

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 664

Short Title: University Improvements Bond Act.

(Public)

Sponsors: Representatives G. Miller; Barnes, Bowman, Colton, Fitch, Hackney, Judy Hunt, Justus, and Warner.

Referred to: Finance.

March 29, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF TWO HUNDRED NINETY-EIGHT
2 MILLION DOLLARS GENERAL OBLIGATION BONDS OF THE STATE,
3 SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO
4 PROVIDE FUNDS, WITH ANY OTHER AVAILABLE FUNDS, FOR CAPITAL
5 IMPROVEMENTS FOR CERTAIN OF THE CONSTITUENT OR AFFILIATED
6 INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.
7

8 The General Assembly of North Carolina enacts:

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

11 Sec. 2. Findings and determinations. It is the intent and purpose of the
12 General Assembly by this act to provide for the issuance of general obligation bonds of
13 the State in order to facilitate the providing of capital improvements for certain of the
14 constituent or affiliated institutions of The University of North Carolina.

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

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

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

21 a. The cost of constructing, reconstructing, enlarging, acquiring,
22 and improving facilities, and acquiring equipment and land
23 therefor,

- 1 b. The cost of engineering, architectural, and other consulting
2 services as may be required,
3 c. Administrative expenses and charges,
4 d. The cost of bond insurance, investment contracts, credit
5 enhancement and liquidity facilities, interest-rate swap
6 agreements, financial and legal consultants, and related costs of
7 bond and note issuance, to the extent and as determined by the
8 State Treasurer, and
9 e. Any other costs and expenses necessary or incidental to the
10 purposes of this act.

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

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

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

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

- 33 a. A provision providing for such adjustment so that the purchase
34 price of such bonds or notes in the open market would be as
35 close to par as possible,
36 b. A provision providing for such adjustment based upon a
37 percentage or percentages of a prime rate or base rate, which
38 percentage or percentages may vary or be applied for different
39 periods of time, or
40 c. Such other provision as the State Treasurer may determine to be
41 consistent with this act and will not materially and adversely
42 affect the financial position of the State and the marketing of
43 bonds or notes at a reasonable interest cost to the State.

1 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a
2 majority of the qualified voters of the State who vote on the question of issuing
3 University Improvements bonds in the election held as provided in this act, the State
4 Treasurer is authorized, by and with the consent of the Council of State, to issue and
5 sell, at one time or from time to time, general obligation bonds of the State to be
6 designated "State of North Carolina University Improvements Bonds," with any
7 additional designations as may be determined to indicate the issuance of bonds from
8 time to time, or notes of the State as provided in this act, in an aggregate principal
9 amount not exceeding two hundred ninety-eight million dollars (\$298,000,000) for the
10 purposes authorized in this act.

11 Sec. 5. Uses of bond and note proceeds. The proceeds of University
12 Improvements bonds and notes shall be used for the purpose of paying (i) the cost of
13 improvements to the facilities of the constituent or affiliated institutions of The
14 University of North Carolina, under the supervision of the Board of Governors of The
15 University of North Carolina, including, without limitation, construction and renovation
16 of classroom buildings, laboratory buildings, research facilities, libraries, physical
17 education facilities, continuing education centers, student cafeteria and activity
18 facilities, including sports facilities, administrative office buildings, and land acquisition
19 and (ii) the cost of improvements to the North Carolina Center for Public Television
20 under the Board of Governors of The University of North Carolina.

21 The proceeds of University Improvements bonds and notes, including
22 premium thereon, if any, except the proceeds of bonds the issuance of which has been
23 anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall
24 be placed by the State Treasurer in a special Fund to be designated "University
25 Improvements Bonds Fund" and shall be disbursed as provided in this act.

26 Any additional moneys that may be received by means of a grant or grants
27 from the United States of America or any agency or department thereof or from any
28 other source to aid in financing the cost of any university improvements authorized by
29 this act may be placed by the State Treasurer in the University Improvements Bonds
30 Fund or in a separate account or fund and shall be disbursed, to the extent permitted by
31 the terms of the grant or grants, without regard to any limitations imposed by this act.

32 The proceeds of University Improvements bonds and notes may be used with
33 any other moneys made available by the General Assembly for the making of university
34 improvements, including the proceeds of any other State bond issues, whether
35 heretofore made available or which may be made available at the session of the General
36 Assembly at which this act is ratified or any subsequent sessions. The proceeds of
37 University Improvements bonds and notes shall be expended and disbursed under the
38 direction and supervision of the Director of the Budget. The funds provided by this act
39 for university improvements shall be disbursed for the purposes provided in this act
40 upon warrants drawn on the State Treasurer by the State Controller, which warrants
41 shall not be drawn until requisition has been approved by the Director of the Budget and
42 which requisition shall be approved only after full compliance with the Executive
43 Budget Act, Article 1 of Chapter 143 of the General Statutes.

