



1           Whereas, the North Carolina Commission on Jobs and Economic Growth is  
2 charged to identify the major economic concerns facing this State and to recommend  
3 solutions; and

4           Whereas, on March 29, 1988, the North Carolina Commission on Jobs and  
5 Economic Growth adopted a provision for its 1988 report recommending that a solid  
6 waste management revolving loan fund be established; Now, therefore,  
7 The General Assembly of North Carolina enacts:

8           Section 1. Article 9 of Chapter 130A of the General Statutes is amended by  
9 adding the following Part:

10                           **"PART 2A. NORTH CAROLINA SOLID**  
11                           **WASTE MANAGEMENT REVOLVING LOAN PROGRAM.**

12           **"§ 130A-304.1. Short Title.**

13           This Part may be cited as the North Carolina Solid Waste Management Revolving  
14 Loan Program.

15           **"§ 130A-304.2. Purpose.**

16           The General Assembly recognizes that units of local government, or two or more  
17 units of local government that establish a joint agency regarding a solid waste  
18 management project, need a low-interest source of funds to implement solid waste  
19 management programs. North Carolina local governments will confront a crisis in solid  
20 waste management in the near future. Within five years of the creation of this program,  
21 one-third of all the landfills in this State will have reached their capacity. Many local  
22 governments simply do not have the funds to meet:

23           (1) The dramatically increased costs of constructing new landfills that satisfy the  
24 stricter federal Environmental Protection Agency standards; or

25           (2) The cost of constructing a local or regional incinerator that would serve to  
26 reduce the volume of waste to be landfilled; or

27           (3) The costs of implementing alternative programs to reduce the amount of  
28 waste generated, to decrease the volume of waste that is generated, or to recover or to  
29 recycle that part of the waste stream that can be recovered or used for another purpose.

30           The General Assembly acknowledges that comprehensive solid waste management  
31 programs at a local or regional level are needed in order to preserve the quality of North  
32 Carolina's groundwater. It is the intent of the General Assembly to facilitate the  
33 implementation of local and regional solid waste management programs by establishing  
34 a revolving loan fund for financing the capital expenses of these programs. The General  
35 Assembly seeks to encourage and assist units of local government to continue to  
36 voluntarily provide solid waste collection and disposal for their citizens, thereby  
37 maintaining a clean and healthful environment and an adequate supply of clean water.

38           **"§ 130A-304.3. Definitions.**

39           The following definitions shall apply throughout this Part, unless the context  
40 requires otherwise:

41           (1) 'Debt instrument' means an instrument in the nature of a promissory note  
42 executed by a unit of local government under the provisions of G.S. 130A-304.10, to  
43 evidence a debt to the State and obligation to repay the principal, plus interest, under  
44 stated terms.

1 (2) 'Division of Health Services' means the Division of Health Services of the  
2 Department of Human Resources.

3 (3) 'Loan' means moneys loaned by the State to a unit of local government, as  
4 defined in G.S. 130A-290(25), or to two or more units of local government in this State  
5 that establish a joint agency pursuant to G.S. 160A-462, to subsidize a project  
6 authorized by this Part, with an obligation to repay these moneys plus interest.

7 (4) 'Local Government Commission' means the Local Government Commission  
8 of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the  
9 General Statutes.

10 **"§ 130A-304.4. Solid Waste Management Revolving Loan Fund.**

11 (a) A fund to be known as the Solid Waste Management Revolving Loan Fund is  
12 established. Moneys appropriated to, paid to, or earned by this fund shall be deposited  
13 with the State Treasurer. This Fund shall be administered by the Office of State Budget  
14 and Management. The Office of State Budget and Management shall be responsible for  
15 receipt and disbursement of all moneys as provided for in this Part.

16 (b) Moneys in the Solid Waste Management Loan Fund may be invested in the  
17 same manner as permitted for investments of funds belonging to the State or held in the  
18 State Treasury. Interest earnings derived from such investments shall be credited to the  
19 Fund.

20 (c) All payments of interest and principal resulting from loans shall be credited to  
21 the Fund. Terms and conditions for repayment of loans are set forth in G.S. 130A-  
22 304.10.

23 **"§ 130A-304.5. Eligible purpose.**

24 Moneys received into the Solid Waste Management Revolving Loan Fund shall be  
25 available for loans to units of local government, and to two or more units of local  
26 government that establish a joint agency pursuant to G.S. 160A-462, for capital  
27 expenditures to implement a solid waste management project. Eligible uses shall be for  
28 the purchase of equipment or facilities, and shall include but are not limited to  
29 construction costs of an incinerator; land to be used for recycling facilities; leachate  
30 collection and treatment systems; liners for landfills; monitoring wells; recycling  
31 equipment and facilities; and volume reduction equipment.

