

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1354

Short Title: Bonds/Critical Infrastructure Needs.

(Public)

Sponsors: Senators Kerr; Albertson, Ballance, Ballantine, Carpenter, Carrington, Cochrane, Cooper, Dalton, East, Forrester, Garwood, Gulley, Hartsell, Hoyle, Jenkins, Kinnaird, Lee, Lucas, Martin of Pitt, Martin of Guilford, Miller, Odom, Page, Perdue, Phillips, Plyler, Purcell, Shaw of Cumberland, Soles, Warren, Weinstein, Wellons, and Winner.

Referred to: Finance.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO ADDRESS CRITICAL STATEWIDE NEEDS BY PROVIDING FUNDS (1) FOR GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY AND DISTRIBUTION SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, WATER CONSERVATION PROJECTS, AND WATER REUSE PROJECTS AND (2) FOR GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the "Clean Water and Natural Gas Bond Act of 1998".

1 Section 2. Purpose. It is the intent of the General Assembly by this act to
2 provide for the issuance of general obligation bonds of the State and to provide that the
3 proceeds realized from the sale of the bonds shall be allocated as follows:

- 4 (1) \$465,000,000 to provide State matching funds required to receive
5 federal wastewater or water supply assistance funds and to provide
6 additional funding for the Clean Water Revolving Loan and Grant Fund
7 established in Chapter 159G of the General Statutes or to provide
8 funding by grants to local government units for wastewater treatment
9 and water supply distribution needs.
- 10 (2) \$320,000,000 to provide loans to local government units to finance all
11 or a portion of the cost of construction, improvements, enlargements,
12 extensions, and reconstruction of water supply and distribution systems,
13 wastewater collection systems, wastewater treatment works, and water
14 conservation and water reuse projects.
- 15 (3) \$100,000,000 to provide grants, loans, or other financing to natural gas
16 local distribution companies, persons seeking natural gas distribution
17 franchises, State or local government agencies, or other entities for
18 construction of natural gas facilities.

19 The funds to be derived from the sale of the Clean Water Bonds
20 authorized by this act are sufficient to meet no more than a
21 fraction of the needs that now exist and will arise in the
22 immediate future. For this reason, although public necessity
23 shall be the primary consideration in granting and loaning funds,
24 great emphasis shall also be placed on achieving stringent
25 reductions in the levels of nutrients and other pollutants
26 discharged into the State's waters, particularly in nutrient
27 sensitive river basins, in reducing the overall volume of effluent
28 discharged to the State's waters by using alternative methods of
29 wastewater treatment when feasible, on the creation of efficient
30 systems of regional wastewater disposal and regional water
31 supply, and on the willingness and ability of local government
32 units to meet their responsibilities through sound fiscal policies,
33 creative planning, and efficient operation and management.

34 Section 3. Definitions. As used in this act, unless the context otherwise
35 requires:

- 36 (1) "Bond rating" means a numerical rating of a unit of local government
37 developed by the North Carolina Municipal Council, Inc. The rating
38 formula is based on 100 being a theoretically 'perfect' unit of
39 government and is an assessment of the creditworthiness of the unit.
40 Units of local government with rating below 75 or with no ratings are
41 generally considered to be 'nonbank eligible' and such communities
42 therefore have limited, if any access to the private market for financing
43 water and sewer or other debt.

- 1 (2) " Bonds" means bonds issued under this act.
- 2 (3) " Capacity grant" means a grant awarded by the Rural Economic
3 Development Center to a local government unit to assist in financing a
4 portion of the cost associated with the planning and writing of a grant or
5 loan application, a capital improvement plan, or other efforts that
6 support growth and development of rural areas.
- 7 (4) " Capital Improvement Plan" means a report that identifies water and
8 sewer infrastructure and capital needs that address planned and strategic
9 growth. It includes an assessment of current water and wastewater
10 systems and a projection of those infrastructure needs over a 20-year
11 horizon. The report takes into consideration government mandates,
12 usefulness of the improvements to the community and the effect on both
13 short and long-term operation and maintenance of the scheduled
14 improvements and identifies alternatives for meeting the identified need
15 including regionalization, consolidation and system mergers, water
16 reuse and conservation.
- 17 (5) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of
18 the 1987 Session Laws, as amended from time to time, codified as
19 Chapter 159G of the General Statutes.
- 20 (6) " Clean Water Revolving Loan and Grant Fund" means the Clean Water
21 Revolving Loan and Grant Fund as defined in the Clean Water
22 Revolving Loan and Grant Act.
- 23 (7) " Cost" means, without intending thereby to limit or restrict any proper
24 definition of this term in financing the cost of facilities or purposes
25 authorized by this act:
- 26 a. The cost of constructing, reconstructing, enlarging, acquiring,
27 and improving facilities, and acquiring equipment and land
28 therefor,
- 29 b. The cost of engineering, architectural, and other consulting
30 services as may be required,
- 31 c. Administrative expenses and charges,
- 32 d. Finance charges and interest prior to and during construction and,
33 if deemed advisable by the State Treasurer, for a period not
34 exceeding two years after the estimated date of completion of
35 construction,
- 36 e. The cost of bond insurance, investment contracts, credit
37 enhancement and liquidity facilities, interest-rate swap
38 agreements or other derivative products, financial and legal
39 consultants, and related costs of bond and note issuance, to the
40 extent and as determined by the State Treasurer,
- 41 f. The cost of reimbursing the State for any payments made for any
42 cost described above, and

