

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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May 26, 2020
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40632-MCxfa-252

Short Title: Education & Transportation Bond Act of 2020.

(Public)

Sponsors: Representative Moore.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT THE EDUCATION AND TRANSPORTATION BOND ACT OF 2020.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Short Title. – This act shall be known as the "Education and Transportation Bond Act of 2020."

SECTION 1.(b) Purpose. – It is the intent of the General Assembly by this act to provide, subject to a vote of the qualified voters of the State, for the issuance of three billion one hundred million dollars (\$3,100,000,000) in general obligation bonds of the State for the purpose of providing funds, with any other available funds, (i) for public school facilities through grants to counties for public school capital outlay projects and repairs and renovations, in the amount of eight hundred million dollars (\$800,000,000), (ii) for community college facilities for community college capital outlay projects and repairs and renovations, in the amount of two hundred million dollars (\$200,000,000), (iii) for The University of North Carolina facilities for capital outlay projects for constituent institutions and repairs and renovations at such institutions, in the amount of six hundred million dollars (\$600,000,000), and (iv) for public transportation infrastructure projects, including construction and renovation of highways, roads, bridges, and related road infrastructure, in the amount of one billion five hundred million dollars (\$1,500,000,000).

SECTION 1.(c) Definitions. – Unless the context otherwise requires, the following definitions apply in this act:

(1) Bonds. – Bonds issued under this section.

(1a) Capital outlay project for a constituent institution. – A project for any of the following:

- a. Construction of one or more new buildings located at a constituent institution of The University of North Carolina.
- b. Renovation of one or more existing buildings located at a constituent institution of The University of North Carolina.
- c. Construction, acquisition, and installation of technology infrastructure at or in support of a constituent institution of The University of North Carolina.
- d. Acquisition and installation of equipment for a building located at a constituent institution of The University of North Carolina that will be used for an instructional or related purpose.
- e. Purchase of land necessary for construction to commence within 24 months of one or more buildings at a constituent institution of The University of North Carolina.



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- 1 f. Other related capital outlay projects to provide facilities for individual
2 constituent institutions of The University of North Carolina that are
3 used for instructional or related purposes.

4 The term does not include projects for facilities for centralized administration, trailers,
5 relocatable classrooms, or mobile classrooms.

- 6 (1b) Community college capital outlay project. – A project for any of the
7 following:

- 8 a. Construction of one or more new community college buildings located
9 on a community college campus.
10 b. Renovation of one or more existing community college buildings.
11 c. Construction, acquisition, and installation of the enterprise resource
12 planning information technology in support of the North Carolina
13 Community College System and its community colleges.
14 d. Construction, acquisition, and installation of technology infrastructure
15 at or in support of a community college.
16 e. Acquisition and installation of equipment for a community college
17 building that will be used for an instructional or related purpose.
18 f. Purchase of land necessary for construction to commence within 24
19 months of one or more community college buildings.
20 g. Other related capital outlay projects to provide facilities for individual
21 community college campuses that are used for instructional or related
22 purposes.

23 The term does not include projects for facilities for centralized administration, trailers,
24 relocatable classrooms, or mobile classrooms.

- 25 (2) Cost. – Without intending thereby to limit or restrict any proper definition of
26 this term in financing the cost of any capital outlay projects as authorized by
27 this act, any of the following:

- 28 a. The cost of constructing, reconstructing, enlarging, acquiring, and
29 improving projects and acquiring equipment and land therefor.
30 b. The cost of engineering, architectural, and other consulting services as
31 may be required.
32 c. Administrative expenses and charges, including expenses related to
33 determining compliance with applicable requirements of federal law
34 and expenses relating to issuance. Nothing in this section shall permit
35 use of bond funds to pay salaries or fees for bond administration; such
36 salaries and fees shall come from funds appropriated by the General
37 Assembly.
38 d. Finance charges and interest prior to and during construction and, if
39 deemed advisable by the State Treasurer, for a period not exceeding
40 three years after the estimated date of completion of construction.
41 e. The cost of bond insurance, investment contracts, credit enhancement
42 and liquidity facilities; interest rate swap agreements or other
43 derivative products; financial and legal consultants; and related costs
44 of bond and note issuance; and costs incurred by the State in
45 administering the bond issues, including costs of trustees, escrow
46 agents, arbitrage rebate liability consultants, securities disclosure
47 counsel or similar securities disclosure consultants, tax consultants
48 and financial advisors, to the extent and as determined by the State
49 Treasurer.
50 f. The cost of reimbursing the State for any payments made for any cost
51 described in this subdivision.

1 g. Any other costs and expenses necessary or incidental to the purposes
2 of this act.

