

April 14, 1999

S 912. UNC FINANCING-2. PERTAINING TO CAPITAL FINANCING FOR THE UNIVERSITY OF NORTH CAROLINA. Blank bill.

Intro. by Rand.

Ref. to Rules

UNCODIFIED

June 29, 1999

S 912. BONDS FOR HIGHER EDUCATION. Intro. 4/14/99. Senate committee substitute makes the following changes to 1st edition. Replaces blank bill with AN ACT (1) TO PROVIDE FOR THE FINANCING OF CAPITAL FACILITIES FOR THE UNIVERSITY OF NORTH CAROLINA THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA UNIVERSITY IMPROVEMENT SECURITY INTEREST BONDS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO PROVIDE FOR THE FINANCING OF CAPITAL IMPROVEMENTS FOR COMMUNITY COLLEGES THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA COMMUNITY COLLEGE SECURITY INTEREST BONDS. Enacts new GS Ch. 116D to provide as title indicates. Authorizes issuance of three types of securities: (1) university improvement and (2) community college security interest bonds, refunding bonds, notes, and refunding notes; and (3) special obligation bonds, bond anticipation notes, and refunding bonds.

University improvement bonds. Authorizes issuance of up to \$2.7 billion bonds and notes over next five fiscal years for specified capital facility projects at 16 university campuses and other projects, subject to change by the General Assembly. Capital facilities may include buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, etc., including streets and landscaping; land or an interest in land; or other infrastructure. Term of bonds limited to 25 years. Bonds are to be issued and sold by State Treasurer with Council of State's consent. Security for payment may include a lien on or security interest in capital facilities, land, improvements, existing facilities, or renovations. Property serving as security does not need to bear any particular relationship to the principal amount of the bonds or notes, and the State may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

Bond or note documentation may require Governor to include in budget proposal appropriations necessary to make the payments required to pay the bonds or notes. Amounts payable by State during any fiscal period are limited to funds appropriated for that purpose by legislature in its discretion. Specifies that no deficiency judgment may be rendered against State in any action for breach of any obligation contained in an issue of bond or notes or related trust agreement or other instrument securing payment. Taxing power of State is not and may not be pledged directly or indirectly to secure any moneys due under bond issue, and bonds must contain on their face statement that neither faith and credit nor taxing power of State nor any State political subdivision or instrumentality is pledged. If State fails to make required payments, the proceeds from sale of capital facilities subject to lien are to be applied to satisfy payment obligations, and act so appropriates proceeds. Any excess proceeds go into General Fund. Prohibits nonsubstitution clauses restricting right of State to continue to provide a service or conduct an activity or to replace or provide a substitute for any capital facility financed by the bonds or notes. Allows a variety of specified terms protecting lender to be included in bond or note documentation. Contains directions regarding issuance of bonds and notes, including authorization of bond anticipation notes, refunding bonds and notes, trust agreements, and variable rate demand bonds and notes, as well as authorization for State Treasurer to use other types of financial instruments in connection with bond issue.

University special obligation bonds. Authorizes UNC Board of Governors to decide on special obligation bond projects for the institutions of the University system and any affiliated institutions. Such a project is a capital facility that Board of Governors so designates. It need not necessarily consist of buildings or facilities that are expected to generate “self-liquidating revenues” to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom or administration buildings, research facilities, libraries, and equipment that do not produce direct or indirect income. Project is financed by special obligation bonds issued by Board at public or private sale, which are secured by and payable from obligated resources designated by Board at time of issuance of bonds, such as fees, rates, rents, or charges. Specifies what obligated resources may and may not include. The proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation bond project to be located at another institution.

Issuance of bonds for each special obligation bond project at an institution must be approved by the board of trustees at that institution, and General Assembly must also approve each project and maximum aggregate principal amount of bonds to be issued for that purpose. Act specifies information that Board of Governors must submit to General Assembly; if the obligated resources to repay the bonds or to operate the project potentially involve increased costs to students or to the General Fund, those costs must be identified. Board of Governors need obtain no other consents besides those required by this act to exercise act’s powers.

Term of special obligation bonds may not exceed 25 years. Bonds are not a debt or liability of State or any State political subdivision or a pledge of State’s or political subdivision’s faith and credit. They are to be secured solely by the obligated resources pledged to their payment. Bonds must so state on their face and state that neither State nor Board of Governors is liable to pay bonds except from the obligated resources. Bond issuance under act does not directly, indirectly, or contingently obligate State or political subdivisions to levy or pledge any taxes for the bonds.

Sets out powers of Board of Governors and one of its committees regarding bonds, and provisions regarding their issuance and refunding, trust agreements, insurance, remedies, and the underlying obligated resources. Specifies that special obligation provisions are an additional and alternative method of doing the things authorized.

Community College Facilities Security Interest Finance Act. Authorizes State Treasurer with consent of Council of State, on application of Community Colleges System Office, to issue and sell up to \$300 million of community college security interest bonds and notes. Proceeds are to be used to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under Act. Facilities to be improved, constructed, or acquired with bond or note proceeds are to be determined in legislation enacted from time to time by General Assembly and are not to be used to pay the costs of any other capital facilities. Authorizes granting of security interest in capital facilities, land, improvements, existing facilities, or renovations owned by community college or county, as appropriate. Resolution of Council of State authorizing issuance of bonds is to set forth the security for the issue in general terms

Act contains provisions regarding property subject to lien, multiple liens, continuing appropriations, no pledge of taxing power and no deficiency judgments against State, nonsubstitution clauses, terms protecting lender, issuance of bonds and notes, variable rate bonds and notes, and other matters that are very similar to those in the university improvement bonds section discussed above.

Use of proceeds. Contains detailed list of projects for which \$2.7 billion in university improvement security interest bonds and \$300 million community college facilities security interest bonds are to be used. Includes special directions for Director of Budget, Board of Governors, State Board of Community Colleges, and community college boards of trustees.

June 30, 1999

S 912. BONDS FOR HIGHER EDUCATION. Intro. 4/14/99. Senate amendments make the following changes to 2nd edition. Amendment 1 adds new section to provide that the act shall be known as the “Michael K. Hooker Higher Education Facilities Financing Act.” Amendment 2 adds provision under which the State Board of Community Colleges, upon request of the local board of trustees, may reallocate funds for new construction at the main campus if they are not needed for the site for which they were originally

allocated. Amendment 4 adds provision requiring the Board of Governors to report annually to the Joint Leg. Comm'n on Gov. Operations on the condition of the University's capital facilities, including a status report on current projects and assessment of needs for additional funding. Also requires the Board to study the repairs and renovations formula currently in use to determine whether it adequately takes into account all of the maintenance needs of each institution, and recommend changes necessary to improve the formula. Amendment 5 specifies that minority business participation requirements apply to projects funded by the proceeds of bonds or notes issued under the act and assigns responsibility for monitoring and reporting on compliance with these requirements. Amendment 6 adds provisions to the beginning of the act reciting the intent of the legislature to assure the maintenance of the University's capital assets. Requires the Board of Governors (1) to require each constituent university to monitor the condition of its facilities and to assure that all necessary maintenance is carried out within funds available; and (2) to report annually to designated legislative committees on the condition of the facilities and needs for additional funding. Requires the Joint Legislative Education Oversight Committee to report annually its recommendations for legislative changes to implement the policy enunciated. Amendment 7 adds new GS 143-342.2 to prohibit the naming of projects funded by state funds from being named for a member of the legislature or the Council of State during the time the person is holding office in those bodies, and changes title accordingly. Amendment 8 requires the Board of Governors to study the recommendations in the "Capital Equity and Adequacy Study" regarding the potential for increased use of private resources in providing university facilities, and to report recommendations to the Joint Legislative Education Oversight Comm. by April 15, 2000.

July 1, 1999

S 912. BONDS FOR HIGHER EDUCATION. Intro. 3/14/99. Senate amendment makes the following changes to 3rd edition. Provides that if community college determines that funds are not needed, the local board of trustees may recommend another site (originally, alternative site must be on main campus) and state board may approve shift of location.

July 9, 1999

S 912. BONDS FOR HIGHER EDUCATION. Intro. 4/13/99. House committee substitute #1 makes the following changes to 4th edition. Changes title to AN ACT (1) TO AUTHORIZE THE ISSUANCE OF ONE BILLION TWO HUNDRED MILLION DOLLARS GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA AND GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO RESTRICT THE NAMING OF STATE CONSTRUCTION PROJECTS FOR SITTING MEMBERS OF THE GENERAL ASSEMBLY AND THE COUNCIL OF STATE. Amends GS 116D-3(a)(1) to provide that UNC Board of Governors shall report to Joint Legislative Comm'n on Governmental Operations by September 15 of each year on University Improvement General Obligation Bonds (was, University Improvement Security Interest Bonds) and makes conforming changes to GS 116D-3(b) (State Treasurer forwarding schedule of payments) and GS 116D-3(c) (community college general obligation bonds).

Adds new Chapter 116D, Art. 2, "General Obligation Bonds for Financing Capital Facilities for The University of North Carolina." Defines terms at GS 116D-7. Provides at GS 116D-8 that subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing university improvement general obligation bonds in the election held as provided by law, the State Treasurer may, by and with the consent of the Council of State, issue and sell said bonds. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed \$1 billion. Bonds and notes to be issued in the following years up to the following amounts: 1999-2000: \$240 million; 2000-2001: \$480 million; 2001-2002: \$280 million. Revises GS 116D-10 to pledge faith and credit and taxing power of the State for payment, and deletes former provisions in GS 116D-10 setting forth land as security for bonds. Replaces trust agreement provision at GS 116D-11(g) with

University Improvement Bonds Fund provision, requiring State Treasurer to place proceeds in special fund, with monies to be used for purposes set forth in this Article.

Adds new Chapter 116D, Art. 4, "Community Colleges Facilities General Obligation Finance Act." Defines terms at GS 116D-42. Provides at GS 116D-43 that subject to a favorable vote of the majority of the voters of the State who vote on the question of issuing community college general obligation bonds in the election held as provided by law, and upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell said bonds. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed \$200 million. Amends GS 116D-45 to pledge faith and credit and taxing power of the State for payment, and deletes former provisions permitting lien or security interest on capital facilities or land.

Sets forth revised list of capital improvements for University of North Carolina and Community College System to be funded. Lists the other critical needs of University of North Carolina Capital Plan, and authorizes \$282,648,212 for matching gift incentive fund projects. UNC Board of Governors shall employ a private consultant to develop a list of capital facilities that are to be funded jointly from these funds and private donations, with list to be submitted to General Assembly by April 1, 2000. UNC Board directed to make annual report to the Joint Legislative Comm'n on Governmental Operations and to study the repairs and renovations formula currently used to determine whether it adequately takes into account all appropriate maintenance needs. Provides that goals set by GS 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. Sets out form for UNC and community college bond questions to be submitted to electorate.

House committee substitute #2 makes the following changes to 5th edition. Adds provision that State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this act. State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses, and shall report quarterly to Office for Historically Underutilized Businesses in the Dep't of Administration.

May 16, 2000

S 912. BONDS FOR HIGHER EDUCATION. Intro. 4/13/99. Conference report recommends the following changes to 6th edition to reconcile matters in controversy. Deletes GS 143-342.2, which would prohibit naming of construction project for member of General Assembly or Council of State during time person is holding such office. Increases total amount of bonds authorized from \$1.2 billion to \$3.1 billion upon approval by voters in referendum to be held in November 2000. Increases aggregate amount of bonds for The University of North Carolina from \$1 billion to \$2.5 billion and provides for bonds to be issued in specified amounts for fiscal years 2000-2001 through 2005-2006. Increases aggregate amount of bonds for Community College System from \$200 million to \$600 million and specifies total amount of bonds that can be issued for each year from fiscal year 2000-2001 to 2005-2006. Lists specific projects to be funded with bonds at each constituent institution of The University of North Carolina and each community college. Separates amounts to be spent at community colleges into new construction and repair and renovation and requires bond proceeds to be used for new construction only in accordance with capital allocation formula adopted by State Board of Community Colleges in March 2000 and proceeds for repair and renovation to be spent in accordance with formula adopted by State Board in April 2000. Provides that if community college has not met matching requirements by July 1, 2006, bond proceeds to be placed in special account within Community Colleges Bond Fund and be used for making grants to community colleges based on conditions set out in bill. Designates NC Center for Applied Textile Technology as community college with matching rate of less than 40%. Provides that GS 143-341(3) authorizing Dep't of Administration to examine and approve all plans for renovation of community college before award of contract applies only to bond expenditures of more than \$250,000. Creates a Higher Education Bond Oversight Committee of ten members (three appointed by Speaker; three by President Pro Tempore, two by Chair of Board of Governors of The University of North Carolina, and two by the Chair of State Board of Community Colleges) to oversee expenditure of bond proceeds to see that expenditures are in compliance with bill and consistent with budget for project, and to determine whether changes in construction methods could enhance cost savings and whether bond issuances are adequately timed to reflect cash-flow requirements of

the projects. Adds provision requiring Board of Governors to continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist in historically black universities and to report annually to Joint Legislative Comm'n on Governmental Operations on recommendations as to how to address any inequities found.

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Appointments

Conferees were appointed on May 15 for S. 912, Higher Education Facilities Bonds. Senate appointees are: Rand (Chair), Albertson, Ballance, Ballantine, Carter, Clodfelter, Cooper, Dalton, Dannelly, Garrou, Garwood, Gulley, Hagan, Harris, Hartsell, Hoyle, Jordan, Kerr, Kinnaird, Lee, Lucas, R.L. Martin, W. Martin, Metcalf, Miller, Odom, Perdue, Phillips, Plyler, Purcell, Reeves, Robinson, L. Shaw, R.G. Shaw, Soles, Warren, Weinstein, and Wellons. House appointees are: Black, Alexander, Allen, Baddour, Bonner, Boyd-McIntyre, Crawford, Culpepper, Cunningham, Earle, Easterling, Edwards, Gray, Hackney, Haire, Holmes, Horn, Hurley, Insko, Jarrell, Jeffus, Luebke, McLawhorn, McMahan, Melton, Michaux, Miller, Miner, Morgan, Nesbitt, Oldham, Owens, Redwine, Rogers, Saunders, Smith, Sutton, Tolson, Tucker, Wainwright, Warner, Warren, and Wright.

