

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS35388-MCxf-239

Short Title: Rebuild a Better NC Bond Act. (Public)

Sponsors: Senators Chaudhuri, Garrett, and deViere (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE REBUILD A BETTER NC BOND ACT OF 2020.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** Short Title. – This act may be cited as the "Rebuild a Better NC
5 Bond Act of 2019."

6 **SECTION 1.(b)** Purpose. – It is the intent of the General Assembly by this act to
7 provide, subject to a vote of the qualified voters of the State, for the issuance of three billion
8 dollars (\$3,000,000,000) providing funds, with any other available funds, to maintain both the
9 State's bond rating, which is the highest credit rating available by independent credit rating
10 agencies, while investing in the State's high-priority infrastructure projects so as to put citizens
11 of North Carolina back to work.

12 **SECTION 1.(c)** Findings. – The General Assembly finds:

- 13 (1) There is a documented need of billions of dollars in the construction and
14 renovation of public school facilities.
15 (2) There is a documented need of billions of dollars at The University of North
16 Carolina.
17 (3) Community College facilities are necessary (i) to educate and train the
18 workforce of tomorrow and (ii) to retrain those workers who have been
19 adversely impacted by changing economic conditions, and there is a
20 documented need of billions of dollars for the Community College System
21 Office.
22 (4) Local government facilities have long been neglected due to fiscal pressures
23 on local governments to maintain the level of services offered while trying to
24 keep tax burdens low.
25 (5) The facilities constructed in this act will benefit all future North Carolinians
26 for decades to come.
27 (6) All facilities are necessary to support the economic vitality of North Carolina.
28 (7) The State has prudently managed its finances.
29 (8) The debt proposed by this act is affordable and preferable to address the needs
30 of the citizens of the State.

31 **SECTION 1.(d)** Definitions. – The following definitions apply in this act unless the
32 context otherwise requires:

- 33 (1) Bonds. – Bonds issued under this act.
34 (2) Cost. – The term includes all of the following:
35 a. The cost of constructing, reconstructing, renovating, repairing,
36 enlarging, acquiring, and improving State capital facilities, including



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- 1 the acquisition of land, rights-of-way, easements, franchises,
2 equipment, machinery, furnishings, and other interests in real or
3 personal property acquired or used in connection with a State capital
4 facility.
- 5 b. The cost of engineering, architectural, and other consulting services as
6 may be required.
- 7 c. Administrative expenses and charges.
- 8 d. The cost of providing personnel to ensure effective project
9 management.
- 10 e. The cost of bond insurance, investment contracts, credit enhancement
11 and liquidity facilities, interest-rate swap agreements or other
12 derivative products, financial and legal consultants, and related costs
13 of bond and note issuance, to the extent and as determined by the State
14 Treasurer.
- 15 f. Finance charges, reserves for debt service, and other types of reserves
16 required pursuant to the terms of any bond or note or related
17 documents, interest before and during construction or acquisition of a
18 State capital facility and, if considered advisable by the State
19 Treasurer, for a period not exceeding two years after the estimated date
20 of completion of construction or acquisition.
- 21 g. The cost of bond insurance, investment contracts, credit enhancement
22 facilities and liquidity facilities, interest-rate swap agreements or other
23 derivative products, financial and legal consultants, and related costs
24 of the incurrence or issuance of any bond or note.
- 25 h. The cost of reimbursing the State for any payments made for any cost
26 described in this subdivision.
- 27 i. Any other costs and expenses necessary or incidental to the purposes
28 of this act.
- 29 (3) Credit facility. – An agreement entered into by the State Treasurer on behalf
30 of the State with a bank, savings and loan association, or other banking
31 institution, an insurance company, reinsurance company, surety company or
32 other insurance institution, a corporation, investment banking firm, or other
33 investment institution, or any financial institution or other similar provider of
34 a credit facility, which provider may be located within or without the United
35 States, such agreement providing for prompt payment of all or any part of the
36 principal or purchase price (whether at maturity, presentment or tender for
37 purchase, redemption, or acceleration), redemption premium, if any, and
38 interest on any bonds or notes payable on demand or tender by the owner, in
39 consideration of the State agreeing to repay the provider of the credit facility
40 in accordance with the terms and provisions of such agreement.
- 41 (4) Notes. – Notes issued under this act.
- 42 (5) Par formula. – A provision or formula adopted by the State to provide for the
43 adjustment, from time to time, of the interest rate or rates borne by any bonds
44 or notes, including the following:
- 45 a. A provision providing for such adjustment so that the purchase price
46 of such bonds or notes in the open market would be as close to par as
47 possible.
- 48 b. A provision providing for such adjustment based upon a percentage or
49 percentages of a prime rate or base rate, which percentage or
50 percentages may vary or be applied for different periods of time.