3 Allocations in this section of proceeds of bonds to the costs of a project or undertaking
4 in each case may include allocations to pay the costs set forth in sub-subdivisions c. through g.
5 of this subdivision in connection with the issuance of bonds for the project or undertaking.

6 (3) Credit facility agreement. – An agreement entered into by the State Treasurer
7 on behalf of the State with a bank, savings and loan association, or other
8 banking institution; an insurance company, reinsurance company, surety
9 company, or other insurance institution; a corporation, investment banking
10 firm, or other investment institution; or any financial institution or other
11 similar provider of a credit facility agreement, which provider may be located
12 within or without the United States of America, such agreement providing for
13 prompt payment of all or any part of the principal or purchase price (whether
14 at maturity, presentment or tender for purchase, redemption, or acceleration),
15 redemption premium, if any, and interest on any bonds or notes payable on
16 demand or tender by the owner, in consideration of the State agreeing to repay
17 the provider of the credit facility agreement in accordance with the terms and
18 provisions of such agreement.

19 (4) Notes. – Notes issued under this act.

20 (5) Par formula. – Any provision or formula adopted by the State to provide for
21 the adjustment, from time to time, of the interest rate or rates borne by any
22 bonds or notes, including the following:

23 a. A provision providing for such adjustment so that the purchase price
24 of such bonds or notes in the open market would be as close to par as
25 possible;

26 b. A provision providing for such adjustment based upon a percentage or
27 percentages of a LIBOR rate, a prime rate, or base rate, which
28 percentage or percentages may vary or be applied for different periods
29 of time; or

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

34 (6) Public school capital outlay project. – A project for any of the following:

35 a. Construction of one or more new public school buildings.

36 b. Renovation of one or more existing public school buildings.

37 c. Construction, acquisition, and installation of technology infrastructure
38 for a public school building.

39 d. Acquisition and installation of equipment or fixtures to ensure
40 building security for a public school building.

41 e. Acquisition and installation of equipment for a public school building
42 that will be used for an instructional or related purpose.

43 f. Purchase of land necessary for construction to commence within 24
44 months of one or more public school buildings.

45 g. Other related capital outlay projects to provide facilities for individual
46 public schools that are used for instructional or related purposes.

47 The term does not include projects for facilities for centralized administration, trailers,
48 relocatable classrooms, or mobile classrooms.

49 (7) State. – The State of North Carolina.

50 **SECTION 1.(d)** Authorization of Bonds and Notes. – Subject to a favorable vote of
51 a majority of the qualified voters of the State who vote on the question of issuing bonds for capital

outlay projects for public schools and for capital outlay projects funds for community colleges and The University of North Carolina in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Education and Transportation Bonds," with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding three billion one hundred million dollars (\$3,100,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act. For public improvement bonds authorized by this section for transportation projects, although such bonds will constitute general obligation bonds, secured by the faith and credit and taxing power of the State, and although the funds deposited to the Highway Trust Fund are not specifically pledged to pay debt service on such bonds, it is the intent of the General Assembly that the debt service on such bonds will be provided from amounts deposited to the Highway Trust Fund. The principal amounts of bonds or notes issued in any 12-month period shall not exceed five hundred ninety-one million dollars (\$591,000,000). In determining whether this limit has been reached, the issuance of a note or bond to pay an outstanding note is not considered an issuance.

SECTION 1.(e) Use of Education and Transportation Bond and Note Proceeds. –

(1) Subject to the provisions of subdivision (2) of this subsection, eight hundred million dollars (\$800,000,000) of the proceeds of education and transportation bonds and notes, including premium thereon, if any, shall be used for the purpose of making grants to counties for paying the cost of public school capital outlay projects and repairs and renovations in the following general amounts set forth in this subdivision. Any additional monies that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of public school capital outlay projects authorized by this act may be placed by the State Treasurer in the Education and Transportation Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to limitations imposed by this act.

Public Education

Various Statewide	Supplemental Education Funding	\$800,000,000
Total for Transportation		\$800,000,000

(1a) Subject to the provisions of subdivision (2) of this subsection, six hundred million dollars (\$600,000,000) of the proceeds of education and transportation bonds and notes, including premium thereon, if any, shall be used for paying the costs of capital outlay projects for constituent institutions and repairs and renovations in the following general amounts set forth below:

The University of North Carolina

East Carolina University	Brody School of Medicine	\$215,000,000
Elizabeth City State University	HVAC Replacement	\$4,000,000

