

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1925
Finance Committee Substitute Adopted 6/10/08
House Committee Substitute Favorable 6/30/08
Fourth Edition Engrossed 7/7/08

Short Title: UNC Nonapp. Cap. Projects/Airport Authority.

(Public)

Sponsors:

Referred to:

May 22, 2008

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING,
3 WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN
4 CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT
5 INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA; TO REVISE
6 UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS; TO ALLOW THE
7 UNIVERSITY OF NORTH CAROLINA TO CREATE AIRPORT AUTHORITIES
8 TO SUPPORT THE MISSION OF THE UNIVERSITY, ITS CONSTITUENT
9 INSTITUTIONS, OR THE UNIVERSITY OF NORTH CAROLINA HEALTH
10 CARE SYSTEM; TO AUTHORIZE THE STATE EDUCATION ASSISTANCE
11 AUTHORITY TO SET THE INTEREST RATE FOR THREE SCHOLARSHIP
12 LOAN PROGRAMS AT A RATE NOT TO EXCEED TEN PERCENT PER
13 ANNUM; AND TO MODIFY THE RESPONSIBILITIES OF THE NORTH
14 CAROLINA FEDERAL TAX REFORM ALLOCATION COMMITTEE.

15 The General Assembly of North Carolina enacts:

16
17 **PART I. SELF-LIQUIDATING PROJECTS**

18 **SECTION 1.1.** The purpose of this act is: (i) to authorize the construction by
19 certain constituent institutions of The University of North Carolina of the capital
20 improvements projects listed in the act for the respective institutions, and (ii) to
21 authorize the financing of these projects with funds available to the institutions from
22 gifts, grants, receipts, liquidating indebtedness, Medicare reimbursements for education
23 costs, or other funds, or any combination of these funds, but not including funds
24 received for tuition or appropriated from the General Fund of the State.

25 **SECTION 1.2.** The capital improvements projects, and their respective
26 costs, authorized by this act to be constructed and financed as provided in Section 1.1 of

1 this act, including by revenue bonds, by special obligation bonds as authorized in
2 Section 1.5 of this act, or by both, are as follows:

3
4 **Appalachian State University**

5 Kidd Brewer Stadium Improvements \$8,300,000

6
7 **East Carolina University**

8 Athletic Facilities Expansion and Improvements 30,000,000

9 Dining Facilities Improvements 9,700,000

10 Residence Halls Improvements and Expansion 28,500,000

11 Dowdy-Ficklen Stadium Improvements 24,000,000

12
13 **North Carolina Central University**

14 Student Facilities Improvements 11,500,000

15
16 **North Carolina State University**

17 Student Health Center Expansion 10,900,000

18 Avent Ferry Administration Center Renovation 5,200,000

19 Centennial Campus Tenant Space Renovations 10,000,000

20 Collaborative Research Building I 35,000,000

21
22 **The University of North Carolina at Chapel Hill**

23 Athletic Facilities Renovation and Expansion 7,023,000

24 Carmichael Auditorium – Supplement 9,500,000

25 Carmichael Residence Hall – Supplement 1,300,000

26 Dental Sciences Teaching and Learning Building 26,000,000

27 Fetzer Gymnasium Expansion 2,500,000

28 Kenan Stadium Expansion, Phase I 50,000,000

29 Mary Ellen Jones Animal Facility Renovation 10,000,000

30 Medical Research Building D Renovation and Expansion 5,000,000

31 Old East and Old West Residence Halls Improvements –
32 Supplement 3,200,000

33 Research Resource Facility – Phase III 8,600,000

34 Robertson Scholars Site Preparation 1,900,000

35 Woollen Gymnasium (Sports Medicine) – Supplement 1,500,000

36 Chilled Water Infrastructure 6,000,000

37 Cogeneration and Steam Infrastructure Improvements
38 and Expansion 17,700,000

39 Electrical Infrastructure Improvements 13,500,000

40
41 **The University of North Carolina at Charlotte**

42 Residence Hall Fire Suppression Sprinkler System Installation 16,200,000

43
44 **The University of North Carolina at Greensboro**

1	Cone Residence Hall Fire Alarm System Replacement	948,000
2	North and South Spencer Residence Hall Improvements	5,978,000
3	Baseball Locker Room and Training Facility	2,800,000
4		
5	The University of North Carolina at Wilmington	
6	Student Recreation Center Expansion	35,000,000
7		
8	Winston-Salem State University	
9	Student Activities Center	3,750,000