- 1 g. Any other costs and expenses necessary or incidental to the
2 purposes of this act.
- 3 Allocations in this act of proceeds of bonds to the costs of a project or
4 undertaking in each case may include allocations to pay the costs set
5 forth in items c., d., e., f., and g. in connection with the issuance of
6 bonds for the project or undertaking.
- 7 (8) "Credit facility" means an agreement entered into by the State
8 Treasurer on behalf of the State with a bank, savings and loan
9 association, or other banking institution, an insurance company,
10 reinsurance company, surety company, or other insurance institution, a
11 corporation, investment banking firm, or other investment institution, or
12 any financial institution or other similar provider of a credit facility,
13 which provider may be located within or without the United States of
14 America, such agreement providing for prompt payment of all or any
15 part of the principal or purchase price (whether at maturity, presentment
16 or tender for purchase, redemption or acceleration), redemption
17 premium, if any, and interest on any bonds or notes payable on demand
18 or tender by the owner, in consideration of the State agreeing to repay
19 the provider of the credit facility in accordance with the terms and
20 provisions of such agreement.
- 21 (9) "Economically depressed area" means any of the following:
- 22 a. An economically distressed county as defined in G.S. 143B-
23 437.01.
- 24 b. That part of a rural county whose poverty rate is at least one
25 hundred fifty percent (150%) of the State poverty rate. For the
26 purpose of this section, the poverty rate is the percentage of the
27 population with income below the latest annual federal poverty
28 guidelines issued by the United States Department of Health and
29 Human Resources.
- 30 c. That part of a rural county that experiences an actual or imminent
31 loss of jobs in a number that is equal to or exceeds five percent
32 (5%) of the total number of jobs in the part.
- 33 (10) "Local government units" means local government units as defined in
34 the Clean Water Revolving Loan and Grant Act.
- 35 (11) "North Carolina Municipal Council, Inc. (NCMC)" means the private,
36 nonprofit bond rating corporation operating in North Carolina. The
37 Council provides reports and ratings of units of local government for its
38 members.
- 39 (12) "Notes" means notes issued under this act.
- 40 (13) "Par formula" means any provision or formula adopted by the State to
41 provide for the adjustment, from time to time, of the interest rate or rates
42 borne by any bonds or notes, including:

- 1 a. A provision providing for such adjustment so that the purchase
2 price of such bonds or notes in the open market would be as close
3 to par as possible,
- 4 b. A provision providing for such adjustment based upon a
5 percentage or percentages of a prime rate or base rate, which
6 percentage or percentages may vary or be applied for different
7 periods of time, or
- 8 c. Such other provision as the State Treasurer may determine to be
9 consistent with this act and will not materially and adversely
10 affect the financial position of the State and the marketing of
11 bonds or notes at a reasonable interest cost to the State.
- 12 (14) " Rural county" means a county with a density of less than 200 people
13 per square mile based on the United States census.
- 14 (15) " Rural Economic Development Center" means the Rural Economic
15 Development Center, Inc., a nonprofit corporation.
- 16 (16) " Supplemental grant" means a grant awarded by the Rural Economic
17 Development Center to a local government unit that assists in financing
18 projects that support rural areas. Supplemental grant funds are intended
19 to supplement other project funding and typically do not represent more
20 than fifty percent (50%) of a project's total cost.
- 21 (17) " State" means the State of North Carolina.
- 22 (18) " Unsewered communities" means those communities lacking
23 centralized, publicly owned wastewater treatment collection and
24 treatment systems.
- 25 (19) " Wastewater collection systems" means wastewater collection systems
26 as defined in the Clean Water Revolving Loan and Grant Act.
- 27 (20) " Wastewater treatment works" means wastewater treatment works as
28 defined in the Clean Water Revolving Loan and Grant Act.
- 29 (21) " Water conservation projects" include, but are not limited to, any
30 construction, repair, renovation, expansion, replacement of components,
31 or other capital improvement, including related equipment and land
32 acquisition, designed to:
- 33 a. Eliminate the wasteful or unnecessary use or loss of water in the
34 operations of a wastewater collection system, wastewater
35 treatment works, or water supply system; or
- 36 b. Enhance the operation of a wastewater collection system,
37 wastewater treatment works, or water supply system to provide a
38 more efficient use of water.
- 39 (22) " Water Pollution Control Revolving Fund" means the fund described
40 by G.S. 159G-4(a) and G.S. 159G-5(c).
- 41 (23) " Water reuse" means the actual use or application of treated wastewater
42 in or on areas which require water but do not require potable water
43 quality.

(24) " Water supply systems" means water supply systems as defined in the Clean Water Revolving Loan and Grant Act.

Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds 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 Clean Water 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 seven hundred eighty-five million dollars (\$785,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

(b) Natural Gas Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Natural Gas Bonds 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 Natural Gas 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 one hundred million dollars (\$100,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

Section 5. Uses of bond and note proceeds. (a) Clean Water Bonds. The proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans and grants to local governments as follows:

(1) The proceeds of three hundred sixty-five million dollars (\$365,000,000) of Clean Water Bonds shall be used by the Department of Environment and Natural Resources to provide State matching funds required to receive federal wastewater or water supply assistance funds and for grants to local government units for the same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may be used. The grants shall be made for the purpose of paying the cost of water supply systems, wastewater collection systems, and wastewater treatment works. Those proceeds shall be allocated as follows:

- a. High-Unit Cost Wastewater Account
 - 1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating.....\$85,000,000
 - 2. Reserved for local units of local government whose bond rating is 75 or more.....\$80,000,000
- b. High-Unit Cost Water Supply Account

- 1 1. Reserved for local units of local government
- 2 whose bond rating is less than 75 or who have no bond
- 3 rating.....\$85,000,000
- 4 2. Reserved for local units of local government whose bond
- 5 rating is 75 or greater.....\$80,000,000
- 6 c. Federal Matching Funds.....\$35,000,000

7 Of the proceeds of three hundred sixty-five million dollars
8 (\$365,000,000), the sum of thirty-five million dollars (\$35,000,000)
9 shall be used to provide State funds necessary for the 1999-2000, 2000-
10 2001, 2001-2002, 2002-2003, and 2003-2004 fiscal years to match the
11 federal wastewater or water supply assistance funds deposited in the
12 Water Pollution Control Revolving Fund or another fund that is used to
13 pay the cost of water supply systems, wastewater collection systems, or
14 wastewater treatment works and is eligible to receive federal matching
15 funds, unless the General Assembly has provided the required match
16 through other revenue, in which event this priority shall cease to exist to
17 the extent of the availability of the other revenue. For the purpose of
18 implementing this priority, the Department of Environment and Natural
19 Resources shall certify to the State Treasurer the amount of funds
20 required for the State match for each of the fiscal years ending June 30,
21 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30, 2003, and
22 June 30, 2004, and the extent to which the General Assembly has
23 provided other funds for this purpose. Upon certification each year of
24 the amount of funds required for the State match for that fiscal year, the
25 State Treasurer may issue from the thirty-five million dollars
26 (\$35,000,000) the amount certified up to thirty-five million dollars
27 (\$35,000,000). Upon certification for the State match required for the
28 fiscal year ending June 30, 2004, the State Treasurer may issue the
29 remaining balance of the thirty-five million dollars (\$35,000,000) of the
30 Clean Water Bonds authorized by this subdivision for the purpose of
31 funding the State match for that fiscal year and for any other purposes
32 authorized by this subdivision. The proceeds of the bonds necessary for
33 the State match for each fiscal year shall be deposited in the Water
34 Pollution Control Revolving Fund or another appropriate fund or
35 account determined by the State Treasurer.

36 The proceeds may be (i) transferred directly to the Clean Water
37 Revolving Loan and Grant Fund to make grants, (ii) used to make
38 grants directly to the appropriate local government qualifying for a grant
39 from the Clean Water Revolving Loan and Grant Fund, (iii) used for
40 any combination of (i) and (ii), or (iv) used in such other manner as
41 shall effectuate the purposes of this act.

42 Although public necessity and the criteria established by Chapter
43 159G of the General Statutes shall be the primary considerations in

1 granting funds, great emphasis shall also be placed on achieving
2 stringent reductions in the levels of nutrients and other pollutants
3 discharged into the State's waters, particularly in nutrient sensitive river
4 basins, in reducing the overall volume of effluent discharged to the
5 State's waters by using alternative methods of wastewater treatment
6 when feasible, on the creation of efficient systems of regional
7 wastewater disposal and regional water supply, and on the willingness
8 and ability of local government units to meet their responsibilities
9 through sound fiscal policies, creative planning, and efficient operation
10 and management. Grants made from bond proceeds transferred from
11 the Clean Water Bonds Fund to the Clean Water Revolving Loan and
12 Grant Fund shall be made and administered in accordance with the
13 provisions of the Clean Water Revolving Loan and Grant Act. Grants
14 made from bond proceeds directly to local government units shall, to the
15 extent applicable, be made, administered, and applied in accordance
16 with the provisions of the Clean Water Revolving Loan and Grant Act.

- 17 (2) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
18 Bonds shall be used by the Rural Economic Development Center to
19 provide grants to eligible unsewered communities to assist with
20 wastewater treatment and collection projects.

21 Grants made from the proceeds of this fifty million dollars
22 (\$50,000,000) of Clean Water Bonds shall be awarded on the following
23 criteria:

- 24 a. The applicant shall be a local government unit. However, a joint
25 application may be made by an unincorporated community and a
26 local government unit if the public sewer service to the
27 community will be provided by the local government unit.
- 28 b. The population of the unsewered community shall not exceed
29 3,500 persons using the most recently available certified
30 population estimates.
- 31 c. The community shall not have a publicly owned, centralized
32 wastewater collection or treatment system. Community land-
33 based wastewater treatment systems shall be eligible for
34 consideration under this program.
- 35 d. The median household income of the unsewered community
36 shall not exceed eighty percent (80%) of the national median
37 household income using the most recently updated income
38 figures made available from the Bureau of the Census.