1			
2	Elizabeth City State	Chiller	\$2,000,000
3	University		
4			
5	Elizabeth City State	Crime Lab	\$2,500,000
6	University		
7			
8	Fayetteville State	Rosenthal and Chick Bldg. Renovation	\$13,000,000
9	University		
10			
11	NC State University	STEM Building	\$80,000,000
12			
13	North Carolina	Carver Hall Renovation	\$18,500,000
14	A & T State		
15	University		
16			
17	UNC – Chapel Hill	Business Building	\$75,000,000
18			
19	UNC – Charlotte	Cameron and Burson Renovation	\$45,000,000
20			
21	UNC – Greensboro	Jackson Library Renovation	\$54,000,000
22			
23	UNC – Pembroke	Health Science Center	\$91,000,000
24			
25			
26	Total for The University of North Carolina		\$600,000,000
27			

(1b) Subject to the provisions of subdivision (2) of this subsection, two hundred million dollars (\$200,000,000) of the proceeds of education and transportation bonds and notes, including premium thereon, if any, shall be used for paying the costs of community college capital outlay projects and repairs and renovations in the following general amount set forth below:

NC Community Colleges

34			
35			
36	Various Statewide	Technology Upgrades, New Construction,	\$200,000,000
37		Repairs, Renovations	
38			
39	Total for NC Community Colleges		\$200,000,000
40			

(1c) Subject to the provisions of subdivision (2) of this subsection, one billion five hundred million dollars (\$1,500,000,000) of the proceeds of education and transportation bonds and notes, including premium thereon, if any, shall be used for paying the costs of supplemental highway funding for construction and renovations in the following general amount set forth below:

Transportation

47			
48			
49	Various Statewide	Supplemental Highway Funding	\$1,500,000,000
50			
51	Total for Transportation		\$1,500,000,000

- 1
2 (2) Special allocation provisions. – In determining the use of the proceeds of
3 education and transportation bonds and notes, including premium thereon, if
4 any, set forth in this act, the following special allocation provisions apply:
5 a. The public school capital outlay projects to be financed with the
6 proceeds of the bonds issued under this act shall be determined by the
7 State Board of Education based upon the criteria set forth in this act,
8 and upon application by the county in which the public school capital
9 outlay project is to be located or that will otherwise be served by the
10 public school capital outlay project. With respect to proceeds allocated
11 in subdivision (1) of this subsection:
12 1. The proceeds shall be used for new construction or
13 rehabilitation of existing facilities and repairs and renovations.
14 Any items purchased with such proceeds and installed or
15 replaced as part of a renovation or rehabilitation must have a
16 useful life of at least 10 years or must extend the life of the
17 facility by at least 10 years once renovated or rehabilitated.
18 2. In the case of a local school administrative unit located entirely
19 in one county, the unit's total distribution amount shall be
20 allocated to that county. In the case of a local school
21 administrative unit located in more than one county, the unit's
22 distribution amount shall be allocated among the counties in
23 which the unit is located in proportion to average daily
24 membership of the unit in each county. A unit's distribution
25 amount allocated to a county may be used only with respect to
26 public school facilities of that unit. If two or more local school
27 administrative units are consolidated into one unit, the
28 distribution amounts provided in subdivision (1) of this
29 subsection for the units shall be considered the distribution
30 amount for the merged unit.
31 3. Local matching fund requirement for bond proceeds shall be
32 as follows:
33 I. A county shall not be required to provide local
34 matching funds for the bond proceeds if any portion of
35 the proceeds results from low-wealth county or
36 adjustment factor designation allocations.
37 II. A county shall be required to provide local matching
38 funds for the bond proceeds if the county does not
39 receive any portion of the proceeds results from low
40 wealth county or adjustment factor designation
41 allocations. The county shall provide local matching
42 funds from county funds, other non-State funds, or a
43 combination of these sources for such proceeds. The
44 amount of matching funds shall be (i) one dollar
45 (\$1.00) of local matching funds for every three dollars
46 (\$3.00) of such proceeds for a local school
47 administrative unit located in a county that is a
48 development tier one area, as defined in
49 G.S. 143B-437.08, (ii) one dollar (\$1.00) of local
50 matching funds for every two dollars (\$2.00) of such
51 proceeds for a local school administrative unit located