10

11 **SECTION 1.3.** Pursuant to G.S. 143C-8-12, the following projects are
 12 authorized for planning only and, for that purpose, are to be funded entirely with
 13 non-General Fund money:

14

15	Appalachian State University	
16	Student Residential, Learning and Activity Development –	
17	Advance Planning	\$6,400,000

18

19	Fayetteville State University	
20	Student Residence Hall and Fitness Center – Advance Planning	5,900,000

21

22	The University of North Carolina at Charlotte	
23	Partnership, Outreach, and Research for Accelerated Learning	
24	(PORTAL) Building – Advance Planning	5,000,000
25	Motorsports Building II – Advance Planning	800,000

26

27	UNC Health Care System	
28	Inpatient Bed Tower and Operating Room Facility	16,275,000

29

30 **SECTION 1.4.** At the request of the Board of Governors of The University
 31 of North Carolina and upon determining that it is in the best interest of the State to do
 32 so, the Director of the Budget may authorize an increase or decrease in the cost of, or a
 33 change in the method of, funding the projects authorized by this act. In determining
 34 whether to authorize a change in cost or funding, the Director of the Budget shall
 35 consult with the Joint Legislative Commission on Governmental Operations.

36 **SECTION 1.5.** Pursuant to G.S. 116D-26, the Board of Governors may
 37 issue, subject to the approval of the Director of the Budget, at one time or from time to
 38 time, special obligation bonds of the Board of Governors for the purpose of paying all
 39 or any part of the cost of acquiring, constructing, or providing for the projects
 40 authorized by Section 1.2 of this act. The maximum principal amount of bonds to be
 41 issued shall not exceed the specified project costs in Section 1.2 of this act plus
 42 twenty-five million dollars (\$25,000,000) for related additional costs, such as issuance
 43 expenses, funding of reserve funds, and capitalized interest.

1 **SECTION 1.6.** With respect to the University of North Carolina at Chapel
2 Hill's Research Resource Facility – Phase III capital project, East Carolina University's
3 Athletic Facilities Expansion and Improvements capital project, and North Carolina
4 State University's Avent Ferry Administration Center Renovation capital project, the
5 institution may accomplish construction and financing notwithstanding the requirement
6 in G.S. 116D-22(5) as to location at the institution.

7 **SECTION 1.7.** With respect to the University of North Carolina at Chapel
8 Hill's Kenan Stadium – Expansion, Phase I, capital project, the institution may
9 accomplish construction and financing through lease arrangements to and from the
10 Educational Foundation, Inc., or any other special purpose entity created for that
11 purpose. After the completion of the renovation and improvement and acquisition of the
12 project by the institution, and notwithstanding any provision of the General Statutes
13 governing the negotiation and execution of contracts or leases for the operation and
14 management of a facility, the institution may provide for the operation and management
15 of all or part of the renovated and improved portion of Kenan Stadium by contracting
16 with the Educational Foundation, Inc., or by leasing that portion of Kenan Stadium to
17 the Educational Foundation, Inc., or by contracting with or leasing to any other special
18 purpose entity created for that purpose.

19 **SECTION 1.8.** With respect to Appalachian State University's Kidd Brewer
20 Stadium Improvements capital project, the institution may accomplish construction and
21 financing through lease arrangements to and from the Appalachian State University
22 Foundation, Inc.

23 **SECTION 1.9.** With respect to the University of North Carolina at Chapel
24 Hill's Cogeneration and Steam Infrastructure Improvements and Expansion capital
25 project, the institution may accomplish the construction and financing of the Landfill
26 Gas Utilization portion thereof notwithstanding the requirement in G.S. 116D-22(5) as
27 to location of the special obligation project at the institution. The University of North
28 Carolina at Chapel Hill may enter into any other required agreements as necessary for
29 the completion of the improvements, notwithstanding any other provisions of the
30 General Statutes governing such acquisition, negotiation, and execution of such
31 rights-of-way, easements, leases, or other required agreements therefor.