39 Although public necessity and the criteria listed above shall be the
40 primary consideration for granting funds, great emphasis shall also be
41 placed on achieving stringent reductions in the levels of nutrients and
42 other pollutants discharged into the State's waters, particularly in
43 nutrient sensitive river basins, in reducing the overall volume of effluent

1 discharged to the State's waters by using alternative methods of
2 wastewater treatment when feasible, on the creation of efficient systems
3 of regional wastewater disposal and regional water supply, and on the
4 willingness and ability of local government units to meet their
5 responsibilities through sound fiscal policies, creative planning, and
6 efficient operation and management.

7 A community may be eligible for up to ninety percent (90%) of the
8 total project cost subject to average annual water and wastewater cost
9 per household (combined average annual charge per user rate)
10 calculated at one and one-half percent (1 1/2%) of the median household
11 income of the applicant unit. An unsewered community must submit as
12 a part of the application packet a preliminary engineering report
13 including an analysis of possible wastewater service alternatives, a
14 Capital Improvement Plan, and an environmental assessment.

15 At the end of each fiscal year the Secretary of Commerce shall review
16 the grants awarded by the Rural Economic Development Center with
17 proceeds from the Clean Water Bonds to verify that the grants awarded
18 comply with the requirements of this act. The Secretary of Commerce
19 shall provide his or her findings regarding compliance in writing to the
20 State Treasurer.

21 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
22 Bonds shall be used by the Rural Economic Development Center to
23 provide supplemental and capacity grants to local government units to
24 match federal, State, and other grant or loan program funds to plan or
25 improve needed water and sewer projects in economically depressed
26 areas of North Carolina. Those proceeds shall be allocated as follows:

- 27 a. Supplemental Grants.....\$40,000,000
- 28 b. Capacity Grants.....\$10,000,000

29 For the purpose of implementing this priority, the Rural Economic
30 Development Center shall certify to the State Treasurer the amount of
31 funds required, not to exceed eight million dollars (\$8,000,000) for
32 supplemental grants, not to exceed two million dollars (\$2,000,000) for
33 capacity grants, and not to exceed a total of ten million dollars
34 (\$10,000,000) in supplemental and capacity grants, for each of the fiscal
35 years ending June 30, 1999, June 30, 2000, June 30, 2001, June 30,
36 2002, June 30, 2003, and June 30, 2004. Upon certification each year of
37 the amount of funds required for that fiscal year, the State Treasurer
38 may issue the amount certified up to ten million dollars (\$10,000,000).
39 Upon certification for the fiscal year ending June 30, 2004, the State
40 Treasurer may issue the remaining balance of the fifty million dollars
41 (\$50,000,000) of the Clean Water Bonds authorized by this subdivision
42 for any other purposes authorized by this subdivision. The proceeds of
43 the bonds needed for each fiscal year shall be deposited in either the

1 supplemental grant account or the capacity grant account of the Rural
2 Economic Development Center or another appropriate fund or account
3 determined by the State Treasurer.

4 The proceeds may be (i) transferred directly to the supplemental grant
5 account of the Rural Economic Development Center to provide grants to
6 local governments to match federal grants or other grants for necessary
7 water and sewer projects in economically depressed areas to address
8 health or environmental quality problems, (ii) transferred directly to the
9 capacity grant account of the Rural Economic Development Center to
10 provide grants to local governments to match federal grants or other
11 grants for necessary water and sewer projects in economically depressed
12 areas to address health or environmental quality problems, (iii) used for
13 any combination of (i), and (ii), or (iv) used in such other manner as
14 shall effectuate the purposes of this act. However, funds shall not be
15 expended for the repair or replacement of low pressure pipe wastewater
16 systems.

17 Grants made from the proceeds of this fifty million dollars
18 (\$50,000,000) for supplemental grants shall be based on the following
19 criteria:

- 20 a. The applicant shall be a local government unit.
- 21 b. The applicant shall be a rural county.
- 22 c. First priority shall be given to a water or wastewater
23 infrastructure project that creates or retains jobs. Second priority
24 shall be given to a project that eliminates an imminent and
25 identifiable threat to public health. A project shall also receive
26 funding priority if the project is located within one of the 55 most
27 distressed counties as designated by the North Carolina
28 Department of Commerce.
- 29 d. A project that is proposed in a nondistressed county must meet at
30 least one of the following criteria: (i) be located in that part of a
31 rural nondistressed county where the poverty rate is at least one
32 hundred fifty percent (150%) of the State poverty rate, (ii) be
33 located in that part of a rural nondistressed county where the
34 unemployment rate is at least double the State unemployment
35 rate for the most recent reporting period available, (iii) be located
36 in that part of a rural nondistressed county that experiences an
37 actual or imminent loss of jobs in a number that equals or
38 exceeds five percent (5%) of the total number of jobs in that part
39 of the county, or (iv) be a water or sewer project located in an
40 economically distressed community experiencing health-related
41 or environmental quality problems. Any grant awarded for a
42 project in a nondistressed county shall be matched on a dollar-
43 for-dollar basis in the amount of the grant awarded.