1 in a county that is a development tier two area, as
2 defined in G.S. 143B-437.08, and (iii) one dollar
3 (\$1.00) of local matching funds for every one dollar
4 (\$1.00) of such proceeds for a local school
5 administrative unit located in a county that is a
6 development tier three area, as defined in
7 G.S. 143B-437.08. The match requirement may be
8 satisfied by non-State expenditures for public school
9 facilities made on or after January 1, 2015. If a debt has
10 been incurred since January 1, 2015, for the general
11 purpose of public school facilities, then the face
12 amount of the debt shall be considered as a non-State
13 expenditure for public school facilities for the purpose
14 of the match. No other expenditures made or debts
15 incurred before January 1, 2015, may be used to satisfy
16 the match requirement. As counties satisfy the match
17 requirements of this sub-sub-sub-subdivision, they
18 shall document the extent to which they have done so
19 in periodic reports to the State Board of Education.
20 These reports shall include any information and
21 documentation required by the State Board of
22 Education. The State Board of Education shall certify
23 to the State Treasurer from time to time the extent to
24 which the match requirements of this
25 sub-sub-sub-subdivision have been met with respect to
26 each county. Bond proceeds shall be distributed for
27 expenditure only as, and to the extent, the matching
28 requirement of this sub-sub-sub-subdivision are
29 satisfied, as certified by the State Board of Education.
30 If the State Board of Education determines that a
31 county has not met the matching requirement set forth
32 in this sub-sub-sub-subdivision by January 1, 2026, the
33 State Board of Education shall certify that fact to the
34 State Treasurer by March 1, 2026. Amounts that are
35 allocated in the ADM Growth Allocation of bond
36 proceeds under subdivision (1) of this subsection and
37 that have not been certified as matched by the State
38 Board of Education by January 1, 2026, shall be
39 reallocated among the counties that have been certified
40 as having met the matching requirement for that
41 allocation. The reallocation shall be made among the
42 eligible counties in proportion to the amount of ADM
43 Growth Allocations for those counties under
44 subdivision (1) of this subsection. Amounts that are
45 allocated in the ADM Allocation of bond proceeds
46 under subdivision (1) of this subsection and that have
47 not been certified as matched by the State Board of
48 Education by January 1, 2026, shall be reallocated
49 among the counties that have been certified as having
50 met the matching requirement for that allocation. The
51 reallocation shall be made on the basis of average daily

1 membership of the local school administrative units
2 within the remaining counties. Bond proceeds
3 reallocated to a county because of a local school
4 administrative unit's average daily membership within
5 the county may be used only with respect to public
6 school capital outlay projects of that unit. Bond
7 proceeds reallocated to a county under this
8 sub-sub-sub-subdivision must be matched at the same
9 rate as bond proceeds allocated to the county under this
10 sub-sub-sub-subdivision.

11 III. The State Board of Education shall also require
12 counties to report annually on the impact of funds
13 provided under this act on the property tax rate for that
14 year. These reports shall be public documents and shall
15 be furnished to any citizen upon request.

16 4. The General Assembly encourages, in projects for which bond
17 proceeds are allocated, consideration by counties and local
18 school administrative units of projects that primarily involve
19 materially improving the energy efficiency of the school
20 facility.

21 b. The capital outlay projects for a constituent institution to be financed
22 with the proceeds of the bonds issued under this act shall be
23 determined by the Board of Governors of The University of North
24 Carolina based upon the criteria set forth in this act, and upon
25 application by the constituent institution in which the capital outlay
26 projects for a constituent institution is to be located or that will
27 otherwise be served by the capital outlay projects for a constituent
28 institution. With respect to proceeds allocated in subdivision (1a) of
29 this subsection:

30 1. The proceeds shall be used for new construction or
31 rehabilitation of existing facilities and repairs and renovations.
32 Any items purchased with such proceeds and installed or
33 replaced as part of a renovation or rehabilitation must have a
34 useful life of at least 10 years or must extend the life of the
35 facility by at least 10 years once renovated or rehabilitated.
36 Local matching fund requirements to receive bond proceeds
37 shall be as follows:

38 I. For projects for new construction, the constituent
39 institution receiving the proceeds shall provide
40 matching funds from other non-State funds.

41 II. For rehabilitation of existing facilities and repairs and
42 renovations, constituent institutions shall not be
43 required to match bond proceeds allocated in this act.

44 2. In determining the allocation of proceeds, the Board of
45 Governors shall consider the following factors: (i) size of the
46 entity, with a focus on smaller campuses; (ii) population
47 historically served, with a focus on historically
48 minority-serving institutions; (iii) development tier area
49 designations, with a focus on lower development tier areas; (iv)
50 constituent institutions operating a school serving any grade,
51 kindergarten through 12, with a focus on such institutions; and