1 c. Such other provision as the State Treasurer may determine to be
2 consistent with this act and will not materially and adversely affect the
3 financial position of the State and the marketing of bonds or notes at a
4 reasonable interest cost to the State.

5 (6) State. – The State of North Carolina, including any State agency.

6 (7) State agency. – Any agency, institution, board, commission, bureau, council,
7 department, division, officer, or employee of the State. The term does not
8 include counties, municipal corporations, political subdivisions, local boards
9 of education, or other local public bodies.

10 **SECTION 1.(e)** Authorization of Bonds and Notes. – Subject to a favorable vote of
11 a majority of the qualified voters of the State who vote on the question of issuing infrastructure
12 improvement bonds in the election called and held as provided in this act, the State Treasurer is
13 hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time
14 or from time to time, general obligation bonds of the State to be designated "State of North
15 Carolina Rebuild NC Bonds," with any additional designations as may be determined to indicate
16 the issuance of bonds from time to time, or notes of the State as provided in this act, in an
17 aggregate principal amount not exceeding three billion dollars (\$3,000,000,000) for the purpose
18 of providing funds, with any other available funds, for the purposes authorized in this act;
19 provided, however, that no debt may be issued when doing so would adversely change the
20 assigned bond credit rating of the State by one or more rating agencies.

21 **SECTION 1.(f)** Use of Rebuild NC Bond and Note Proceeds. –

22 (1) Subject to the provision of subdivision (2) of this subsection, the proceeds of
23 infrastructure improvement bonds and notes, including premium thereon, if
24 any, shall be used for the projects for public instruction, community colleges,
25 The University of North Carolina, and for units of local government,
26 determined to be funded in an aggregate principal amount not exceeding three
27 billion dollars (\$3,000,000,000) in the following manner:

28 a. A list of recommended projects shall be compiled based on
29 recommendations by the Governor, the Treasurer, the Speaker of the
30 House of Representatives, the President Pro Tempore of the Senate,
31 the minority leader of the House of Representatives, and the minority
32 leader of the Senate.

33 b. Of the list compiled under sub-subdivision a. of this subdivision, a
34 committee shall determine the priority of projects and the level of
35 funding for each project. The committee shall be composed of the
36 following 11 members:

- 37 1. Four members appointed by the General Assembly with one
38 being upon the recommendation of the President Pro Tempore
39 of the Senate, one being upon the recommendation of the
40 Speaker of the House of Representatives, one being upon the
41 recommendation of the minority leader of the Senate, and one
42 being upon the recommendation of the minority leader of the
43 House of Representatives. Members appointed under this
44 sub-sub-subdivision may not be members listed in
45 sub-subdivision a. of this subdivision.
- 46 2. The Director of the Office of State Budget and Management.
- 47 3. The State Controller.
- 48 4. The President of the Board of Directors of the NC League of
49 Municipalities, or the President's designee.