1 Grants made from the proceeds of this fifty million dollars
2 (\$50,000,000) of Clean Water Bonds for capacity grants shall be
3 based on the following criteria:

- 4 a. The applicant shall be a local government unit.
5 b. The applicant shall be a rural county.
6 c. First priority shall be given to a water or wastewater
7 infrastructure project that creates or retains jobs. Second
8 priority shall be given to a project that eliminates an
9 imminent and identifiable threat to public health. A
10 project shall also receive funding priority if the project is
11 located within one of the 55 most distressed counties as
12 designated by the North Carolina Department of
13 Commerce.
14 d. A project that is proposed in a nondistressed county shall
15 meet at least one of the following criteria: (i) be located
16 in that part of a rural nondistressed county where the
17 poverty rate is at least one hundred fifty percent (150%) of
18 the State poverty rate, (ii) be located in that part of a rural
19 nondistressed county where the unemployment rate is at
20 least double the State unemployment rate for the most
21 recent reporting period available, (iii) be located in that
22 part of a rural nondistressed county that experiences an
23 actual or imminent loss of jobs in a number that equals or
24 exceeds five percent (5%) of the total number of jobs in
25 that part of the county, or (iv) be a water or sewer project
26 located in an economically distressed community
27 experiencing health-related or environmental quality
28 problems. Any grant awarded for a project in a
29 nondistressed county shall be matched on a dollar-for-
30 dollar basis in the amount of the grant awarded.

31 Although public necessity and the criteria listed above shall be the
32 primary consideration in granting these funds, great emphasis shall also
33 be placed on achieving stringent reductions in the levels of nutrients and
34 other pollutants discharged into the State's waters, particularly in
35 nutrient sensitive river basins, in reducing the overall volume of effluent
36 discharged to the State's waters by using alternative methods of
37 wastewater treatment when feasible, on the creation of efficient systems
38 of regional wastewater disposal and regional water supply, and on the
39 willingness and ability of local government units to meet their
40 responsibilities through sound fiscal policies, creative planning, and
41 efficient operation and management.

42 At the end of each fiscal year the Secretary of Commerce shall review
43 the grants awarded by the Rural Economic Development Center with

proceeds from the Clean Water Bonds to verify that the grants awarded comply with the requirements of this act. The Secretary of Commerce shall provide his or her findings regarding compliance in writing to the State Treasurer.

(4) The proceeds of three hundred twenty million dollars (\$320,000,000) of Clean Water Bonds shall be used for the purpose of making loans to local government units to pay the cost of water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works. The proceeds shall be allocated as follows:

- a. Wastewater collection systems and wastewater treatment works.
 - 1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating.....\$10,000,000
 - 2. Reserved for local units of local government whose bond rating is 75 or more.....\$150,000,000
- b. Water supply and distribution systems and water conservation projects.
 - 1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating.....\$10,000,000
 - 2. Reserved for local units of local government whose bond rating is 75 or more.....\$150,000,000

The proceeds shall be used to make loans directly to local government units qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or loaned in such other manner as shall effectuate the purposes of this act. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of water supply systems, a local government unit must have a water supply facility plan approved by the Department of Environment and Natural Resources. A water supply facility plan submitted by a local government unit to the Department under G.S. 143-355(l) will be sufficient to meet this requirement. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of wastewater collection systems or wastewater treatment works, a local government unit must have a wastewater facility plan approved by the Department of Environment and Natural Resources. A wastewater facility plan must project future wastewater treatment needs, must present a long-range plan to meet those needs, and must include plans for system operations and maintenance of the facilities being built with the bond proceeds.

The Department of Environment and Natural Resources shall set the priorities and determine the eligibility of local government units for these loans in accordance with Section 10 of this act. The form of the

1 loans and the details thereof including, without limitation, the maturity,
2 interest rate, and amortization schedule shall be determined, from time
3 to time, by the State Treasurer. In making these determinations, the
4 State Treasurer shall consider the purpose of the loans, the ability of
5 local government units to repay the loans, and the security for the loans.
6 The interest rates on these loans shall reflect the self-supporting nature
7 of the loan program and shall be sufficient to cover substantially all
8 payments of debt service on the three hundred twenty million dollars
9 (\$320,000,000) of Clean Water Bonds and the issuance costs and
10 administrative expenses associated with the issuance of these bonds and
11 the making of these loans, subject to any applicable requirements of the
12 federal tax law.

13 Repayments of the loans shall be credited to the General Fund and may
14 be used to pay, directly or indirectly, debt service on the bonds and
15 notes issued. Repayments may be initially placed into such fund or
16 account as may be determined by the State Treasurer for the purpose of
17 determining compliance with applicable requirements of the federal tax
18 law and shall be expended and disbursed therefrom under the direction
19 and supervision of the Director of the Budget.

20 Any additional moneys which may be received by means of a grant or grants
21 from the United States of America or any agency or department thereof or from any other
22 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water
23 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
24 permitted by the terms of the grant or grants, without regard to any limitations imposed
25 by this act.