- 1 (v) length of outstanding repairs and renovations requests, with
2 a focus on longer outstanding requests.
- 3 c. The community college capital outlay projects to be financed with the
4 proceeds of the bonds issued under this act shall be determined by the
5 Community College System Office based upon the criteria set forth in
6 this act, and upon application by the community college in which the
7 community college capital outlay projects is to be located or that will
8 otherwise be served by the community college capital outlay projects.
9 With respect to proceeds allocated in subdivision (1b) of this
10 subsection:
- 11 1. The proceeds shall be used for upgrades to the enterprise
12 resource planning information technology ("the ERP system"),
13 new construction or rehabilitation of existing facilities, and
14 repairs and renovations.
- 15 2. Any items purchased with such proceeds for new construction
16 or rehabilitation of existing facilities and repairs and
17 renovations and installed or replaced as part of a renovation or
18 rehabilitation must have a useful life of at least 10 years or
19 must extend the life of the facility by at least 10 years once
20 renovated or rehabilitated. Local matching fund requirements
21 to receive bond proceeds shall be as follows:
- 22 I. For projects for new construction, the community
23 college receiving the proceeds shall provide local
24 matching funds from county funds, other non-State
25 funds, or a combination of these sources for such
26 proceeds. The amount of matching funds shall be (i)
27 one dollar (\$1.00) of local matching funds for every
28 three dollars (\$3.00) of such proceeds for a community
29 college with a main campus located in a development
30 tier one area, as defined in G.S. 143B-437.08, (ii) one
31 dollar (\$1.00) of local matching funds for every two
32 dollars (\$2.00) of such proceeds for a community
33 college with a main campus located in a development
34 tier two area, as defined in G.S. 143B-437.08, and (iii)
35 one dollar (\$1.00) of local matching funds for every
36 one dollar (\$1.00) of such proceeds for a community
37 college with a main campus located in a development
38 tier three area, as defined in G.S. 143B-437.08. The
39 provisions of G.S. 115D-31, or any other provision of
40 law permitting prior expenditures to be used for match
41 purposes, do not apply for purposes of meeting the
42 matching funds requirements of this act.
- 43 II. For rehabilitation of existing facilities and repairs and
44 renovations, community colleges are not required to
45 match bond proceeds allocated in this act.
- 46 III. No funds shall be required to match bond proceeds
47 allocated in this act for the ERP system project.
- 48 3. In determining between projects for which bond proceeds are
49 allocated, the Community Colleges System Office shall give
50 first priority to the ERP system project and shall prioritize
51 allocation of the remainder of funds among projects for new

1 construction and repairs and renovations by ranking the
 2 projects for the various community colleges according to three
 3 components, as follows: (i) the development factor ranking by
 4 the Secretary of Commerce, as provided in G.S. 143B-437.08,
 5 for identification of the development tier of the county in
 6 which the project is located, which shall be single weighted,
 7 (ii) the community college's repairs and renovations needs,
 8 which shall be double weighted, and (iii) the community
 9 college's additional square footage needs, which shall be single
 10 weighted.

11 d. The proceeds of bonds issued under this act, including premium
 12 thereon, if any, for statewide supplemental highway funding for
 13 transportation, as provided in subdivision (1c) of this subsection, shall
 14 be issued only for highway projects satisfying all of the following
 15 conditions:

- 16 1. An environmental impact statement, if required by law, was
 17 completed prior to January 1, 2020.
- 18 2. Construction on the project is projected by the Department of
 19 Transportation to commence by January 1, 2022.
- 20 3. The project meets the requirements set forth in Article 14B of
 21 Chapter 136 of the General Statutes.

22 **SECTION 1.(f) Allocation and Tracking of Proceeds. –**

23 (1) Education and transportation bonds. – The proceeds of education and
 24 transportation bonds and notes, including premium thereon, if any, except the
 25 proceeds of bonds, the issuance of which has been anticipated by bond
 26 anticipation notes or the proceeds of refunding bonds or notes, shall be placed
 27 by the State Treasurer in a special fund to be designated "Education and
 28 Transportation Bonds Fund," which may include such appropriate special
 29 accounts therein as may be determined by the State Treasurer and shall be
 30 disbursed as provided in this section. Monies in the Education and
 31 Transportation Bonds Fund shall be allocated and expended as provided in
 32 this section.

33 Any additional monies that may be received by means of a grant or grants
 34 from the United States of America or any agency or department thereof or
 35 from any other source for deposit to the Education and Transportation Bonds
 36 Fund may be placed in the Education and Transportation Bonds Fund or in a
 37 separate account or fund and shall be disbursed, to the extent permitted by the
 38 terms of the grant or grants, without regard to any limitations imposed by this
 39 act.