32 33 **PART II. REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS**

34 **SECTION 2.** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly
35 finds that it is in the best interest of the State to respond to current educational and
36 research program requirements at the University of North Carolina at Chapel Hill by
37 reducing the scope of "Berryhill Laboratory Building – Comprehensive Renovation."
38 The unused funds from "Berryhill Laboratory Building – Comprehensive Renovation"
39 should be transferred to a new capital project "Division of Laboratory Animal Medicine
40 Upfits." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the
41 University of North Carolina at Chapel Hill by:

- 42 (1) Reducing the portion to "Berryhill Laboratory Building –
43 Comprehensive Renovation" by eight million six hundred thousand

- 1 dollars (\$8,600,000) so that it reads two million one hundred thousand
- 2 dollars (\$2,100,000); and
- 3 (2) Adding a new project entitled "Division of Laboratory Animal
- 4 Medicine – Upfits" with an amount of eight million six hundred
- 5 thousand dollars (\$8,600,000).

PART III. ALLOW THE UNIVERSITY OF NORTH CAROLINA TO CREATE AN AIRPORT AUTHORITY

SECTION 3.1. G.S. 116-11 is amended by adding a new subdivision to read:

"(12c) The Board of Governors may create one airport authority to support the missions of The University of North Carolina, the University of North Carolina at Chapel Hill, or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be a county or counties in which the authority operates, or proposes to operate, an airport. Article 33 of this Chapter provides for such authorities."

SECTION 3.2. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 33.
"Airport Authorities.

§ 116-271. General provisions.

(a) As provided by G.S. 116-11(12c), the Board of Governors may create one airport authority to support the missions of The University of North Carolina, the University of North Carolina at Chapel Hill, or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be one or two listed counties in which the authority operates, or proposes to operate, an airport.

(b) To create an airport authority under this Article, the Board of Governors by resolution shall:

- 1 (1) Name the authority.
- 2 (2) Describe the input from affected local jurisdictions.
- 3 (3) Consider eligibility for State and federal funding.
- 4 (4) Find that the authority is essential to support the missions of The University of North Carolina.

(c) An airport established under this Article may only be established in Orange County. The sole purpose of the authority is to resite Horace Williams Airport.

§ 116-272. Single or multi-institution authority membership.

(a) Where an airport authority is created to support the mission of the University of North Carolina at Chapel Hill, it shall consist of 15 members appointed as follows:

- 1 (1) One member shall be appointed by the General Assembly for a three-year term upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;

- 1 (2) One member shall be appointed by the General Assembly for a
2 three-year term upon the recommendation of the President Pro
3 Tempore of the Senate in accordance with G.S. 120-121;
4 (3) Eight members shall be appointed to three-year terms by the Board of
5 Governors upon recommendation of the Board of Trustees of the
6 University of North Carolina at Chapel Hill, provided that four of the
7 initial members so appointed shall serve terms of three years and four
8 shall serve terms of two years;
9 (4) Three members shall be appointed by the board of commissioners of
10 the county or counties having territorial jurisdiction over the authority
11 as provided by subsections (b) through (d) of this section; and
12 (5) Two members shall be appointed by the municipalities within that
13 county or counties as provided by subsections (e) through (g) of this
14 section.

15 An airport authority may also be created to support the mission of one constituent
16 institution and the University of North Carolina Health Care System. If the airport
17 authority is created to support the mission of one constituent institution and the
18 University of North Carolina Health Care System, then the eight members appointed by
19 the Board of Governors shall include an equal number of representatives of the
20 constituent institution and the University of North Carolina Health Care System. If it is
21 impossible to appoint an equal number from each, then the Board of Governors shall
22 determine a fair representation on the airport authority from each such entity.

23 (b) Where there is a single county with territorial jurisdiction over the authority,
24 the board of commissioners shall appoint three members. One of the initial members
25 shall be appointed for a one-year term, one for a two-year term, and one for a three-year
26 term. Successors shall be appointed for three-year terms.

27 (c) Where there is a single county with territorial jurisdiction over the authority,
28 the municipality with the largest population within that county based on the most recent
29 decennial federal census shall appoint one member for a two-year term. The
30 municipalities with the second and third largest populations within that county based on
31 the most recent decennial federal census shall alternately appoint one member for a
32 two-year term, with the second largest municipality making the initial appointment.

33 (d) All vacancies on the authority shall be filled by the governing board
34 authorized to make the initial appointment, and the appointment is for the remainder of
35 the unexpired term, except that vacancies in appointments made by the General
36 Assembly shall be filled in accordance with G.S. 120-122.