26 Moneys in the Clean Water Bonds Fund, the Clean Water Bonds Loan Fund,
27 or any separate fund or account established under this act may be invested from time to
28 time by the State Treasurer in the same manner permitted for investment of moneys
29 belonging to the State or held in the State treasury, except with respect to grant money to
30 the extent otherwise directed by the terms of the grant. Investment earnings, except
31 investment earnings with respect to grant moneys to the extent otherwise directed or
32 restricted by the terms of the grant, may be (i) credited to the Clean Water Bonds Fund,
33 the Clean Water Bonds Loan Fund, or any separate fund or account established under this
34 act, (ii) used to pay debt service on the bonds authorized by this act, (iii) used to satisfy
35 compliance with applicable requirements of the federal tax law, or (iv) transferred to the
36 General Fund of the State.

37 The proceeds of bonds and notes may be used with any other moneys made
38 available by the General Assembly for making grants and loans authorized by this act,
39 including the proceeds of any other State bond issues, whether heretofore made available
40 or which may be made available at the session of the General Assembly at which this act
41 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
42 expended and disbursed under the direction and supervision of the Director of the
43 Budget. The funds provided by this act shall be disbursed for the purposes provided in

1 this act upon warrants drawn on the State Treasurer by the State Controller, which
2 warrants shall not be drawn until requisition has been approved by the Director of the
3 Budget and which requisition shall be approved only after full compliance with the
4 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

5 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be
6 used for the purpose of providing grants, loans, or other financing to natural gas local
7 distribution companies, persons seeking natural gas distribution franchises, State or local
8 government agencies, or other entities for the costs of constructing natural gas facilities,
9 including pipelines, compressors, interests in real property, and related equipment for the
10 delivery of natural gas.

11 Any additional moneys which may be received by means of a grant or grants
12 from the United States of America or any agency or department thereof or from any other
13 source to aid in financing the cost of any Natural Gas grants authorized by this act may
14 be placed by the State Treasurer in the Natural Gas Bonds Fund or in a separate account
15 or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants,
16 without regard to any limitations imposed by this act.

17 The proceeds of Natural Gas Bonds and notes may be used with any other
18 moneys made available by the General Assembly for providing grants, loans, or other
19 financing in accordance with this act, including the proceeds of any other State bond
20 issues, whether heretofore made available or which may be made available at the session
21 of the General Assembly at which this act is ratified or any subsequent sessions. The
22 proceeds of Natural Gas Bonds and notes shall be expended and disbursed under the
23 direction and supervision of the Director of the Budget. The funds provided by this act
24 for construction of natural gas facilities shall be disbursed for the purposes provided in
25 this act upon warrants drawn on the State Treasurer by the State Controller, which
26 warrants shall not be drawn until requisition has been approved by the Director of the
27 Budget and which requisition shall be approved only after full compliance with the
28 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

29 The North Carolina Utilities Commission shall provide quarterly reports to the
30 Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and
31 House of Representatives Appropriations Committees, and the Fiscal Research Division
32 on the expenditure of moneys from the Natural Gas Bonds Fund.

33 Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of
34 Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of
35 bonds the issuance of which has been anticipated by bond anticipation notes or the
36 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
37 fund to be designated "Clean Water Bonds Fund", which may include such appropriate
38 special accounts therein as may be determined by the State Treasurer and shall be
39 disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be
40 allocated and expended as provided in this act.

41 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,
42 including premium thereon, if any, except the proceeds of bonds the issuance of which
43 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or

1 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural
2 Gas Bonds Fund", which may include such appropriate special accounts therein as may
3 be determined by the State Treasurer, and shall be disbursed as provided in this act.
4 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in
5 this act. The proceeds may be used in accordance with G.S. 62-159 or may be distributed
6 in accordance with the provisions of legislation enacted by the General Assembly in 1998
7 or later providing for the allocation of the bond proceeds for the purposes provided in this
8 act.

9 (c) Costs. Allocations to the costs of a capital improvement or undertaking in
10 each case may include allocations to pay the costs set forth in Section 3(6)c., d., e., f., and
11 g. of this act in connection with the issuance of bonds for that capital improvement or
12 undertaking.

13 Section 7. Election. The questions of the issuance of the bonds authorized by
14 this act shall be submitted to the qualified voters of the State at an election to be held on
15 the first Tuesday after the first Monday of November 1998. Any other primary, election,
16 or referendum validly called or scheduled by law at the time the election on the bond
17 question provided for in this section is held, may be held as called or scheduled. Notice
18 of the election shall be given in the manner and at the times required by G.S. 163-33(8).
19 The election and the registration of voters therefor shall be held under and in accordance
20 with the general laws of the State. Absentee ballots shall be authorized in the election.

21 The State Board of Elections shall reimburse the counties of the State for all
22 necessary expenses incurred in holding the election that are in addition to those that
23 would have otherwise been incurred, the same to be paid out of the Contingency and
24 Emergency Fund or other funds available to the State Board of Elections.

25 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
26 Statutes, or both may be used in accordance with rules prescribed by the State Board of
27 Elections. The bond questions to be used in the ballots or voting systems shall be in
28 substantially the following form:

29 "[] FOR [] AGAINST
30 the issuance of seven hundred eighty-five million dollars (\$785,000,000) State of North
31 Carolina Clean Water Bonds constituting general obligation bonds of the State secured by
32 a pledge of the faith and credit and taxing power of the State for the purpose of providing
33 funds, with any other available funds, to make loans, revolving loans, and grants to local
34 government units to pay all or a portion of the cost of clean water projects."