1 The Board of Governors of The University of North Carolina shall provide
 2 quarterly reports to the Joint Legislative Commission on Governmental Operations, the
 3 chairs of the Senate and House of Representatives Appropriations Committees, and the
 4 Fiscal Research Division on the expenditure of moneys from the University
 5 Improvements Bonds Fund.

6 Sec. 6. Allocation of proceeds. Moneys in the University Improvements
 7 Bonds Fund shall be used for the purposes set forth in this act. The proceeds of
 8 University Improvements bonds and notes shall be allocated and expended for paying
 9 the cost of university capital improvements, to the extent and as provided in this act and
 10 subject to change as provided in this act, as follows:

11
 12 Constituent Institution or Board of Governors

<u>Projected Capital Improvement</u>	<u>Allocation</u>
13 Appalachian State University	
14 Academic Support Services Building	\$
15 8,794,900	
16 Science/Mathematics Complex, Phase	I
17 15,000,000	
18	
19	
20 East Carolina University	
21 Addition to Joyner Library	
22 28,900,000	
23 Land 5,000,000	
24	
25 Elizabeth City State University	
26 Fine Arts and Mass Communications Building	
27 6,432,600	
28	
29 Fayetteville State University	
30 Fine Arts Building	
31 9,479,600	
32	
33 North Carolina A & T State University	
34 School of Technology Classroom/Laboratory Building	
35 7,961,900	
36 Renovation of Bluford Library Building	
37 5,051,400	
38	
39 North Carolina Central University	
40 Conversion of Women's Gymnasium in Support of	
41 Academic Programs	
42 1,970,900	
43 Chidley Hall Complex	
44 9,018,300	

1
2 North Carolina School of the Arts
3 School of Filmmaking
4 6,999,200
5
6 North Carolina State University at Raleigh
7 Engineering Graduate Research Center
8 34,918,200
9 Agricultural Communications Building
10 4,484,900
11 Agricultural Programs - Laboratory Animal Facilities
12 4,484,100
13
14 Pembroke State University
15 New Administrative Office Building
16 5,723,300
17 Repairs and Renovations to Business Administration Building
18 422,700
19
20 The University of North Carolina at Asheville
21 Ramsey Library (Remodeling)
22 3,974,400
23 Physical Education Building (Health Promotion)
24 5,475,600
25 The North Carolina Arboretum
26 2,500,000
27
28 The University of North Carolina at Chapel Hill
29 New Building, School of Business Administration
30 13,490,900
31 Addition to Lineberger Cancer Research Center
32 8,119,900
33 Carolina Living and Learning Center for Autistic Adults, Phase II 1,190,400
34 Addition to School of Dentistry
35 8,887,100
36 Area Health Education Centers - Construction Grants
37 3,370,800
38
39 The University of North Carolina at Charlotte
40 Classroom and Academic Support Facility
41 22,610,400
42
43 The University of North Carolina at Greensboro

1	New	Music	Building
2	23,357,000		
3			
4	The University of North Carolina at Wilmington		
5	Physical Sciences Building and Renovation of DeLoach Hall		
6	18,522,900		
7	Construct West Wing of Bear Hall and		
8	Renovate West End of Bear Hall		
9	992,050		
10			
11	Western Carolina University		
12	Completion of Belk Building and Asbestos Removal		
13	3,280,200		
14	Renovate Moore Hall, Phase II		
15	2,043,900		
16	Renovate Camp Lab School		
17	1,896,500		
18	Renovate Reid Gym		
19	2,379,400		
20			
21	Winston-Salem State University		
22	Student Services/Cafeteria/Student Union Complex		
23	6,073,350		
24	Renovations to O'Kelly Library		
25	1,119,500		
26			
27	North Carolina School of Science and Mathematics		
28	Educational Technologies Center and Auditorium		
29	8,073,700		
30			
31	UNC Center for Public Television		
32	Improvements to Facilities		
33	<u>6,000,000</u>		
34			
35	Total		
36			\$
37	298,000,000		

38 Projected allocations set forth above may be adjusted to reflect the
 39 availability of other funds.

40 The Director of the Budget is empowered, when the Director of the Budget
 41 determines it is in the best interest of the State and The University of North Carolina to
 42 do so, and if the cost of a particular project is less than the projected allocation, to use
 43 the excess funds to increase the size of that project or increase the size of any other
 44 project itemized in this section, or to increase the amount allocated to a particular

1 institution or the Board of Governors within the aggregate amount of funds available
2 under this section; provided that the Director of the Budget may consult with the
3 Advisory Budget Commission and the Joint Legislative Commission on Governmental
4 Operations. In addition, the particular capital improvements and the amount of the
5 projected allocation therefor set forth above may be changed from time to time as the
6 General Assembly may decide. The provisions of G.S. 116-9 with respect to
7 appropriations to the Board of Governors of The University of North Carolina shall not
8 apply to proceeds of University Improvements bonds and notes issued pursuant to the
9 provisions of this act.