- 1 5. The President of the Board of Directors of the North Carolina
- 2 Association of County Commissioners, or the President's
- 3 designee.
- 4 6. The President of The University of North Carolina, or the
- 5 President's designee.
- 6 7. The President of the North Carolina Community Colleges
- 7 System, or the President's designee.
- 8 8. The Superintendent of Public Instruction, or the
- 9 Superintendent's designee.
- 10 (2) Special allocation provisions. – In determining the use of the proceeds of
- 11 infrastructure improvement bonds and notes, including premium thereon, if
- 12 any, set forth in subdivision (1) of this subsection, the following special
- 13 allocation provisions apply:
- 14 a. The proceeds of infrastructure improvement bonds and notes,
- 15 including premium thereon, if any, for projects for public instruction
- 16 selected as provided in subdivision (1) of this subsection, shall be
- 17 allocated in conformity with the following:
- 18 1. No more than three hundred million dollars (\$300,000,000)
- 19 may be awarded to one local school administrative unit or to
- 20 one project.
- 21 2. A county receiving bond proceeds allocated shall provide local
- 22 matching funds from county funds, other non-State funds, or a
- 23 combination of these sources for such proceeds. The amount
- 24 of matching funds shall be (i) one dollar (\$1.00) of local
- 25 matching funds for every three dollars (\$3.00) of such proceeds
- 26 for a local school administrative unit located in a county that is
- 27 a development tier one area, as defined in G.S. 143B-437.08,
- 28 (ii) one dollar (\$1.00) of local matching funds for every two
- 29 dollars (\$2.00) of such proceeds for a local school
- 30 administrative unit located in a county that is a development
- 31 tier two area, as defined in G.S. 143B-437.08, and (iii) one
- 32 dollar (\$1.00) of local matching funds for every one dollar
- 33 (\$1.00) of such proceeds for a local school administrative unit
- 34 located in a county that is a development tier three area, as
- 35 defined in G.S. 143B-437.08. The match requirement may be
- 36 satisfied by non-State expenditures for public school facilities
- 37 made on or after January 1, 2015. If a debt has been incurred
- 38 since January 1, 2015, for the general purpose of public school
- 39 facilities, then the face amount of the debt shall be considered
- 40 as a non-State expenditure for public school facilities for the
- 41 purpose of the match. No other expenditures made or debts
- 42 incurred before January 1, 2015, may be used to satisfy the
- 43 match requirement. As counties satisfy the match requirements
- 44 of this subsection, they shall document the extent to which they
- 45 have done so in periodic reports to the State Board of
- 46 Education. These reports shall include any information and
- 47 documentation required by the State Board of Education. The
- 48 State Board of Education shall certify to the State Treasurer
- 49 from time to time the extent to which the match requirements
- 50 of this subsection have been met with respect to each county.
- 51 Bond proceeds shall be distributed for expenditure only as, and

- 1 to the extent, the matching requirements of this section are
2 satisfied, as certified by the State Board of Education. The
3 State Board of Education shall also require counties to report
4 annually on the impact of funds provided under this act on the
5 property tax rate for that year. These reports shall be public
6 documents and shall be furnished to any citizen upon request.
7 If the State Board of Education determines that a county has
8 not met the matching requirement set forth in this
9 sub-subdivision by January 1, 2026, the State Board of
10 Education shall certify that fact to the State Treasurer by March
11 1, 2026. The State Board of Education shall reallocate
12 unmatched funds to local administrative units receiving funds
13 for which the State Board of Education has certified matching
14 funds.
- 15 3. A local school administrative unit that receives proceeds under
16 this section shall ensure that such proceeds are used:
- 17 I. For acquisition of real property and construction,
18 acquisition, reconstruction, enlargement, renovation,
19 or replacement of buildings and other structures, and
20 II. To supplement local funds for public school capital
21 outlay projects and shall not decrease local funds for
22 those projects from one fiscal year to the next fiscal
23 year, as measured by the most recent five-year annual
24 average capital outlay expenditure.
- 25 b. The proceeds of infrastructure improvement bonds and notes,
26 including premium thereon, if any, for projects for local government
27 infrastructure selected as provided in subdivision (1) of this
28 subsection, shall be allocated as follows:
- 29 1. The Local Government Commission shall create a grant
30 program which shall prioritize applications for grants based on
31 maximizing the use of the bond proceeds, the age of the
32 infrastructure to be improved, the impact to the community of
33 the improvement, the degree to which the local government has
34 made expenditures to keep governmental facilities in good
35 working order, and the ability to raise and the degree to which
36 the governmental unit has raised revenue to cover foreseeable
37 costs for public infrastructure.
- 38 2. The Local Government Commission may allocate funds to
39 grants to the amount necessary to fulfill the priorities outlined
40 in sub-sub-subdivision 1. of this sub-subdivision.
- 41 3. The Local Government Commission may set limits on grants
42 allocated to local governments to an amount necessary to fulfill
43 the priorities outlined in sub-sub-subdivision 1. of this
44 sub-subdivision. No more than three hundred million dollars
45 (\$300,000,000) may be awarded to one local unit or to one
46 project.
- 47 4. The Local Government Commission shall develop
48 requirements for grant recipients prior to requesting
49 applications for the use of funds. Grant requirements shall
50 include financial and system performance measures necessary
51 to make projects to be undertaken by recipients viable. Failure

1 of grant recipients to adhere to the requirements of this
2 subsection shall result in a default pursuant to Article 10 of
3 Chapter 159 of the General Statutes, and the Local
4 Government Commission shall enforce the provisions of the
5 recipient requirements.