32 Loans may not be extended for:

- 33 (1) The operational and maintenance costs of solid waste management  
34 facilities or programs;  
35 (2) General planning or feasibility studies; or  
36 (3) The purchase of land, unless the land is to be used for a recycling  
37 facility.

38 **"§ 130A-304.6. Loan limit.**

39 The maximum principal amount of a loan made to a unit of local government, or to  
40 two or more units of local government that have established a joint agency pursuant to  
41 G.S. 160A-462, during any fiscal year shall be two million dollars (\$2,000,000).

42 **"§ 130A-304.7. Application.**

43 (a) All applications for loans shall be filed with the Division of Health Services.  
44 The information required in the application shall be sufficient to permit the Division of

1 Health Services to determine the eligibility of the applicant pursuant to G.S. 130A-  
2 304.8 and to establish the priority of the application pursuant to G.S. 130A-304.9. An  
3 applicant shall furnish information in addition or supplemental to the information  
4 contained in its application upon written request.

5 (b) Applicants may apply for a loan prior to arranging for repayment pursuant to  
6 G.S. 130A-304.10.

7 **"§ 130-304.8. Eligible applicant.**

8 Any applicant is eligible for a loan under this Part if it can demonstrate to the  
9 satisfaction of the Division of Health Services that:

- 10 (1) The applicant is a unit of local government, or two or more units of  
11 local government that have established a joint agency pursuant to G.S.  
12 160A-462;
- 13 (2) The applicant has the financial capacity to pay the principal and the  
14 interest on the loan for which application is made;
- 15 (3) The applicant has substantially complied or will substantially comply  
16 with all applicable laws, rules, regulations and ordinances, federal,  
17 State, and local; and
- 18 (4) The applicant has agreed by official resolution of the unit of local  
19 government, or by official resolution of each unit of local government  
20 comprising a joint agency, to adopt and place into effect on or before  
21 completion of the project a schedule of repayment of all principal and  
22 interest on the loan.

23 **"§ 130A-304.9. Priority factors.**

24 (a) An application for a loan under this Part shall be assigned a priority by the  
25 Division of Health Services. Factors to be taken into consideration in assigning such  
26 priorities shall include, but are not limited to, current implementation by the unit of  
27 local government of a recycling program or a waste stream reduction program; financial  
28 need; groundwater protection needs; local effort; public health needs; and the proposed  
29 purpose of the applicant's loan is to implement a method of disposal that is an  
30 alternative to landfilling.

31 (b) A written statement of each priority assigned shall be prepared by the  
32 Division of Health Services and shall be attached to the application. The priority  
33 assigned shall be conclusive.

34 (c) Any application that does not qualify for a loan for the period in which the  
35 application was eligible for consideration by reason of the priority assigned shall be  
36 considered for a loan during the next period upon written request of the applicant. If the  
37 second application should fail to qualify for a loan during the period for consideration  
38 by reason of the priority assigned, the application shall receive no further consideration.  
39 An applicant may file a new or amended application at any time.

40 **"§ 130A-304.10. Interest rate; methods of repayment.**

41 (a) At the beginning of each quarter, the interest rate for all loans made during  
42 that quarter shall be the lesser of four percent (4%) or one-half (1/2) the prevailing  
43 national market rate for tax exempt general obligation debt of similar maturities derived

1 from a published indicator. The interest rate established for a given loan shall apply  
2 throughout the period of that loan.

3 (b) A unit of local government may arrange to repay a loan by executing a debt  
4 instrument payable to the State as a method of repayment. A unit of local government  
5 shall pledge as security for such obligations the user fee revenues derived from  
6 operation of solid waste facilities, other nontax revenues, or their faith and credit. The  
7 faith and credit of a unit of local government shall not be pledged or be deemed to have  
8 been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes,  
9 have been met. The Office of State Budget and Management and the State Treasurer,  
10 with the assistance of the Local Government Commission, shall develop and adopt  
11 appropriate debt instruments for use under this Part. The Local Government  
12 Commission shall develop and adopt appropriate procedures for the delivery of debt  
13 instruments to the State without any public bidding.

14 (c) The Local Government Commission shall review and approve proposed loans  
15 to applicants under this Part under the provisions of Articles 4 and 5, Chapter 159 of the  
16 General Statutes, as if the issuance of bonds was proposed, so far as those provisions are  
17 applicable. Loans under this Part shall be outstanding debt for the purpose of Article  
18 10, Chapter 159 of the General Statutes.

19 (d) The proposed schedule for repayment of the loan shall be recommended by  
20 the Local Government Commission and agreed to by the unit of local government, or  
21 two or more units of local government that have established a joint agency pursuant to  
22 G.S. 160A-462, prior to final award of the loan.

