

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

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SENATE BILL 930

Appropriations Committee Substitute Adopted 6/3/91 With Amendment

Finance Committee Substitute #2 Adopted 6/11/91

Fourth Edition Engrossed 6/17/91

Short Title: State Capital Facility Bonds.

(Public)

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Sponsors:

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Referred to:

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May 13, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF NOT IN EXCESS OF FORTY-FIVE  
2 MILLION DOLLARS BONDS OF THE STATE TO PROVIDE FUNDS, WITH  
3 ANY OTHER AVAILABLE FUNDS, FOR STATE CAPITAL FACILITIES,  
4 SUCH AUTHORIZED BONDS TO BE ISSUED WITHOUT AN ELECTION  
5 DURING THE BIENNIUM ENDED JUNE 30, 1993, IN AN AMOUNT NOT IN  
6 EXCESS OF THIS AUTHORIZED AMOUNT AND NOT IN EXCESS OF TWO-  
7 THIRDS OF THE AMOUNT BY WHICH THE STATE'S OUTSTANDING  
8 INDEBTEDNESS WILL HAVE BEEN REDUCED DURING THE 1989-91  
9 BIENNIUM.  
10

11 The General Assembly of North Carolina enacts:

12 Section 1. Short title. This act shall be known and may be cited as the  
13 "Capital Facilities Legislative Bond Act of 1991."

14 Sec. 2. Findings and determinations. It is the intent and purpose of the  
15 General Assembly by this act to provide for the issuance of general obligation bonds of  
16 the State in order to facilitate the payment of the capital costs required in connection  
17 with providing State capital facilities.

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

20 (1) "Bonds" means the 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 State capital facilities  
3 as authorized by this act,  
4 a. The cost of constructing, reconstructing, renovating, repairing,  
5 enlarging, acquiring and improving capital facilities, and  
6 acquiring equipment and land 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, financial and legal consultants and related costs of  
13 bond and note issuance, to the extent and as determined by the  
14 State Treasurer, and  
15 e. Any other costs and expenses necessary or incidental to the  
16 purposes of this act.
- 17 (3) " Credit facility" means an agreement entered into by the State  
18 Treasurer on behalf of the State with a bank, savings and loan  
19 association or other banking institution, an insurance company,  
20 reinsurance company, surety company or other insurance institution, a  
21 corporation, investment banking firm or other investment institution,  
22 or any financial institution or other similar provider of a credit facility,  
23 which provider may be located within or without the United States of  
24 America, such agreement providing for prompt payment of all or any  
25 part of the principal or purchase price (whether at maturity,  
26 presentment or tender for purchase, redemption or acceleration),  
27 redemption premium, if any, and interest on any bonds or notes  
28 payable on demand or tender by the owner, in consideration of the  
29 State agreeing to repay the provider of the credit facility in accordance  
30 with the terms and provisions of such agreement.
- 31 (4) " Notes" means the notes issued under this act.
- 32 (5) " Par formula" means any provision or formula adopted by the State to  
33 provide for the adjustment, from time to time, of the interest rate or  
34 rates borne by any bonds or notes, including:  
35 a. A provision providing for such adjustment so that the purchase  
36 price of such bonds or notes in the open market would be as  
37 close to par as possible,  
38 b. A provision providing for such adjustment based upon a  
39 percentage or percentages of a prime rate or base rate, which  
40 percentage or percentages may vary or be applied for different  
41 periods of time, or  
42 c. Such other provision as the State Treasurer may determine to be  
43 consistent with this act and will not materially and adversely

1 affect the financial position of the State and the marketing of  
2 bonds or notes at a reasonable interest cost to the State.

3 Sec. 4. Authorization of bonds and notes. The State Treasurer is hereby  
4 authorized, by and with the consent of the Council of State as herein provided, to issue  
5 and sell at one time or from time to time in the biennium ending June 30, 1993, general  
6 obligation bonds of the State to be designated "State of North Carolina Capital  
7 Improvement Bonds, Series 199\_," or notes of the State as herein provided, in an  
8 aggregate principal amount not to exceed forty-five million dollars (\$45,000,000), this  
9 amount being not in excess of two-thirds of the amount by which the State's outstanding  
10 indebtedness was reduced during the biennium ended June 30, 1991, for the purpose of  
11 providing funds, with any other available funds, for the uses authorized in this act.