35 "[] FOR [] AGAINST
36 the issuance of one hundred million dollars (\$100,000,000) State of North Carolina
37 Natural Gas Bonds constituting general obligation bonds of the State secured by a pledge
38 of the faith and credit and taxing power of the State for the purpose of providing funds,
39 with any other available funds, to provide grants, loans, or other financing to public or
40 private entities for construction of natural gas facilities."

41 If a majority of those voting on a bond question in the election vote in favor of
42 the issuance of the bonds described in the question, those bonds may be issued as
43 provided in this act. If a majority of those voting on a bond question in the election vote

1 against the issuance of the bonds described in the question, those bonds shall not be
2 issued.

3 The results of the election shall be canvassed and declared as provided by law
4 for elections for State officers; the results of the election shall be certified by the State
5 Board of Elections to the Secretary of State, in the manner and at the time provided by
6 the general election laws of the State.

7 Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes
8 may bear such date or dates, may be serial or term bonds or notes, or any combination
9 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
10 from their date or dates, may be payable at such place or places, either within or without
11 the United States of America, in such coin or currency of the United States of America as
12 at the time of payment is legal tender for payment of public and private debts, may bear
13 interest at such rate or rates, which may vary from time to time, and may be made
14 redeemable before maturity, at the option of the State or otherwise as may be provided by
15 the State, at such price or prices, including a price less than the face amount of the bonds
16 or notes, and under such terms and conditions, all as may be determined by the State
17 Treasurer, by and with the consent of the Council of State.

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

39 (c) Manner of Sale; Expenses. Subject to determination by the Council of State as
40 to the manner in which bonds or notes shall be offered for sale, whether at public or
41 private sale, whether within or without the United States of America, and whether by
42 publishing notices in certain newspapers and financial journals, mailing notices, inviting
43 bids by correspondence, negotiating contracts of purchase or otherwise, the State

1 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
2 or rates of interest, which may vary from time to time, and at such price or prices,
3 including a price less than the face amount of the bonds or the notes, as the State
4 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
5 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
6 other available moneys.

7 (d) Notes; Repayment.

8 (1) By and with the consent of the Council of State, the State Treasurer is
9 hereby authorized to borrow money and to execute and issue notes of
10 the State for the same, but only in the following circumstances and
11 under the following conditions:

12 a. For anticipating the sale of bonds to the issuance of which the
13 Council of State shall have given consent, if the State Treasurer
14 shall deem it advisable to postpone the issuance of the bonds;

15 b. For the payment of interest on or any installment of principal of
16 any bonds then outstanding, if there shall not be sufficient funds
17 in the State treasury with which to pay the interest or installment
18 of principal as they respectively become due;

19 c. For the renewal of any loan evidenced by notes herein
20 authorized;

21 d. For the purposes authorized in this act; and

22 e. For refunding bonds or notes as herein authorized.

23 (2) Funds derived from the sale of bonds or notes may be used in the
24 payment of any bond anticipation notes issued under this act. Funds
25 provided by the General Assembly for the payment of interest on or
26 principal of bonds shall be used in paying the interest on or principal of
27 any notes and any renewals thereof, the proceeds of which shall have
28 been used in paying interest on or principal of the bonds.

29 (e) Refunding Bonds and Notes. By and with the consent of the Council of
30 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
31 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
32 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
33 combined with any other issues of State bonds and notes similarly secured.

34 (f) Tax Exemption. Bonds and notes shall be exempt from all State, county,
35 and municipal taxation or assessment, direct or indirect, general or special, whether
36 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift
37 taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes.
38 The interest on bonds and notes shall not be subject to taxation as to income.

39 (g) Investment Eligibility. Bonds and notes are hereby made securities in
40 which all public officers, agencies, and public bodies of the State and its political
41 subdivisions, all insurance companies, trust companies, investment companies, banks,
42 savings banks, savings and loan associations, credit unions, pension or retirement funds,
43 other financial institutions engaged in business in the State, executors, administrators,

1 trustees, and other fiduciaries may properly and legally invest funds, including capital in
2 their control or belonging to them. Bonds and notes are hereby made securities which
3 may properly and legally be deposited with and received by any officer or agency of the
4 State or political subdivision of the State for any purpose for which the deposit of bonds,
5 notes, or obligations of the State or any political subdivision is now or may hereafter be
6 authorized by law.

7 (h) Faith and Credit. The faith and credit and taxing power of the State are
8 hereby pledged for the payment of the principal of and the interest on bonds and notes.
9 In addition to the State's right to amend any provision of this act to the extent it does not
10 impair any contractual right of a bond owner, the State expressly reserves the right to
11 amend any provision of this act with respect to the making and repayment of loans, the
12 disposition of any repayments of loans, and any intercept provisions relating to the failure
13 of a local government unit to repay a loan, the bonds not being secured in any respect by
14 loans, any repayments thereof, or any intercept provisions with respect thereto.