37 **"§ 116-273. UNC Health Care System authority membership.**

38 (a) Where an airport authority is created to support the mission of the University
39 of North Carolina Health Care System, it shall consist of 15 members appointed as
40 follows:

- 41 (1) One member shall be appointed by the General Assembly for a
42 three-year term upon the recommendation of the Speaker of the House
43 of Representatives in accordance with G.S. 120-121;

- 1 (2) One member shall be appointed by the General Assembly for a
2 three-year term upon the recommendation of the President Pro
3 Tempore of the Senate in accordance with G.S. 120-121;
4 (3) Eight members shall be appointed to three-year terms by the Board of
5 Directors, provided that four of the initial members so appointed shall
6 serve terms of three years and three shall serve terms of two years;
7 (4) Three members shall be appointed by the board of commissioners of
8 the county or counties having territorial jurisdiction over the authority
9 as provided by subsections (b) through (d) of this section; and
10 (5) Two members shall be appointed by the municipalities within that
11 county or counties as provided by subsections (e) through (g) of this
12 section.

13 (b) Where there is a single county with territorial jurisdiction over the authority,
14 the board of commissioners shall appoint three members. One of the initial members
15 shall be appointed for a one-year term, one for a two-year term, and one for a three-year
16 term. Successors shall be appointed for three-year terms.

17 (c) Where there is a single county with territorial jurisdiction over the authority,
18 the municipality with the largest population within that county based on the most recent
19 decennial federal census shall appoint one member for a two-year term. The
20 municipalities with the second and third largest populations within that county based on
21 the most recent decennial federal census shall alternately appoint one member for a
22 two-year term, with the second largest municipality making the initial appointment.

23 (d) All vacancies on the authority shall be filled by the governing board
24 authorized to make the initial appointment, and the appointment is for the remainder of
25 the unexpired term, except vacancies in appointments made by the General Assembly
26 shall be filled in accordance with G.S. 120-122.

27 **§ 116-274. General powers.**

28 (a) An authority created under this Article has all powers that a city or county has
29 under Articles 1 through 7 of Chapter 63 of the General Statutes and, in regard to
30 financing capital expenditures and operations, shall have such powers as are delegated
31 to or conferred upon the constituent institutions or the University of North Carolina
32 Health Care System. Notwithstanding other provisions of law, both regulations adopted
33 by an authority under this Article and development regulations adopted by a county or
34 municipality under Article 18 of Chapter 153A or Article 19 of Chapter 160A of the
35 General Statutes shall be applicable to land owned by and the approaches to land owned
36 by an authority created under this Article. In the event the regulations conflict, the more
37 restrictive regulation applies.

38 (b) In addition to the powers granted by subsection (a) of this section, an
39 authority created under this Article has the following powers:

- 40 (1) To sue and be sued in the name of the airport authority, and all
41 pleadings served upon the airport authority shall be served on the
42 chairperson or secretary of the airport authority.
43 (2) To expend funds appropriated to it from time to time for airport
44 purposes and to expend funds received by the authority from fees,

1 charges, rents, and dues arising out of the operation of the airport, the
2 facilities, improvements, and concessions located thereat or operated
3 thereon.

4 (3) To establish, construct, control, lease, maintain, improve, operate, and
5 regulate an airport on lands acquired by it with buildings necessary to
6 accommodate all types of business to operate an airport, runways, taxi
7 ramps, parking ramps, and any equipment to operate an airport, to
8 have complete authority for rules and regulations over all airport
9 property for the control of all types of vehicular traffic, mobile or
10 stationary, and pedestrian traffic with respect to areas or roadways not
11 under the control of the Department of Transportation and any rules
12 adopted by the airport authority for property exclusively under its
13 control, and to have conjunctive authority to work with and cooperate
14 with all duly constituted law enforcement agencies to enforce rules
15 established by the State of North Carolina. The penalty for violation of
16 rules established by the airport authority shall be a Class 3
17 misdemeanor and, upon conviction, shall be punishable by a fine not to
18 exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days.
19 All rules and regulations so adopted by the airport authority shall be
20 recorded by delivering true copies thereof certified by the chairperson
21 and secretary of the authority to the Secretary of the Board of
22 Governors and to the Secretary of State.