12 If the forty-five million dollars (\$45,000,000) maximum principal amount of  
13 bonds and notes herein authorized shall be in excess of two-thirds of the amount by  
14 which the State's outstanding indebtedness shall have been reduced during the biennium  
15 ended June 30, 1991, and the amount of bonds and notes issued hereunder shall on that  
16 account be less than forty-five million dollars (\$45,000,000), the difference between the  
17 proceeds of the bonds and notes and the forty-five million dollars (\$45,000,000)  
18 aggregate bond proceeds set forth above may be made up from other available sources  
19 or the costs of the authorized uses may be reduced.

20 Sec. 5. Uses of bond and note proceeds. The proceeds of bonds and notes  
21 shall be used for financing the cost of State capital facilities as herein provided,  
22 including, without limitation, the cost of constructing capital facilities, renovating,  
23 repairing or reconstructing existing buildings, utilities, and other capital facilities,  
24 acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds  
25 and notes and paying contractual services necessary for the completion of the purposes  
26 of this act.

27 The proceeds of bonds and notes, including premium thereon, if any, except  
28 the proceeds of bonds the issuance of which has been anticipated by bond anticipation  
29 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer  
30 in a special fund to be designated the "State Capital Facilities Legislative Bond Fund of  
31 1991" and shall be disbursed as herein provided.

32 Any additional moneys which may be received by grant from the United  
33 States of America or any agency or department thereof or from any other source to aid  
34 in financing the cost of any capital facilities authorized by this act may be placed by the  
35 State Treasurer in the State Capital Facilities Legislative Bond Fund of 1991 or in a  
36 separate fund and shall be disbursed, to the extent permitted by the terms of the grant,  
37 without regard to any limitations imposed by this act.

38 The proceeds of bonds and notes may be used with any other moneys made  
39 available by the General Assembly for the cost of State capital facilities, including the  
40 proceeds of any other State bond issues, whether heretofore made available or which  
41 may be made available at the session of the General Assembly at which this act is  
42 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended  
43 and disbursed under the direction and supervision of the Director of the Budget. The  
44 funds provided by this act shall be disbursed for the purposes provided in this act upon

warrants drawn on the State Treasurer by the State Comptroller, 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 Office of State Budget and Management shall provide quarterly reports to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division on the expenditure of moneys from the State Capital Facilities Legislative Bond Fund of 1991. The reports shall continue until the completion of the projects provided for in the State Capital Facilities Legislative Bond Fund of 1991.

Sec. 6. Allocation of proceeds. The proceeds of bonds and notes shall be allocated and expended for paying the cost of State capital facilities to the extent and as provided in this act and subject to change as herein provided, as follows:

<u>Projected</u>	<u>Allocation</u>
<u>Department and Project</u>	
Department of Administration	
1. New Central Heat Plant (restores 1990-91 funds) \$ 6,594,500	
Department of Human Resources	
1. Murdoch Center-Parkview Cottage Renovation (restores 1990-91 funds) 1,400,000	
2. John Umstead - Alum Sludge Treatment Facility \$1,100,000	
3. Black Mountain Center - Renovations (restores previously appropriated funds) 1,300,000	
Department of Crime Control and Public Safety	
1. Replace Underground Storage Tanks to comply with EPA requirements (National Guard)92,000	
2. Goldsboro Armory -	
Total Requirements	2,800,800
Federal Funds	2,057,300
Local Funds	371,750
State	Appropriation
	371,750
3. Clinton Armory -	
Total Requirements	2,608,500
Federal Funds	1,884,200

1	Local Funds	362,150	
2	State		Appropriation
3	362,150		
4			
5	Department of Environment, Health, and Natural Resources		
6	1. Clean Water Revolving Loan and Grant		
7	Program 6,600,000		
8			
9	Office of State Budget		
10	1. Reserve for Repairs and Renovations <u>27,179,600</u>		
11			
12	GRAND		TOTAL
13			\$
14	45,000,000		

15

16 Allocations made pursuant to this section to the Department of Crime Control  
 17 and Public Safety for the Armory at Goldsboro and the Armory at Clinton are  
 18 contingent upon federal matching funds being available. If federal matching funds do  
 19 not become available by July 1, 1992, such allocations shall be transferred to the Office  
 20 of State Budget and placed in the Reserve for Repairs and Renovations.

21 Projected allocations set forth above may be increased to reflect the  
 22 availability of other funds, including, without limitation, contingency funds, income  
 23 earned on the investment of bond and note proceeds, and the proceeds of any grants.

24 The Director of the Budget may, when the Director determines it is in the best  
 25 interest of the State to do so, and if the cost of a particular project is less than the  
 26 projected allocation, use the excess funds to increase the size of that project or to  
 27 increase the size of any other project itemized in this section, or to increase the amount  
 28 allocated to a particular institution within the aggregate amount of funds available under  
 29 this section including the proceeds of any investment earnings. Prior to taking any  
 30 action under this subdivision, the Director of the Budget may consult with the Advisory  
 31 Budget Commission.