6 c. The proceeds of infrastructure improvement bonds and notes,
7 including premium thereon, if any, for NC Community Colleges, as
8 selected as provided in subdivision (1) of this subsection for new
9 construction, repairs, and renovations, shall be used for new
10 construction or rehabilitation of existing facilities and repairs and
11 renovations. Any items purchased with such proceeds and installed or
12 replaced as part of a renovation or rehabilitation must have a useful
13 life of at least 10 years or must extend the life of the facility by at least
14 10 years once renovated or rehabilitated. In order to receive the
15 proceeds under this sub-subdivision for projects for new construction,
16 the community college receiving the proceeds shall provide local
17 matching funds from county funds, other non-State funds, or a
18 combination of these sources for such proceeds. The amount of
19 matching funds shall be (i) one dollar (\$1.00) of local matching funds
20 for every three dollars (\$3.00) of such proceeds for a community
21 college project located in a development tier one area, as defined in
22 G.S. 143B-437.08, (ii) one dollar (\$1.00) of local matching funds for
23 every two dollars (\$2.00) of such proceeds for a community college
24 project located in a development tier two area, as defined in
25 G.S. 143B-437.08, and (iii) one dollar (\$1.00) of local matching funds
26 for every one dollar (\$1.00) of such proceeds for a community college
27 project located in a development tier three area, as defined in
28 G.S. 143B-437.08. Community colleges are not required to match
29 bond proceeds allocated in this section for rehabilitation of existing
30 facilities and repairs and renovations. The provisions of G.S. 115D-31,
31 or any other provision of law permitting prior expenditures to be used
32 for match purposes, do not apply for purposes of meeting the matching
33 funds requirements of this act.

34 d. The proceeds of infrastructure improvement bonds and notes,
35 including premium thereon, if any, for projects selected for a
36 constituent institution, as provided in subdivision (1) of this
37 subsection, shall be used for new construction or rehabilitation of
38 existing facilities and repairs and renovations. Any items purchased
39 with such proceeds and installed or replaced as part of a renovation or
40 rehabilitation must have a useful life of at least 10 years or must extend
41 the life of the facility by at least 10 years once renovated or
42 rehabilitated. In order to receive the proceeds under this
43 sub-subdivision for projects for new construction, the constituent
44 institution receiving the proceeds shall provide matching funds from
45 other non-State funds. Constituent institutions are not required to
46 match bond proceeds allocated in this section for rehabilitation of
47 existing facilities and repairs and renovations. No more than three
48 hundred million dollars (\$300,000,000) may be awarded to a
49 constituent institution or to one project.

50 **SECTION 1.(g)** Allocation and Tracking of Proceeds. –

1 (1) Infrastructure improvement bonds. – The proceeds of infrastructure
2 improvement bonds and notes, including premium thereon, if any, except the
3 proceeds of bonds the issuance of which has been anticipated by bond
4 anticipation notes or the proceeds of refunding bonds or notes, shall be placed
5 by the State Treasurer in a special fund to be designated "Rebuild NC Bonds
6 Fund," which may include such appropriate special accounts therein as may
7 be determined by the State Treasurer and shall be disbursed as provided in this
8 act. Monies in the Rebuild NC Bonds Fund shall be allocated and expended
9 as provided in this act.

10 Any additional monies that may be received by means of a grant or grants
11 from the United States of America or any agency or department thereof or
12 from any other source for deposit to the Rebuild NC Bonds Fund may be
13 placed in the Rebuild NC Bonds Fund or in a separate account or fund and
14 shall be disbursed, to the extent permitted by the terms of the grant or grants,
15 without regard to any limitations imposed by this act.

16 Monies in the Rebuild NC Bonds Fund or any separate account established
17 under this act may be invested from time to time by the State Treasurer in the
18 same manner permitted for investment of monies belonging to the State or
19 held in the State treasury, except with respect to grant money to the extent
20 otherwise directed by the terms of the grant. Investment earnings, except
21 investment earnings with respect to grant monies to the extent otherwise
22 directed or restricted by the terms of the grant, may be (i) credited to the
23 Rebuild NC Bonds Fund, (ii) used to pay debt service on the bonds authorized
24 by this act, (iii) used to satisfy compliance with applicable requirements of the
25 federal tax law, or (iv) transferred to the General Fund of the State.