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

13 Sec. 7. Election. The question of the issuance of the two hundred ninety-
14 eight million dollars (\$298,000,000) North Carolina University Improvements Bonds
15 authorized by this act shall be submitted to the qualified voters of the State at the next
16 statewide election, primary election, or general election, whichever comes first. Any
17 other primary, election, or referendum validly called or scheduled by law at the time the
18 election on the bond questions provided for in this section is held may be held as called
19 or scheduled. Notice of the election on the bond question shall be given by publication
20 twice in a newspaper or newspapers having general circulation in each county in the
21 State, and the election and the registration of voters therefor shall be held under and in
22 accordance with the general laws of the State. Absentee ballots shall be authorized in
23 the election.

24 The State Board of Elections shall reimburse the counties of the State for all
25 necessary expenses incurred in holding the election which are in addition to those which
26 would have otherwise been incurred, the same to be paid out of the Contingency and
27 Emergency Fund or other funds available to the State Board of Elections.

28 Voting machines may be used in accordance with rules prescribed by the
29 State Board of Elections. The State Board of Elections may also provide, to the extent
30 necessary, ballots for use in the election. The bond question to be used in the voting
31 machines and any ballots shall be in substantially the following form:

32 "[] FOR the issuance of two hundred ninety-eight million dollars
33 (\$298,000,000) State of North Carolina University Improvements
34 Bonds secured by a pledge of the faith and credit and taxing power of
35 the State for paying, with any other available funds, the cost of capital
36 improvements at the constituent or affiliated institutions and the Center
37 for Public Television of The University of North Carolina.

38 [] AGAINST the issuance of two hundred ninety-eight million dollars
39 (\$298,000,000) State of North Carolina University Improvements
40 Bonds secured by a pledge of the faith and credit and taxing power of
41 the State for paying, with any other available funds, the cost of capital
42 improvements at the constituent or affiliated institutions and the Center
43 for Public Television of The University of North Carolina."

1 If a majority of those voting on the bond question in the election vote in favor
2 of the issuance of the bonds described in the question, those bonds may be issued as
3 provided in this act. If a majority of those voting on the bond question in the election
4 vote against the issuance of the bonds described in the question, those bonds shall not be
5 issued.

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

10 Sec. 8. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes
11 may bear such date or dates, may be serial or term bonds or notes, or any combination
12 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
13 from their date or dates, may be payable at such place or places, either within or without
14 the United States of America, in such coin or currency of the United States of America
15 as at the time of payment is legal tender for payment of public and private debts, may
16 bear interest at such rate or rates, which may vary from time to time, and may be made
17 redeemable before maturity, at the option of the State or otherwise as may be provided
18 by the State, at such price or prices, including a price less than the face amount of the
19 bonds or notes, and under such terms and conditions, all as may be determined by the
20 State Treasurer, by and with the consent of the Council of State.

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

42 (c) Manner of sale; expenses. Subject to determination by the Council of State as
43 to the manner in which bonds or notes shall be offered for sale, whether at public or
44 private sale, whether within or without the United States of America and whether by

1 publishing notices in certain newspapers and financial journals, mailing notices, inviting
2 bids by correspondence, negotiating contracts of purchase or otherwise, the State
3 Treasurer is authorized to sell bonds or notes at one time or from time to time at such
4 rate or rates of interest, which may vary from time to time, and at such price or prices,
5 including a price less than the face amount of the bonds or the notes, as the State
6 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
7 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes
8 or other available moneys.

9 (d) Notes; repayment.

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

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

25 (2) Funds derived from the sale of bonds or notes may be used in the
26 payment of any bond anticipation notes issued under this act. Funds
27 provided by the General Assembly for the payment of interest on or
28 principal of bonds shall be used in paying the interest on or principal
29 of any notes and any renewals thereof, the proceeds of which shall
30 have been used in paying interest on or principal of the bonds.

31 (e) Refunding bonds and notes. By and with the consent of the Council of
32 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
33 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
34 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
35 combined with any other issues of State bonds and notes similarly secured.

36 (f) Tax exemption. Bonds and notes shall be exempt, to the same extent as
37 federal obligations, from all State, county, and municipal taxation or assessment, direct
38 or indirect, general or special, whether imposed for the purpose of general revenue or
39 otherwise, excluding inheritance and gift taxes. The gain from the transfer of bonds and
40 notes shall be exempt from State income taxation to the same extent as gain from the
41 transfer of federal obligations. The interest on bonds and notes shall not be subject to
42 taxation as to income, to the same extent as the interest on federal obligations.

43 (g) Investment eligibility. Bonds and notes are hereby made securities in
44 which all public officers, agencies, and public bodies of the State and its political

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

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

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

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

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

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

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

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

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

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

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