
Sampson Co.	3,418,279	7,902,362	4,307,027	15,627,668
Clinton City	0	2,877,068	1,511,227	4,388,295
Scotland Co.	0	11,042,166	4,251,688	15,293,854
Stanly Co.	2,250,627	6,658,864	4,352,358	13,261,849
Albemarle City	793,290	1,955,352	1,298,113	4,046,755
Stokes Co.	1,341,463	3,901,196	3,976,759	9,219,417
Surry Co.	2,357,587	4,070,611	4,669,674	11,097,873
Elkin City	338,708	541,736	625,214	1,505,658
Mount Airy City	445,669	1,009,671	1,201,564	2,658,903
Swain Co.	338,708	3,198,646	974,909	4,512,263
Transylvania Co.	280,771	0	2,330,127	2,610,899
Tyrrell Co.	271,858	1,091,336	469,793	1,832,987
Union Co.	10,339,514	6,192,466	11,140,812	27,672,792
Vance Co.	1,488,533	8,361,014	4,374,140	14,223,687
Wake Co.	72,773,243	0	50,523,969	123,297,212
Warren Co.	548,173	5,550,739	1,857,391	7,956,302
Washington Co.	0	4,105,098	1,533,010	5,638,108
Watauga Co.	953,731	0	2,904,712	3,858,443
Wayne Co.	3,030,547	23,725,815	11,230,296	37,986,659
Wilkes Co.	106,960	8,353,208	5,837,093	14,297,261
Wilson Co.	2,223,887	4,833,060	7,211,150	14,268,097
Yadkin Co.	2,232,800	4,728,588	3,214,964	10,176,352
Yancey Co.	227,291	2,134,456	1,457,066	3,818,813
GRAND TOTAL	\$442,500,000	\$619,500,000	\$708,000,000	\$1,770,000,000

If two or more local school administrative units are consolidated into one unit, the distribution amounts provided above for the units shall be considered the distribution amount for the merged unit.

(d) Match. – A county is not required to match bond proceeds allocated under subsection (b) of this section. A county is not required to match the Low-Wealth Allocation of bond proceeds under subsection (c) of this section. A county must match both the ADM Allocation and the Growth Allocation of bond proceeds under subsection (c) of this section. These two allocations must be matched at the rate of matching funds equal to three cents (3¢) times the county's ability to pay rank for every one dollar (\$1.00) of allocated bond proceeds. A county's ability to pay rank is its rank in the ranking of counties from lowest to highest county wealth as a percentage of State average wealth made by the State Board of Education for the 1995-96 fiscal year pursuant to Section 17.1 of Chapter 507 of the 1995 Session Laws. The match requirement may be satisfied by non-State expenditures for public school facilities made on or after January 1, 1992. A non-State expenditure has been made for the purpose of the match if funds, including funds expended for debt service, have been budgeted, earmarked, or committed for the general purpose of public school facilities. If a debt has been authorized or incurred since January 1, 1992, for the general purpose of public school facilities, then the face amount of the debt shall be considered as a non-State expenditure for public school facilities for the purpose of the match.

As counties satisfy the match requirements of this section, they shall document the extent to which they have done so in periodic reports to the State Board of Education. These reports shall include any information and documentation required by the State Board of Education. The State Board of Education shall certify to the State Treasurer from time to time the extent to which the match requirements of this section have been met with respect to each county; this certification shall be binding and conclusive. Bond proceeds shall be distributed for expenditure only as, and to the extent, the matching requirements of this section are satisfied, as certified by the State Board of Education. The State Board of Education shall also require counties to report annually on the impact of funds provided under this act on the property tax rate for that year. These reports shall be public documents and shall be furnished to any citizen upon request.

(e) Unmatched Proceeds. – If the State Board of Education determines that a county has not met the matching requirements of this section by January 1, 2003, with respect to any bond proceeds allocated under subsection (c) of this section, the State Board of Education shall certify that fact to the State Treasurer by March 1, 2003. Amounts that are allocated in the Growth Allocation of bond proceeds under subsection (c) of this section and that have not been matched by January 1, 2003, as certified by the State Board of Education, shall be reallocated among the counties that are allocated bond proceeds under the Growth Allocation and have met the matching requirements for their total Growth Allocation. The reallocation shall be made among the eligible counties in proportion to the amount of Growth Allocations for those counties under subsection (c) of this section. Amounts that are allocated in the ADM Allocation of bond proceeds under subsection (c) of this section and that have not been matched by January 1, 2003, as certified by the State Board of Education, shall be reallocated among the counties that have met the matching requirements for their total ADM allocation. The reallocation shall be made on the basis of average daily membership of

the local school administrative units within the remaining counties. Bond proceeds reallocated to a county because of a local school administrative unit's average daily membership within the county may be used only with respect to public school capital outlay projects of that unit. Bond proceeds reallocated to a county under this subsection must be matched at the same rate as bond proceeds allocated to the county under subsection (d) of this section.

(f) Administration. – Funds disbursed under this act shall be administered and supervised by the State Board of Education and shall be used only for the purposes provided in this act. Each school administrative unit shall submit to the State Board of Education its plans for the expenditure of funds allocated under this act. After the State Board of Education determines that a school administrative unit's planned expenditure of part or all of the funds allocated to it is within the purposes provided in this act, the State Board of Education shall make the funds to which the plans apply available to the school administrative unit.

Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in Section 3(2)c., d., e., f., and g. of this act in connection with the issuance of bonds for that capital improvement or undertaking.