40 Monies in the Education and Transportation Bonds Fund or any separate
 41 account established under this section may be invested from time to time by
 42 the State Treasurer in the same manner permitted for investment of monies
 43 belonging to the State or held in the State treasury, except with respect to grant
 44 money to the extent otherwise directed by the terms of the grant. Investment
 45 earnings, except investment earnings with respect to grant monies to the extent
 46 otherwise directed or restricted by the terms of the grant, may be (i) credited
 47 to the Education and Transportation Bonds Fund or (ii) used to satisfy
 48 compliance with applicable requirements of the federal tax law.

49 The proceeds of education and transportation bonds and notes, including
 50 premium thereon, if any, may be used with any other monies made available
 51 by the General Assembly for funding the projects authorized by this section,

1 including the proceeds of any other State bond issues, whether heretofore
2 made available or that may be made available at the session of the General
3 Assembly at which this act is ratified or any subsequent sessions. The
4 proceeds of education and transportation bonds and notes, including premium
5 thereon, if any, shall be expended and disbursed under the direction and
6 supervision of the Director of the Budget. The funds provided by this act shall
7 be disbursed for the purposes provided in this section upon warrants drawn on
8 the State Treasurer by the State Controller, which warrants shall not be drawn
9 until requisition has been approved by the Director of the Budget and which
10 requisition shall be approved only after full compliance with the State Budget
11 Act, Chapter 143C of the General Statutes.

12 (2) Tracking of bond proceeds. – The State Treasurer or the State Treasurer's
13 designee is hereby authorized and directed to set up a comprehensive system
14 of tracking the proceeds of the education and transportation bonds and notes,
15 including premium thereon, if any, to the extent necessary to enable the State
16 Treasurer or the State Treasurer's designee to properly account for the use of
17 such proceeds for compliance with applicable requirements of the federal tax
18 law or otherwise. All recipients of such proceeds shall comply with any
19 tracking system implemented by the State Treasurer or the State Treasurer's
20 designee for this purpose. The State Treasurer may withhold proceeds if the
21 recipient fails to comply with this subdivision.

22 (3) Costs. – Allocations to the costs of a capital improvement or undertaking in
23 each case may include allocations to pay the costs set forth in sub-subdivisions
24 c. through g. of subdivision (2) of subsection (c) of this section in connection
25 with the issuance of bonds for that capital improvement or undertaking.

26 **SECTION 1.(g) Election.** – The question of the issuance of the bonds authorized by
27 this act shall be submitted to the qualified voters of the State at the time of the general election
28 in 2020, which election shall be held under and in accordance with the general laws of the State.

29 The bond question to be used in the ballots or voting systems shall be in substantially
30 the following form:

31 FOR AGAINST

32 The issuance of three billion one hundred million dollars (\$3,100,000,000) State of
33 North Carolina Education and Transportation Bonds constituting general obligation bonds of the
34 State secured by a pledge of the faith and credit and taxing power of the State for the purpose of
35 providing funds, with any other available funds, to fund capital improvements, construction of
36 new facilities, and the renovation and rehabilitation of existing facilities for the State's public
37 education system in local school administrative units, community colleges of the North Carolina
38 Community College System, and constituent institutions of The University of North Carolina
39 and to fund the construction and renovation of highways, roads, bridges, and related road
40 infrastructure."

41 If a majority of those voting on a bond question in the election vote in favor of the
42 issuance of the bonds described in the question, those bonds may be issued as provided in this
43 act. If a majority of those voting on the bond question in the election do not vote in favor of the
44 issuance of the bonds described in the question, those bonds shall not be issued.

45 The results of the election shall be canvassed and declared as provided in Chapter 163
46 of the General Statutes; the results of the election shall be certified by the State Board to the
47 Secretary of State.

48 **SECTION 1.(h) Issuance of Bonds and Notes.** –

49 (1) Terms and conditions. – Bonds or notes may bear such date or dates, may be
50 serial or term bonds or notes, or any combination thereof, may mature in such
51 amounts and at such time or times, not exceeding 40 years from their date or

1 dates, may be payable at such place or places, either within or without the
2 United States of America, in such coin or currency of the United States of
3 America as at the time of payment is legal tender for payment of public and
4 private debts, may bear interest at such rate or rates, which may vary from
5 time to time, and may be made redeemable before maturity, at the option of
6 the State or otherwise as may be provided by the State, at such price or prices,
7 including a price less than the face amount of the bonds or notes, and under
8 such terms and conditions, all as may be determined by the State Treasurer by
9 and with the consent of the Council of State.