23 (4) The authority may acquire by purchase or gift any property for the
24 purpose of establishing, extending, enlarging, or improving an airport.
25 The authority does not possess the power of eminent domain over
26 property held by a tax-exempt Internal Revenue Code section
27 501(c)(3) organization organized for educational purposes. In all other
28 cases, the authority possesses the power of eminent domain and may
29 acquire property by eminent domain for the purpose of establishing,
30 extending, enlarging, or improving an airport. In cases where the
31 authority may exercise the power of eminent domain, the authority is
32 declared to be a local public condemnor under the provisions of
33 Chapter 40A of the General Statutes and in exercising the powers of
34 eminent domain shall follow the procedures of Article 3 of Chapter
35 40A of the General Statutes. Title to the property and the right of
36 immediate possession shall vest pursuant to subsection (a) of
37 G.S. 40A-42. If property acquired by condemnation contains a burial
38 ground or graveyard, then it shall be lawful for the airport authority
39 after 30 days' notice to the surviving spouse, or the next of kin of the
40 deceased buried therein, or the person in control of the graves, if any
41 are known, to remove the body interred therein and reinter the same in
42 some cemetery in the same county. If no surviving spouse or next of
43 kin or person in control can be found, then the airport authority can
44 advertise for four consecutive weeks in a newspaper published in the

1 county of the intended removal of the gravesite, and the removal shall
2 be conducted under the supervision of the clerk of the superior court
3 for that county or his or her representative, and the expense of such
4 removal shall be borne by the airport authority. The airport authority
5 may dispose of any real or personal property belonging to it according
6 to the procedures described in Article 12 of Chapter 160A of the
7 General Statutes.

8 (5) To lease to other entities for a term not to exceed 20 years and for
9 purposes not inconsistent with airport purposes or usage, real or
10 personal property or both, under the supervision of or administered by
11 the airport authority.

12 (6) To contract with persons, firms, or corporations for terms not to
13 exceed 20 years, for the operation of passenger and freight flights,
14 scheduled or nonscheduled, and any other plane or flight activities not
15 inconsistent with airport operations and to charge and collect
16 reasonable fees, charges, and rents for the use of such property and
17 services rendered in the operation thereof.

18 (7) To operate, own, control, regulate, lease, or grant to others the license
19 to operate amusements or concessions for a term not exceeding 20
20 years.

21 (8) To enter into contracts to pledge as security the property of the airport
22 authority.

23 (9) To pledge any lease agreement to which it is a party as security for any
24 loan.

25 (10) To adopt and use a seal.

26 (11) To contract with the Federal Aviation Administration of the United
27 States of America or with the State of North Carolina or with any of
28 the agencies or representatives of either of said governmental bodies
29 relating to the grading, constructing, equipping, improving,
30 maintaining, or operating of an airport or its facilities, or both.

31 (12) To receive refunds of sales and use taxes under G.S. 105-164.14(c).

32 (13) To accept grants, loans, or contributions from the United States, the
33 State of North Carolina, or any agency or instrumentality of either of
34 them, or from any county or other municipality, and to expend the
35 proceeds for any purposes of the authority.

36 (14) To accept grants, loans, or contributions from nonprofit organizations
37 and to expend the proceeds for any purposes of the authority.

38 (15) To adopt organizational bylaws that shall include, but not be limited
39 to, provision for election, duties, and terms of a Chair and Secretary.

40 (16) To borrow money in accordance with Article V of Chapter 159 of the
41 General Statutes, provided that all powers and duties conferred on the
42 Local Government Commission shall for purposes of this section be
43 held by the Board of Governors.

1 (c) The authority shall enjoy governmental immunity, however, the authority
2 may contract to insure itself and any of its officers, agents, or employees against
3 liability for wrongful death or negligence or intentional damage to persons or property
4 or against absolute liability for damage to persons or property caused by an act or
5 omission of the authority or of any of its officers, agents, or employees when acting
6 within the scope of their authority and the course of their employment. The members of
7 the authority shall determine what liabilities and what officers, agents, and employees
8 shall be covered by any insurance purchased pursuant to this provision.

9 Purchase of insurance pursuant to this provision waives the authority's governmental
10 immunity to the extent of insurance coverage for any act or omission occurring in the
11 exercise of a governmental function. By entering into an insurance contract with the
12 authority, an insurer waives any defense based upon the governmental immunity of the
13 authority.