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 any changes in projects and allocations made under this section.

37 Sec. 7. Issuance of bonds and notes.

38 (1) Terms and conditions. Bonds or notes may bear such date or dates,  
 39 may be serial or term bonds or notes, or any combination thereof, may  
 40 mature in such amounts and at such time or times, not exceeding 40  
 41 years from their date or dates, may be payable at such place or places,  
 42 either within or without the United States of America, in such coin or  
 43 currency of the United States of America as at the time of payment is  
 44 legal tender for payment of public and private debts, may bear interest

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

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

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

- 1 notes shall be paid by the State Treasurer from the proceeds of bonds  
2 or notes or other available moneys.
- 3 (4) Notes; repayment.
- 4 a. By and with the consent of the Council of State, the State  
5 Treasurer is hereby authorized to borrow money, and to execute  
6 and issue notes of the State for the same, but only in the  
7 following circumstances and under the following conditions:
- 8 1. For anticipating the sale of bonds to the issuance of  
9 which the Council of State shall have given consent, if  
10 the State Treasurer shall deem it advisable to postpone  
11 the issuance of the bonds;
- 12 2. For the payment of interest on or any installment of  
13 principal of any bonds then outstanding, if there shall not  
14 be sufficient funds in the State treasury with which to  
15 pay the interest or installment of principal as they  
16 respectively become due;
- 17 3. For the renewal of any loan evidenced by notes herein  
18 authorized;
- 19 4. For the purposes authorized in this act; and  
20 5. For refunding bonds or notes as herein authorized.
- 21 b. Funds derived from the sale of bonds or notes may be used in  
22 the payment of any bond anticipation notes issued under this  
23 act. Funds provided by the General Assembly for the payment  
24 of interest on or principal of bonds shall be used in paying the  
25 interest on or principal of any notes and any renewals thereof,  
26 the proceeds of which shall have been used in paying interest on  
27 or principal of the bonds.
- 28 (5) Refunding bonds and notes. By and with the consent of the Council of  
29 State, the State Treasurer is authorized to issue and sell refunding  
30 bonds and notes pursuant to the provisions of the State Refunding  
31 Bond Act for the purpose of refunding bonds or notes issued pursuant  
32 to this act. The refunding bonds and notes may be combined with any  
33 other issues of State bonds and notes similarly secured.
- 34 (6) Tax exemption. Bonds and notes and their transfer (including any  
35 profit made on the sale thereof) shall be exempt from all State, county  
36 and municipal taxation or assessment, direct or indirect, general or  
37 special, whether imposed for the purpose of general revenue or  
38 otherwise, excluding inheritance and gift taxes. The interest on bonds  
39 and notes shall not be subject to taxation as to income, nor shall the  
40 bonds and notes be subject to taxation when constituting a part of the  
41 surplus of any bank, trust company, or other corporation.
- 42 (7) Investment eligibility. Bonds and notes are hereby made securities in  
43 which all public officers, agencies, and public bodies of the State and  
44 its political subdivisions, all insurance companies, trust companies,

1 investment companies, banks, savings banks, savings and loan  
2 associations, credit unions, pension or retirement funds, other financial  
3 institutions engaged in business in the State, executors, administrators,  
4 trustees and other fiduciaries may properly and legally invest funds,  
5 including capital in their control or belonging to them. Bonds and  
6 notes are hereby made securities which may properly and legally be  
7 deposited with and received by any officer or agency of the State or  
8 political subdivision of the State for any purpose for which the deposit  
9 of bonds, notes or obligations of the State or any political subdivision  
10 is now or may hereafter be authorized by law.

- 11 (8) Faith and credit. The faith and credit and taxing power of the State are  
12 hereby pledged for the payment of the principal of and the interest on  
13 bonds and notes.

14 Sec. 8. Variable interest rates. In fixing the details of bonds and notes, the  
15 State Treasurer may provide that any of the bonds or notes may:

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

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

42 Sec. 9. Interpretation of act.

43 (a) Additional method. The foregoing sections of this act shall be deemed to  
44 provide an additional and alternative method for the doing of the things authorized



1 thereby and shall be regarded as supplemental and additional to powers conferred by  
2 other laws, and shall not be regarded as in derogation of any powers now existing.

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

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

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

12 Sec. 10. Effective date. This act is effective upon ratification.