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

35 (3) Manner of sale; expenses. – Subject to the consent of the Council of State, the
36 State Treasurer shall determine the manner in which bonds or notes shall be
37 offered for sale, whether at public or private sale, whether within or without
38 the United States of America, and whether by publishing notices in certain
39 newspapers and financial journals, mailing notices, inviting bids by
40 correspondence, negotiating contracts of purchase, or otherwise, and the State
41 Treasurer is authorized to sell bonds or notes at one time or from time to time
42 at such rate or rates of interest, which may vary from time to time, and at such
43 price or prices, including a price less than the face amount of the bonds or the
44 notes, as the State Treasurer may determine. All expenses incurred in
45 preparation, sale, and issuance of bonds or notes shall be paid by the State
46 Treasurer from the proceeds of bonds or notes or other available monies.

47 (4) Notes; repayment. –

48 a. Subject to the consent of the Council of State, the State Treasurer is
49 hereby authorized to borrow money and to execute and issue notes of
50 the State for the same, but only in the following circumstances and
51 under the following conditions:

1. For anticipating the sale of bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds.
 2. For the payment of interest on or any installment of principal of any bonds then outstanding, if there shall not be sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.
 3. For the renewal of any loan evidenced by notes herein authorized.
 4. For the purposes authorized in this act.
 5. For refunding bonds or notes as herein authorized.
- b. Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this section. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.
- (5) Refunding bonds and notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this act. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured.
 - (6) Tax exemption. – Bonds and notes shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes shall not be subject to taxation as to income.
 - (7) Investment eligibility. – Bonds and notes are hereby made securities in which all public officers, agencies, and public bodies of the State and its political subdivisions; all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State; executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Bonds and notes are hereby made securities that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision of the State is now or may hereafter be authorized by law.
 - (8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. In addition to the State's right to amend any provision of this act to the extent it does not impair any contractual right of a bond owner, the State expressly reserves the right to amend any provision of this act with respect to the making and repayment of loans, the disposition of any repayments of loans, and any intercept provisions relating to the failure of a local government unit to repay a loan, the bonds not being secured in any respect by loans, any repayments thereof, or any intercept provisions with respect thereto.

1 **SECTION 1.(i)** Variable Interest Rates. – In fixing the details of bonds and notes,
2 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 thereof, provided a credit facility agreement supports the bonds or
5 notes, unless the State Treasurer specifically determines that a credit facility
6 agreement is not required, upon a finding and determination by the State
7 Treasurer that the absence of a credit facility agreement will not materially or
8 adversely affect the financial position of the State and the marketing of the
9 bonds or notes at a reasonable interest cost to the State;
- 10 (2) Be additionally supported by a credit facility agreement;
- 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 such period or periods of time,
14 all as may be provided in the proceedings providing for the issuance of the
15 bonds or notes, including, without limitation, such variations as may be
16 permitted pursuant to 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 agreement or to the State.

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

28 **SECTION 1.(j)** Interpretation of Act. –

- 29 (1) Additional method. – The foregoing subsections of this section shall be
30 deemed to provide an additional and alternative method for the doing of the
31 things authorized thereby and shall be regarded as supplemental and
32 additional to powers conferred by other laws and shall not be regarded as in
33 derogation of any powers now existing.
- 34 (2) Statutory references. – References in this act to specific sections or Chapters
35 of the General Statutes or to specific acts are intended to be references to these
36 sections, Chapters, or acts as they may be amended from time to time by the
37 General Assembly.
- 38 (3) Broad construction. – The General Assembly specifically has chosen to
39 combine what otherwise might be considered differing projects to be financed
40 into one bond bill and bond question because the General Assembly finds that
41 such differing projects, when taken together, constitute an interrelated, united,
42 and single plan for the State's public education system as stated aforesaid.
43 Accordingly, this act, being necessary for the health, welfare, and
44 advancement of the people of the State, shall be broadly construed to affect
45 the purposes thereof.
- 46 (4) Inconsistent provisions. – Insofar as the provisions of this section are
47 inconsistent with the provisions of any general laws, or parts thereof, the
48 provisions of this act shall be controlling.
- 49 (5) Severability. – If any provision of this section or the application thereof to any
50 person or circumstance is held invalid, such invalidity shall not affect other
51 provisions or applications of the act that can be given effect without the invalid

1 provision or application, and to this end, the provisions of this section are
2 declared to be severable.

3 **SECTION 1.(k)** Other Agreements. – The State Treasurer may authorize, execute,
4 obtain, or otherwise provide for bond issuance, investment contracts, credit and liquidity
5 facilities, interest rate swap agreements and other derivative products, and any other related
6 instruments and matters the State Treasurer determines to be desirable in connection with the
7 issuance of bonds and notes.