14 If the authority has waived its governmental immunity pursuant to the foregoing
15 provisions of this section, any person, or if he dies, his personal representative,
16 sustaining damages as a result of an act or omission of the authority or any of its
17 officers, agents, or employees occurring in the exercise of a governmental function, may
18 sue the authority for recovery of damages. To the extent of the coverage of insurance
19 purchased pursuant to this section, governmental immunity may not be a defense to the
20 action. Otherwise, however, the authority has all defenses available to private litigants
21 in any action brought pursuant to these provisions without restriction, limitation, or
22 other effect whether the defense arises from common law or by virtue of a statute.

23 **"§ 116-275. Cessation of operation.**

24 In the event of cessation of the operation of an airport established under this Article,
25 or the abandonment of any of the property acquired hereunder for airport purposes, the
26 title to such real or personal property or rights under any existing lease shall vest in The
27 University of North Carolina, and upon the sale of any property after cessation of
28 operations, the proceeds therefrom shall first be distributed pro rata to the constituent
29 university member or to the University of North Carolina Health Care System to
30 reimburse their or their affiliated foundations' investments in the authority and thereafter
31 shall vest in the University."

32
33 **PART IV. INTEREST RATE FOR SCHOLARSHIP LOAN PROGRAMS**

34 **SECTION 4.1.** G.S. 90-171.62(a) reads as rewritten:

35 "(a) All scholarship loans shall be evidenced by notes made payable to the State
36 Education Assistance Authority that bear interest at ~~the rate of~~ a rate not to exceed ten
37 percent (10%) per year as set by the Authority and beginning 90 days after completion
38 of the nursing education program, or 90 days after termination of the scholarship loan,
39 whichever is earlier. The scholarship loan may be terminated upon the recipient's
40 withdrawal from school or by the recipient's failure to meet the standards set by the
41 Commission."

42 **SECTION 4.2.** G.S. 90-171.101(a) reads as rewritten:

43 "(a) All scholarship loans shall be evidenced by notes made payable to the State
44 Education Assistance Authority that bear interest at ~~the rate of~~ a rate not to exceed ten

1 percent (10%) per year as set by the Authority and beginning 90 days after completion
2 of the nursing education program, or 90 days after termination of the scholarship loan,
3 whichever is earlier. The scholarship loan may be terminated upon the recipient's
4 withdrawal from school or by the recipient's failure to meet the standards set by the
5 Commission."

6 **SECTION 4.3.** G.S. 116-74.43(a) reads as rewritten:

7 "(a) All scholarship loans shall be evidenced by notes made payable to the State
8 Education Assistance Authority that bear interest at ~~the rate of a~~ rate not to exceed ten
9 percent (10%) per year as set by the Authority and beginning 90 days after completion
10 of the school administrator program, or 90 days after termination of the scholarship
11 loan, whichever is earlier. The scholarship loan may be terminated upon the recipient's
12 withdrawal from school or by the recipient's failure to meet the standards set by the
13 Commission."

14 **SECTION 4.4.** This section becomes effective January 1, 2009, and applies
15 to all scholarship loans issued on and after July 1, 2009.

16 **PART V. MODIFY TRAC RESPONSIBILITIES**

17 **SECTION 5.1.** G.S. 143-433.6 reads as rewritten:

18 **"§ 143-433.6. Legislative findings.**

19 (a) The General Assembly finds and determines that the Tax Reform Act of 1984
20 established a federal volume limitation upon the aggregate amount of "private activity
21 bonds" that may be issued by each state; that, pursuant to Section 103(n) of the Internal
22 Revenue Code of 1954, as amended, a previous Governor of North Carolina issued
23 Executive Order 113 proclaiming a formula for allocating the federal volume limitation
24 for North Carolina; that on October 22, 1986, the Tax Reform Act of 1986, hereinafter
25 referred to as the "Tax Reform Act", was enacted; that the Tax Reform Act (i)
26 establishes a new unified limitation for private activity bonds on a state by state basis,
27 (ii) establishes a new definition of the types of private activity bonds to be included
28 under those new limitations, (iii) establishes a new low-income housing credit to induce
29 the construction of and the improvement of housing for low-income people, and (iv)
30 limits the aggregate use of this low-income housing credit on a state by state basis; that
31 the Tax Reform Act provides for federal formulas for the allocation of these "state by
32 state" resources, and also provides for states which cannot use the federal formula for
33 allocation to set allocation procedures and formulas which are more appropriate for the
34 individual states; that the Tax Reform Act gives authority for the legislature of each
35 state to formulate and execute plans for allocation; and that Section 146 of the Internal
36 Revenue Code of 1986, as amended, and Section 42 of the Internal Revenue Code of
37 1986, as amended, will require continued inquiry and study in the ways in which North
38 Carolina can best and most fairly manage and utilize resources provided therein.