26 The proceeds of infrastructure improvement bonds and notes, including
27 premium thereon, if any, may be used with any other monies made available
28 by the General Assembly for funding the projects authorized by this act,
29 including the proceeds of any other State bond issues, whether heretofore
30 made available or that may be made available at the session of the General
31 Assembly at which this act is ratified or any subsequent sessions. The
32 proceeds of infrastructure improvement bonds and notes, including premium
33 thereon, if any, shall be expended and disbursed under the direction and
34 supervision of the Director of the Budget. The funds provided by this act shall
35 be disbursed for the purposes provided in this act upon warrants drawn on the
36 State Treasurer by the State Controller, which warrants shall not be drawn
37 until requisition has been approved by the Director of the Budget and which
38 requisition shall be approved only after full compliance with the State Budget
39 Act, Chapter 143C of the General Statutes.

40 (2) Tracking of bond proceeds. – The State Treasurer or the State Treasurer's
41 designee is hereby authorized and directed to set up a comprehensive system
42 of tracking the proceeds of the infrastructure improvement bonds and notes,
43 including premium thereon, if any, to the extent necessary to enable the State
44 Treasurer or the State Treasurer's designee to properly account for the use of
45 such proceeds for compliance with applicable requirements of the federal tax
46 law or otherwise. All recipients of such proceeds shall comply with any
47 tracking system implemented by the State Treasurer or the State Treasurer's
48 designee for this purpose. The State Treasurer may withhold such proceeds
49 from any State agency or department not complying with this subdivision.

50 (3) Costs. – Allocations to the costs of a capital improvement or undertaking in
51 each case may include allocations to pay the costs set forth in sub-subdivisions

1 c. through g. of subdivision (2) of subsection (d) of this section in connection
2 with the issuance of bonds for that capital improvement or undertaking.

3 **SECTION 1.(h)** Election. – The question of the issuance of the bonds authorized by
4 this act shall be submitted to the qualified voters of the State at a Statewide election to be held
5 November 3, 2020. Any other primary, election, or referendum validly called or scheduled by
6 law at the time the election on the bond question provided for in this subsection is held may be
7 held as called or scheduled. Notice of the election shall be given in the manner and at the times
8 required by G.S. 163-33(8). The election and the registration of voters therefor shall be held
9 under and in accordance with the general laws of the State. Absentee ballots shall be authorized
10 in the election and shall be available 50 days prior to the date on which the election is to be held.

11 Ballots, voting systems authorized by Article 14A of Chapter 163 of the General
12 Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections.
13 The bond question to be used in the ballots or voting systems shall be in substantially the
14 following form:

15 "[] FOR [] AGAINST

16 The issuance of three billion dollars (\$3,000,000,000) State of North Carolina Rebuild
17 NC Bonds constituting general obligation bonds of the State secured by a pledge of the faith and
18 credit and taxing power of the State for the purpose of providing funds, with any other available
19 funds, to fund capital improvements and new facilities for the State, including, without limitation,
20 the construction and furnishing of new facilities and the renovation and rehabilitation of existing
21 facilities for, without limitation, the public schools of the State, local governmental units in the
22 State, the North Carolina Community College System, and The University of North Carolina."

23 If a majority of those voting on the bond question in the election vote in favor of the
24 issuance of the bonds described in the question, those bonds may be issued as provided in this
25 act. If a majority of those voting on a bond question in the election do not vote in favor of the
26 issuance of the bonds described in the question, those bonds shall not be issued. The results of
27 the election shall be canvassed and declared as provided by law for elections for State officers;
28 the results of the election shall be certified by the State Board of Elections to the Secretary of
29 State in the manner and at the time provided by the general election laws of the State.

30 **SECTION 1.(i)** Issuance of Bonds and Notes. –

31 (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be serial
32 or term bonds or notes, or any combination thereof, may mature in such
33 amounts and at such time or times, not exceeding 40 years from their date or
34 dates, may be payable at such place or places, either within or without the
35 United States of America, in such coin or currency of the United States of
36 America as at the time of payment is legal tender for payment of public and
37 private debts, may bear interest at such rate or rates, which may vary from
38 time to time, and may be made redeemable before maturity, at the option of
39 the State or otherwise as may be provided by the State, at such price or prices,
40 including a price less than or greater than the face amount of the bonds or
41 notes, and under such terms and conditions, all as may be determined by the
42 State Treasurer, by and with the consent of the Council of State.