23 (e) Upon any default in the repayment of a loan, the Local Government  
24 Commission may, on behalf of the State, initiate such proceedings provided by statute  
25 and regulation, including the provisions of G.S. 159-181, as it may deem necessary to  
26 recover unpaid principal, interest, penalties, costs and fees due to the State.

27 **"§ 130A-304.11. Disbursement.**

28 (a) No funds shall be disbursed by the Office of State Budget and Management  
29 for any loan until:

30 (1) It has received from the Division of Health Services a certificate of  
31 eligibility that states that the applicant meets all eligibility criteria, and  
32 that all procedural requirements of this Part have been met; and

33 (2) The unit of local government, or two or more units of local  
34 government that have established a joint agency pursuant to G.S.  
35 160A-462, have confirmed a method of repayment of the loan pursuant  
36 to G.S. 130A-304.10.

37 (b) Once the prerequisites for disbursement have been satisfied pursuant to  
38 subsection (a) of this section, the State Treasurer shall establish an account in the  
39 amount of the loan and these moneys shall be disbursed as expended through warrants  
40 drawn on the State Treasurer.

41 **"§ 130A-304.12. Withdrawal of commitment.**

42 Failure of an applicant, within one year of the date of acceptance of a loan to arrange  
43 for necessary financing of the proposed project, shall constitute sufficient cause for  
44 withdrawal of the commitment. Prior to withdrawal of a commitment, the Division of

1 Health Services shall give due consideration to any extenuating circumstances presented  
2 by the applicant as reasons for its failure to arrange necessary financing. The  
3 commitment may be extended for an additional period of time if, in the judgment of the  
4 Division of Health Services, an extension is justified.

5 **"§ 130A-304.13. Inspection.**

6 Inspection of a project for which a loan has been made under this Part may be  
7 performed by qualified personnel of the Division of Health Services or by qualified  
8 professional engineers, registered in this State, who have been approved by the Division  
9 of Health Services. No person may be approved to perform inspections who is an  
10 officer or employee of the unit of local government to which the loan was made or who  
11 is an owner, officer, employee or agent of a contractor or subcontractor engaged in the  
12 construction of any project for which the loan was made.

13 **"§ 130A-304.14. Rules.**

14 (a) The Office of State Budget and Management and the Commission for Health  
15 Services of the Department of Human Resources may adopt, modify and repeal rules  
16 establishing the procedures to be followed in the administration of this Part and  
17 regulations interpreting and applying the provisions of this Part, as provided in the  
18 Administrative Procedure Act. Uniform rules may be jointly adopted where feasible  
19 and desirable, and no rule jointly adopted may be modified or revoked except upon the  
20 concurrence of both agencies involved.

21 (b) A copy of the rules adopted to implement the provisions of this Part shall be  
22 furnished free of charge by the Division of Health Services and the Office of State  
23 Budget and Management to any unit of local government.

24 **"§ 130A-304.15. Annual reports to Joint Legislative Commission on Government  
25 Operations.**

26 (a) The Office of State Budget and Management and the Division of Health  
27 Services shall prepare and file on or before July 31 of each year with the Joint  
28 Legislative Commission on Governmental Operations a consolidated report for the  
29 preceding fiscal year concerning the allocation of loans authorized by this Part.

30 (b) The portion of the report prepared by the Office of State Budget and  
31 Management shall set forth for the preceding fiscal year itemized and total allocations  
32 from the Solid Waste Management Revolving Loan Fund for loans authorized by the  
33 Division of Health Services. The Office of State Budget and Management shall also  
34 prepare a summary report of all allocations made from the Fund for each fiscal year; the  
35 total funds received and allocations made; and the total unallocated funds in the Fund as  
36 of the end of the preceding fiscal year.

37 (c) The portion of the report prepared by the Division of Health Services shall  
38 include:

- 39 (1) Identification of each loan made during the preceding fiscal year; the  
40 total amount of the loan commitments; the sums actually paid during  
41 the preceding fiscal year to each loan disbursed and to each loan  
42 previously committed but unpaid; and the total loan funds paid during  
43 the preceding fiscal year;

- 1 (2) Summarization for all preceding years of the total number of loans  
2 made; the total funds committed to these loans; the total sum actually  
3 paid to loans; and  
4 (3) Assessment and evaluation of the effects that approved projects have  
5 had upon solid waste management within the purposes of this Part.  
6 (d) The report shall be signed by each of the chief executive officers of the two  
7 State agencies preparing the report."

8 Sec. 2. G.S. 159-7(b)(4) reads as rewritten:

9 "(4) 'Debt service' is the sum of money required to pay installments of principal  
10 and interest on bonds, notes, and other evidences of debt accruing within a fiscal year,  
11 to maintain sinking funds, and to pay installments on debt instruments issued pursuant  
12 to Chapter 159G of the General Statutes or Part 2A of Article 9 of Chapter 130A of the  
13 General Statutes accruing within a fiscal year."