39 (b) The General Assembly further finds and determines that the Economic
40 Growth and Tax Relief Reconciliation Act of 2001 added new subsections (a)(13) and
41 (k) to section 142 of the Internal Revenue Code of 1986, as amended, which (i)
42 establish a new type of private activity bond that can be issued to finance "qualified
43 public educational facilities," (ii) establish an annual aggregate limitation on the face
44

1 amount of qualified public educational facility bonds that may be issued on a
2 state-by-state basis, (iii) provide that each state may allocate the annual aggregate
3 limitation for any calendar year in such manner as each state determines appropriate,
4 and (iv) provide for an elective carryforward by each state of the unused annual
5 aggregate limitation; and that subsections (a)(13) and (k) will require continued inquiry
6 and study in the ways in which North Carolina can best and most fairly manage and
7 utilize the resource provided therein."

8 **SECTION 5.2.** G.S. 143-433.8 reads as rewritten:

9 **"§ 143-433.8. Duties.**

10 The Committee ~~may~~ shall perform the following duties:

- 11 (1) Manage the allocation of ~~tax exempt private activity bonds and~~
12 ~~low income housing credits~~private activity bonds, low-income housing
13 credits, and qualified public educational facility bonds and receive
14 advice from bond issuers, elected officials, and the General Assembly.
- 15 (2) Continue to monitor bond markets, economic development financing
16 trends, school financing trends, housing markets, and tax incentives
17 available to induce events and programs favorable to North Carolina,
18 its cities and counties, and individual citizens.
- 19 (3) Continue to study the ways in which North Carolina can best and most
20 fairly manage and utilize the allocation of ~~private activity bonds and~~
21 ~~low income housing credits~~private activity bonds, low-income
22 housing credits, and qualified public educational facility bonds.
- 23 (4) Report to the Governor, Lieutenant Governor, ~~and the Speaker of the~~
24 ~~House of Representatives~~Representatives, the President Pro Tempore
25 of the Senate, and the Revenue Laws Study Committee as requested
26 and on not less than an annual basis. The annual report is due by
27 November 1 of each year."

28 **SECTION 5.3.** G.S. 143-433.9(a) reads as rewritten:

29 "(a) To provide for the orderly and prompt issuance of private activity bonds and
30 qualified public educational facility bonds, there are hereby proclaimed formulas for
31 allocating the following: (i) the unified volume ~~limitation and~~ limitation, (ii) the state
32 housing credit ~~ceiling~~ ceiling, and (iii) the annual aggregate limitation on the face
33 amount of qualified public educational facility bonds. The unified volume limitation for
34 all issues of private activity bonds, other than qualified public educational facility
35 bonds, in North Carolina shall be considered as a single resource to be allocated under
36 this Article. The annual aggregate limitation on the face amount of qualified public
37 educational facility bonds for all issues in North Carolina shall be considered as a single
38 resource to be allocated under this Article. The Committee shall issue the following: (i)
39 allocations of the unified volume ~~limitation and shall issue~~ limitation, (ii) allocations of
40 the ~~State Housing Credit Ceiling~~ state housing credit ceiling, and (iii) allocations of the
41 aggregate limitation on the face amount of qualified public educational facility bonds.
42 The Committee shall set forth procedures for making such allocations and in the making
43 of such allocations shall take into consideration the best interest of the State of North
44 Carolina with regard to the economic ~~development~~ development, school facility needs,

1 and general prosperity of the people of North Carolina. The Committee shall make all
2 elective carryforwards of the unused unified volume limitation and the annual aggregate
3 limitation on the face amount of qualified public educational facility bonds on behalf of
4 the State."

5 **SECTION 5.4.** This section is effective when it becomes law.

6

7 **PART VI. EFFECTIVE DATE**

8 **SECTION 6.** Except as otherwise provided, this act is effective when it
9 becomes law.