43 (2) Signatures; form and denomination; registration. – Bonds or notes may be
44 issued in certificated or uncertificated form. If issued in certificated form,
45 bonds or notes shall be signed on behalf of the State by the Governor or shall
46 bear the Governor's facsimile signature, shall be signed by the State Treasurer
47 or shall bear the State Treasurer's facsimile signature, and shall bear the Great
48 Seal of the State, or a facsimile of the Seal shall be impressed or imprinted
49 thereon. If bonds or notes bear the facsimile signatures of the Governor and
50 the State Treasurer, the bonds or notes shall also bear a manual signature
51 which may be that of a bond registrar, trustee, paying agent, or designated

1 assistant of the State Treasurer. Should any officer whose signature or
2 facsimile signature appears on bonds or notes cease to be such officer before
3 the delivery of the bonds or notes, the signature or facsimile signature shall
4 nevertheless have the same validity for all purposes as if the officer had
5 remained in office until delivery. Bonds or notes may bear the facsimile
6 signatures of persons, who at the actual time of the execution of the bonds or
7 notes shall be the proper officers to sign any bond or note, although at the date
8 of the bond or note such persons may not have been such officers. The form
9 and denomination of bonds or notes, including the provisions with respect to
10 registration of the bonds or notes and any system for their registration, shall
11 be as the State Treasurer may determine in conformity with this act.

12 (3) Manner of sale; expenses. – Subject to the approval by the Council of State as
13 to the manner in which bonds or notes shall be offered for sale, whether at
14 public or private sale, whether within or without the United States, and
15 whether by publishing notices in certain newspapers and financial journals,
16 mailing notices, inviting bids by correspondence, negotiating contracts of
17 purchase, or otherwise, the State Treasurer is authorized to sell bonds or notes
18 at one time or from time to time at any rates of interest, which may vary from
19 time to time, and at any prices, including a price less than or greater than the
20 face amount of the bonds or notes, as the State Treasurer may determine. All
21 expenses incurred in the preparation, sale, and issuance of bonds or notes shall
22 be paid by the State Treasurer from the proceeds of bonds or notes or other
23 available moneys.

24 (4) Notes; repayment. –

25 a. By and with the consent of the Council of State, the State Treasurer is
26 hereby authorized to borrow money and to execute and issue notes of
27 the State for the same, but only in the following circumstances and
28 under the following conditions:

- 29 1. For anticipating the sale of bonds, the issuance of which the
30 Council of State has approved, if the State Treasurer considers
31 it advisable to postpone the issuance of the bonds;
- 32 2. For the payment of interest on or any installment of principal
33 of any bonds then outstanding, if there are not sufficient funds
34 in the State treasury with which to pay the interest or
35 installment of principal as they respectively become due;
- 36 3. For the renewal of any loan evidenced by notes authorized in
37 this act;
- 38 4. For the purposes authorized in this act; and
- 39 5. For refunding bonds or notes as authorized in this act.

40 b. Funds derived from the sale of bonds or notes may be used in the
41 payment of any bond anticipation notes issued under this act. Funds
42 provided by the General Assembly for the payment of interest on or
43 principal of bonds shall be used in paying the interest on or principal
44 of any notes and any renewals thereof, the proceeds of which shall
45 have been used in paying interest on or principal of the bonds.

46 (5) Refunding bonds and notes. – By and with the consent of the Council of State,
47 the State Treasurer is authorized to issue and sell refunding bonds and notes
48 pursuant to the provisions of the State Refunding Bond Act for the purpose of
49 refunding bonds or notes issued pursuant to this act. The refunding bonds and
50 notes may be combined with any other issues of State bonds and notes
51 similarly secured. Refunding bonds or notes may be issued at any time prior

1 to the final maturity of the debt obligation to be refunded. The proceeds from
2 the sale of any refunding bonds or notes shall be applied to the immediate
3 payment and retirement of the bonds or notes being refunded or, if not required
4 for the immediate payment of the bonds or notes being refunded, the proceeds
5 shall be deposited in trust to provide for the payment and retirement of the
6 bonds or notes being refunded and to pay any expenses incurred in connection
7 with the refunding. Money in a trust fund may be invested in (i) direct
8 obligations of the United States government, (ii) obligations the principal of
9 and interest on which are guaranteed by the United States government, (iii)
10 obligations of any agency or instrumentality of the United States government
11 if the timely payment of principal and interest on the obligations is
12 unconditionally guaranteed by the United States government, or (iv)
13 certificates of deposit issued by a bank or trust company located in the State
14 if the certificates are secured by a pledge of any of the obligations described
15 in (i), (ii), or (iii) above having an aggregate market value, exclusive of
16 accrued interest, equal at least to the principal amount of the certificates so
17 secured. This act does not limit the duration of any deposit in trust for the
18 retirement of bonds or notes being refunded but that have not matured and are
19 not presently redeemable, or if presently redeemable, have not been called for
20 redemption.