14 Sec. 3. G.S. 159-35(c) reads as rewritten:

15 "(c) The secretary shall mail to each unit of local government not later than 30  
16 days prior to the due date of each payment due to the State under debt instruments  
17 issued pursuant to Chapter 159G of the General Statutes or Part 2A of Article 9 of  
18 Chapter 130A of the General Statutes a statement of the amount so payable, the due  
19 date, the amount of any moneys due to the unit of local government that will be  
20 withheld by the State and applied to the payment, the amount due to be paid by the unit  
21 of local government from local sources, the place to which payment should be sent, and  
22 a summary of the legal penalties for failing to honor the debt instrument according to its  
23 terms. Failure of the secretary timely to mail such statement or otherwise comply with  
24 the provisions of this subsection (c) shall not affect in any manner the obligation of a  
25 unit of local government to make payments to the State in accordance with any such  
26 debt instrument."

27 Sec. 4. G.S. 159-36(b) reads as rewritten:

28 "(b) This section does not apply to contractual obligations undertaken  
29 by a unit of local government in a debt instrument issued pursuant to Chapter 159G of  
30 the General Statutes or Part 2A of Article 9 of Chapter 130A of the General Statutes  
31 unless such debt instrument is secured by a pledge of the faith and credit of the unit of  
32 local government."

33 Sec. 5. ♦G.S. 159-45 reads as rewritten:

34 "**§ 159-45. All general obligation bonds subject to Local Government Bond Act.**

35 No unit of local government in this State shall have authority to enter into any  
36 contract or agreement, whether oral or written, whereby it borrows money and makes an  
37 express or implied pledge of its power to levy taxes as security for repayment of the  
38 loan, ~~except by the:~~

39 (1) The issuance of its bonds in accordance with the limitations and procedures  
40 prescribed in this Article; ~~or by the~~

41 (2) The issuance of its negotiable notes in accordance with the limitations and  
42 procedures prescribed in Article 9 of this Chapter; ~~or by the~~

43 (3) The issuance of debt instruments in accordance with the limitations and  
44 procedures prescribed in Chapter 159G of the General Statutes; ~~;~~ or

1       (4) The issuance of debt instruments in accordance with the limitations and  
2 procedures prescribed in Part 2A of Article 9 of Chapter 130A of the General Statutes."

3       ◆ ◆

4               Sec. 6. G.S. 159-46 reads as rewritten:

5       **"§ 159-46. Faith and credit pledged.**

6       The faith and credit of the issuing unit are hereby pledged for the payment of the  
7 principal of and interest on all bonds issued under this Article and debt instruments  
8 secured by a pledge of its faith and credit in accordance with the limitations and  
9 procedures prescribed in Chapter 159G of the General Statutes or Part 2A of Article 9  
10 of Chapter 130A of the General Statutes according to their terms, and the power and  
11 obligation of the issuing unit to levy taxes and raise other revenues for the prompt  
12 payment of installments of principal and interest or for the maintenance of sinking funds  
13 shall be unrestricted as to rate or amount, notwithstanding any other provisions of law  
14 whether general, special, local, or private."

15               Sec. 7. G.S. 159-123(d) reads as rewritten:

16       "(d) This section shall not apply to funding or refunding bonds when the  
17 governing board of the issuing unit and the holders of the debt to be funded or refunded  
18 have agreed to exchange the original obligations for new ones at the same or an adjusted  
19 rate of interest. This section also shall not apply to debt instruments that the State has  
20 previously agreed to purchase pursuant to Chapter 159G of the General Statutes—or Part  
21 2A of Article 9 of Chapter 130A of the General Statutes."

22               Sec. 8. This act shall be construed liberally to effectuate the legislative intent  
23 and the purposes as complete and independent authority for the performance of each  
24 and every act and thing authorized by this act, and all powers granted shall be broadly  
25 interpreted to effectuate the intent and purposes and not as a limitation of powers.

26               Sec. 9. If a section, subsection, subdivision, clause or provision of this act is  
27 adjudged unconstitutional or is ineffective, the remainder of this act shall be valid and  
28 effective. Any other section, subsection, subdivision, clause, or provision of this act  
29 shall not on account of that judgment be considered invalid or ineffective and the  
30 inapplicability or invalidity of a section, subsection, subdivision, clause, or provision of  
31 this act in one or more instances or under one or more circumstances shall not be taken  
32 to affect or prejudice in any way its applicability or validity in any other instance or  
33 under any other circumstance.

34               Sec. 10. There is appropriated from the General Fund to the Solid Waste  
35 Management Revolving Loan Fund created in Section 1 of this act the sum of ten  
36 million dollars (\$10,000,000) for fiscal year 1989-90 and ten million dollars  
37 (\$10,000,000) for fiscal year 1990-91 for the purposes set forth in this act.

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