8 **SECTION 2.** Each entity, upon receiving the proceeds of education and
9 transportation bonds and notes, including premium thereon, if any, issued pursuant to and for
10 projects listed in Section 1 of this act, shall administer, supervise, and ensure that use of the
11 proceeds comport with the purposes provided in this act. Each local school administrative unit,
12 along with the corresponding board of county commissioners, shall jointly submit to the State
13 Board of Education a plan for the expenditure of proceeds allocated to it under this act. After the
14 State Board of Education determines that a local school administrative unit's planned expenditure
15 of part or all of the proceeds allocated to it is within the purposes provided in this act, the State
16 Board of Education shall make the proceeds to which the plans apply available to the local school
17 administrative unit. Each local school administrative unit receiving the proceeds of education
18 and transportation bonds and notes, including premium thereon, if any, issued pursuant to Section
19 1 of this act shall report by January 1, 2022, and quarterly thereafter, to the State Board of
20 Education on the projects funded from education and transportation general obligation bonds
21 authorized by Section 1 of this act, and the State Board of Education shall combine the reports
22 and submit them to the Joint Legislative Capital Oversight Committee, the House of
23 Representatives Appropriations Committee, and the Senate Committee on Appropriations/Base
24 Budget. Each report shall include the total project costs, the amount to be funded from the bonds,
25 the expenditures to date from the bonds and other sources, and the percentage of each project
26 completed.

27 Each constituent institution of The University of North Carolina receiving the
28 proceeds of education and transportation bonds and notes, including premium thereon, if any,
29 issued pursuant to subdivision (1a) of Section 1(e) of this act shall report by January 1, 2022, and
30 quarterly thereafter, to the Joint Legislative Oversight Committee on Capital Improvements, the
31 House of Representatives Appropriations Committee, and the Senate Committee on
32 Appropriations/Base Budget on the projects funded from education and transportation general
33 obligation bonds authorized by Section 1 of this act. Each report shall include the total project
34 costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other
35 sources, and the percentage of each project completed.

36 Community colleges receiving the proceeds of education and transportation bonds
37 and notes, including premium thereon, if any, issued pursuant to subdivision (1b) of Section 1(e)
38 of this act shall report by January 1, 2022, and quarterly thereafter, to the North Carolina
39 Community Colleges System Office on the projects funded from education and transportation
40 general obligation bonds authorized by Section 1 of this act, and the System Office shall combine
41 the reports and submit them to the Joint Legislative Oversight Committee on Capital
42 Improvements, the House of Representatives Appropriations Committee, and the Senate
43 Committee on Appropriations/Base Budget. Each report shall include the total project costs, the
44 amount to be funded from the bonds, the expenditures to date from the bonds and other sources,
45 and the percentage of each project completed.

46 The Department of Transportation shall, with respect to received proceeds of
47 education and transportation bonds and notes, including premium thereon, if any, issued pursuant
48 to subdivision (1a) of Section 1(e) of this act, report by January 1, 2022, and quarterly thereafter,
49 to the Joint Legislative Oversight Committee on Transportatoin, the House of Representatives
50 Appropriations Committee, and the Senate Committee on Appropriations/Base Budget on the
51 projects funded from education and transportation general obligation bonds authorized by

1 Section 1 of this act. Each report shall include the total project costs, the amount to be funded
2 from the bonds, the expenditures to date from the bonds and other sources, and the percentage of
3 each project completed.

4 **SECTION 3.(a)** Projects funded in whole or in part with the proceeds of education
5 and transportation bonds and notes, including premium thereon, if any, issued pursuant to this
6 act, and that portion of funds estimated to be needed for escalation of costs shall remain with the
7 Office of State Budget and Management and shall be disbursed only for the following purposes:

8 (1) To address unforeseen contingencies related to the specific project for which
9 the funds were made available.

10 (2) To address inflation costs related to that specific project.

11 **SECTION 3.(b)** Any funds retained by the Office of State Budget and Management
12 pursuant to subsection (a) of this section at the time a project is completed shall be retained by
13 the Office of State Budget and Management. The Office of State Budget and Management shall
14 report on any funds retained pursuant to this subsection within 90 days of a project's completion.

15 **SECTION 4.** Notwithstanding the period of time provided in G.S. 163A-1045(a) for
16 which transfers are effective, transfers of voters from a given precinct, for the purpose of voting,
17 to an adjacent precinct for the election held as required in Section 1(g) of this act shall be for that
18 election only and shall not apply to any subsequent election.

19 **SECTION 5.** Any funds from the Education and Transportation Bond authorized by
20 this act that are expended for school technology for public schools shall be reported to the State
21 Board of Education and shall be credited against the judgment in *N.C. Sch. Bds. Ass'n. v. Moore*,
22 No. 98-CVS-14159 (N.C. Super. Ct.).

23 **SECTION 6.** This act is effective when it becomes law.