21 (6) Tax exemption. – Bonds and notes shall at all times be free from taxation by
22 the State or any political subdivision or any of their agencies, excepting estate,
23 inheritance, or gift taxes, income taxes on the gain from the transfer of bonds
24 or notes, and franchise taxes. The interest on bonds or notes is not subject to
25 taxation as income.

26 (7) Investment eligibility. – Bonds and notes are securities in which all of the
27 following may invest, including capital in their control or belonging to them:
28 public officers, agencies, and public bodies of the State and its political
29 subdivisions, all insurance companies, trust companies, investment
30 companies, banks, savings banks, savings and loan associations, credit unions,
31 pension or retirement funds, other financial institutions engaged in business
32 in the State, executors, administrators, trustees, and other fiduciaries. Bonds
33 and notes are hereby made securities which may properly and legally be
34 deposited with and received by any officer or agency of the State or political
35 subdivision of the State for any purpose for which the deposit of bonds, notes,
36 or obligations of the State or any political subdivision is now or may hereafter
37 be authorized by law.

38 (8) Faith and credit. – The faith and credit and taxing power of the State are hereby
39 pledged for the payment of the principal of and the interest on bonds and notes.
40 The State expressly reserves the right to amend any provision of this act to the
41 extent it does not impair any contractual right of a bond owner.

42 (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or
43 otherwise provide for bond insurance, investment contracts, credit and
44 liquidity facilities, interest-rate swap agreements and other derivative
45 products, and any other related instruments and matters the State Treasurer
46 determines are desirable in connection with issuance, incurrence, carrying, or
47 securing of bonds or notes. The State Treasurer is authorized to employ and
48 designate any financial consultants, underwriters, and bond attorneys to be
49 associated with any bond or note issued under this act as the State Treasurer
50 considers necessary.

1 **SECTION 1.(j)** Variable Rate Demand Bonds and Notes. – In fixing the details of
2 bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

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

20 If the aggregate principal amount payable by the State under a credit facility is in
21 excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether
22 as a result of the inclusion in the credit facility of a provision for the payment of interest for a
23 limited period of time or the payment of a redemption premium or for any other reason, then the
24 amount of authorized but unissued bonds or notes during the term of such credit facility shall not
25 be less than the amount of such excess, unless the payment of such excess is otherwise provided
26 for by agreement of the State executed by the State Treasurer.

27 **SECTION 1.(k)** Interpretation of Section. –

- 28 (1) Additional method. – The foregoing subsections of this act shall be deemed to
29 provide an additional and alternative method for the doing of the things
30 authorized under it and shall be regarded as supplemental and additional to
31 powers conferred by other laws and shall not be regarded as in derogation of
32 any powers now existing.
- 33 (2) Statutory references. – References in this act to specific sections or Chapters
34 of the General Statutes or to specific acts are intended to be references to such
35 sections, Chapters, or acts as they may be amended from time to time by the
36 General Assembly.
- 37 (3) Broad construction. – This act, being necessary for the health and welfare of
38 the people of the State, shall be broadly construed to effect the purposes
39 thereof.
- 40 (4) Inconsistent provisions. – Insofar as the provisions of this act are inconsistent
41 with the provisions of any general, special, or local laws, or parts thereof, the
42 provisions of this act shall be controlling.
- 43 (5) Severability. – If any provision of this act or the application thereof to any
44 person or circumstance is held invalid, such invalidity shall not affect other
45 provisions or applications of the act which can be given effect without the
46 invalid provision or application, and, to this end, the provisions of this act are
47 declared to be severable.

48 **SECTION 2.** Any funds from the Education Bond expended for public schools shall
49 be reported to the Department of Public Instruction and shall be credited against the judgment in
50 *N.C. Sch. Bds. Ass'n. v. Moore*, No. 98-CVS-14159 (N.C. Super. Ct.).

51 **SECTION 3.** This act is effective when it becomes law.