Sec. 7. Election. – The question of the issuance of the bonds authorized by this act shall be submitted to the qualified voters of the State at a statewide election to be held November 5, 1996. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond question provided for in this section is held, may be held as called or scheduled. Notice of the election shall be given in the manner and at the times required by G.S. 163-33(8). The election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond question to be used in the ballots or voting systems shall be in substantially the following form:

"[] FOR [] AGAINST

The issuance of one billion eight hundred million dollars (\$1,800,000,000) State of North Carolina Public School Building Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds to counties, with any other available funds, to pay the cost of public school building capital improvements."

If a majority of those voting on the Public School Building Bond question in the election vote in favor of the issuance of the bonds, the bonds may be issued as provided in this act. If a majority of those voting on the Public School Building Bond question in the election vote against the issuance of the bonds, the bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for elections for State officers; the results of the election shall be certified by the State

Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Sec. 8. Issuance of Bonds and Notes. – (a) Terms and Conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or 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 such price or prices, including a price less than the face amount of the bonds or notes, and under such 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 as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State by the Governor or shall bear his facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or imprinted thereon. 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. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery and bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note although at the date of the bond or note such persons may not have been such officers. 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 act; provided, however, that nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the Registered Public Obligations Act, as well as under this act.

(c) Manner of Sale; Expenses. – Subject to determination 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 of America, 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 such rate or rates of interest, which may vary from time to time, and at such price or prices, including a price less than the face amount of the bonds or the notes, as the State Treasurer may determine. All expenses incurred in 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) Notes; Repayment.

(1) By and with the consent of the Council of State, the State Treasurer is hereby 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:

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

(2) Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this act. 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 shall have been used in paying interest on or principal of the bonds.

(e) 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 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this act. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured.

(f) Tax Exemption. – Bonds and notes shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes shall not be subject to taxation as to income.

(g) Investment Eligibility. – Bonds and notes are hereby made securities in which all public officers, agencies, and public bodies of the State and its political subdivisions, all 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 may properly and legally invest funds, including capital in their control or belonging to them. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of

bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(h) 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.

Sec. 9. Variable Interest Rates. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

- (1) Be made payable from time to time on demand or tender for purchase by the owner thereof provided 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 or 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 a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and
- (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.

If the aggregate principal amount repayable 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 such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

Sec. 10. 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 to be desirable in connection with the issuance of bonds and notes.

Sec. 11. Interpretation of Act. – (a) Additional Method. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

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

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

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

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

Sec. 12. Critical School Facility Needs Fund. – G.S. 115C-489.2(b) reads as rewritten:

"(b) ~~The Commission on School Facility Needs~~ State Board of Education shall make grants from the Fund ~~to the counties which it determines, according to the following criteria, have the greatest critical school facility needs in relation to resources available to pay for school facility needs:~~

- ~~(1) The critical school facility needs in the county, as determined by the Commission on School Facility Needs pursuant to G.S. 115C-489.4. (Until the Commission issues a final report on critical school facility needs in the counties, the Commission shall use the preliminary report.)~~
- ~~(2) Ability to pay as measured by:~~
 - ~~a. The per pupil adjusted property tax base in the county. The per pupil adjusted property tax base in the county is the property tax base in the county adjusted using the sales assessment ratio study performed by the Department of Revenue, and~~
 - ~~b. The per capita income of the county.~~
- ~~(3) Any critical nonschool needs that may force the county to divert its resources from school facilities. based on the grant priority list established in 1988 by The Commission on School Facility Needs until the next 11 local school administrative units on that priority list are funded.~~

Sec. 13. Repeal of The Commission on School Facility Needs. – G.S. 115C-489.3 and G.S. 115C-489.4 are repealed.

Sec. 14. Repeal of the Critical School Facility Needs Fund. – Effective 30 days after the last local school administrative unit on the priority list established in 1988 by The Commission on School Facility Needs is funded under G.S. 115C-489.2, Article 34A of Chapter 115C of the General Statutes is repealed. Any unexpended funds in the Critical School Facility Needs Fund, as provided for in G.S. 115C-489.1, which is

repealed by this section, are transferred to the Public School Building Capital Fund created in G.S. 115C-546.1.

Sec. 15. Public School Building Capital Fund. – G.S. 115C-546.1(b) reads as rewritten:

"(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to two thirty-firsts (2/31) of the net collections received during the previous quarter by the Department of Revenue under ~~G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000).~~ G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3."

Sec. 16. General Fund Expenditure Limit. – The General Assembly recognizes that the State's numerous forms of assistance to local governments in funding school facilities and other needs in the past 20 years have led to a substantial reduction in local property tax rates. It is the intent of the General Assembly that the assistance provided in this act, if approved by the voters, shall further reduce local property tax rates. Any applicable General Fund expenditure limit for a fiscal year shall be increased by the amount of any increase in debt service requirements for the fiscal year due to the issuance of bonds or notes of the State under this act. Any applicable General Fund expenditure limit for a fiscal year shall be decreased by the amount of any decrease in debt service requirements for the fiscal year due to the retirement of bonds or notes of the State under this act. For the purpose of this section, the term "General Fund expenditure limit" means the General Fund expenditure limit set in G.S. 143-2.1, if enacted.

Sec. 17. Effective Dates. – Sections 14 and 15 of this act become effective 30 days after the last local school administrative unit on the priority list established in 1988 by The Commission on School Facility Needs is funded under G.S. 115C-489.2. The remainder of this act is effective upon ratification. This act does not obligate the General Assembly to appropriate funds.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives