

March 11, 2009

H 542. NCSU NONAPPROPRIATED CAPITAL PROJECTS. Filed 3/11/09. *TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING OF CERTAIN CAPITAL IMPROVEMENT PROJECTS OF NORTH CAROLINA STATE UNIVERSITY.*

States that the purpose of the act is to authorize (1) the construction of certain energy conservation projects by NC State University and (2) the financing of these projects with funds available from gifts, grants, receipts, energy conservation bond indebtedness or other funds, or any combination of these funds. Enumerates the capital improvement projects, costing \$57.4 million, as follows: (1) Cates Utility Plant Installation of Multi-Fuel Boilers and a High-Efficiency Chiller, (2) Yarbrough Utility Plant Boiler Replacements, (3) Centennial Campus Substation Capacity & Redundancy Improvements, and (4) Sullivan Substation Capacity & Redundancy Improvements. Authorizes the UNC Board of Governors (Board) to issue, pursuant to proposed GS 116D-54(b), energy conservation bonds of the Board to pay for all or part of the listed projects, subject to the approval of the Director of the Budget. Limits the maximum principal amounts of bonds to be issued to 105% of the specified project costs, of which 5% is to be allocated to related costs, including issuance expenses, funding of reserves, and capitalized interest.

Enacts a new Article 5 in GS 116D, entitled "Energy Conservation Bonds for Energy Savings Measures to the Facilities of North Carolina State University," to authorize the Board to issue energy conservation bonds, payable from utility appropriations and other University funds, but with no pledge of taxes or the faith and credit of the state or any agency or political subdivision, to pay the cost, in whole or in part, of energy conservation measures to university facilities. Provides that energy conservation bonds may also be secured by a pledge of, or agreement to apply, obligated resources of the Board with respect to NC State upon which the energy conservation measure being financed is located. Such a pledge or agreement may be subordinated to a pledge or agreements securing other bonds of the Board issued pursuant to Article 3 of GS Chapter 116D (Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina) or otherwise. Specifies the authorized powers of the Board. Requires that the Board, prior to issuing a bond, adopt a resolution (1) setting forth the energy conservation measure being financed and (2) designating the utility appropriations that will be secured and be the source of payment of the bond being issued. Prohibits the Board from issuing a bond unless it finds that sufficient utility appropriations are reasonably expected to be available to pay principal and interest on the bonds proposed to be issued. Prohibits the Board from issuing a bond until the effective date of legislation, enacted by the General Assembly, undertaking the energy conservation measure to be financed and fixing the maximum aggregate principal amounts of energy conservation bonds that are to be issued for that purpose. Provides for the terms of the bonds. Allows issued bonds to be secured by a trust agreement by and between the Board and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the state. Restricts the conveyance or mortgage of any NC State property as a part of the agreement. Provides that all moneys received, whether as proceeds from the sale of bonds, or as utility appropriations, are trust funds to be held and applied solely as provided in this Article. Requires that, prior to the financing and installation of any energy conservation measure, an energy savings analysis be performed by a third party selected by NC State to validate the economic analysis supporting the financing improvements and submitted to UNC General Administration and to the State Energy Office. Requires that NC State, for which an energy conservation measure is financed, retain a third party to (1) perform an annual measurement and verification of energy savings and (2) provide an annual reconciliation statement based upon this review, disclosing any shortfalls or surplus between estimated energy usage and operational savings. Makes NC State responsible for any shortfall after the total year's savings have been determined. Allows NC State to retain any surplus in avoided costs. In the event of a force majeure, provides for calculations for energy savings. States that this Article provides an additional and alternative method and is not in derogation of or repealing any existing powers. Exempts the issuance of energy conservation bonds or refunding bonds from the requirements of any other law applicable to the issuance of bonds. Includes a definition section.

Intro. by Harrison, Ross.

GS 116D