15 Section 9. Variable interest rates. In fixing the details of bonds and notes, the
16 State Treasurer may provide that any of the bonds or notes may:

- 17 (1) Be made payable from time to time on demand or tender for purchase
18 by the owner thereof provided a credit facility supports the bonds or
19 notes, unless the State Treasurer specifically determines that a credit
20 facility is not required upon a finding and determination by the State
21 Treasurer that the absence of a credit facility will not materially or
22 adversely affect the financial position of the State and the marketing of
23 the bonds or notes at a reasonable interest cost to the State;
- 24 (2) Be additionally supported by a credit facility;
- 25 (3) Be made subject to redemption or a mandatory tender for purchase prior
26 to maturity;
- 27 (4) Bear interest at a rate or rates that may vary for such period or periods
28 of time, all as may be provided in the proceedings providing for the
29 issuance of the bonds or notes, including, without limitation, such
30 variations as may be permitted pursuant to a par formula; and
- 31 (5) Be made the subject of a remarketing agreement whereby an attempt is
32 made to remarket bonds or notes to new purchasers prior to their
33 presentment for payment to the provider of the credit facility or to the
34 State.

35 If the aggregate principal amount repayable by the State under a credit facility
36 is in excess of the aggregate principal amount of bonds or notes secured by the credit
37 facility, whether as a result of the inclusion in the credit facility of a provision for the
38 payment of interest for a limited period of time or the payment of a redemption premium
39 or for any other reason, then the amount of authorized but unissued bonds or notes during
40 the term of such credit facility shall not be less than the amount of such excess, unless the
41 payment of such excess is otherwise provided for by agreement of the State executed by
42 the State Treasurer.

1 Section 10. Special provisions governing clean water loans. (a) Scope. The
2 provisions of this section shall apply to loans being made from the proceeds of bonds
3 authorized by this act for clean water projects, other than from funds deposited in the
4 Clean Water Revolving Loan and Grant Fund.

5 (b) Clean Water Bonds Loan Fund. There is established in the Department of
6 State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may
7 include any special or segregated accounts the State Treasurer considers appropriate.
8 There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean
9 Water Bonds and notes to be used to make loans, other than loans to be made through the
10 Clean Water Revolving Loan and Grant Fund, to local government units for clean water
11 projects as provided in this act.

12 Except as otherwise permitted by Section 5 of this act with respect to the use of
13 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
14 Fund, other than funds set aside for administrative expenses, including expenses related
15 to determining compliance with applicable requirements of the federal tax law and costs
16 of issuance, shall be used to make loans for the purposes provided in this act. The State
17 Treasurer shall be responsible for making and administering all loans pursuant to the
18 provisions of this section.

19 (c) Application for Loans; Hearings.

20 (1) Eligibility/Initial Hearing.

21 a. Prior to filing an application for a loan, a local government unit
22 shall hold a public hearing. A notice of the public hearing shall
23 be published once at least 10 days before the date fixed for the
24 hearing.

25 b. All applications for loans shall be filed with the Department of
26 Environment and Natural Resources. The form of the application
27 shall be prescribed by the Department and shall require any
28 information necessary to determine the eligibility for a loan
29 under the provisions of this section. All applications approved
30 by the Department of Environment and Natural Resources shall
31 be filed with the Local Government Commission. Each applicant
32 shall furnish to the Department of Environment and Natural
33 Resources and the Local Government Commission information
34 in addition or supplemental to the information contained in its
35 application, upon request.

36 c. A local government unit shall not be eligible for a loan unless it
37 demonstrates to the satisfaction of the Department of
38 Environment and Natural Resources and the Local Government
39 Commission that:

- 40 1. The applicant is a local government unit;
- 41 2. The applicant has the financial capacity to pay the
42 principal of and interest on its proposed loan as evidenced
43 by the approval of the Local Government Commission;

- 1 3. The applicant has substantially complied or will
2 substantially comply with all applicable laws, rules,
3 regulations, and ordinances, whether federal, State, or
4 local; and
- 5 4. The applicant has agreed by official resolution to adopt
6 and place into effect a schedule of fees and charges or the
7 application of other sources of revenue which will provide
8 adequate funds for proper operation, maintenance, and
9 administration of the project and repayment of all
10 principal and interest on the loan.
- 11 (2) Assessment. The Department of Environment and Natural Resources
12 may require any applicant to file with its application an assessment of
13 the impact the project for which the funds are sought will have upon
14 meeting the facility needs of the area within which the project is to be
15 located.
- 16 (3) Hearing by the Department of Environment and Natural Resources or
17 the Local Government Commission. A public hearing may be held by
18 the Department of Environment and Natural Resources or the Local
19 Government Commission at any time on any application. Public
20 hearings may also be held by the Department of Environment and
21 Natural Resources in its discretion upon written request from any citizen
22 or taxpayer who is a resident of the county or counties in which the
23 project is to be located or a resident of the local government unit that
24 proposes to borrow moneys under this act, if it appears that the public
25 interest will be served by the hearing. The written request shall set forth
26 each objection to the proposed project or other reason for requesting a
27 hearing on the application and shall contain the name and address of the
28 persons submitting it. In deciding whether to grant a request for a
29 hearing on an application, the Department of Environment and Natural
30 Resources may consider the application, the written objections to the
31 proposed project, and the facility needs and shall determine if the public
32 interest will be served by a hearing. The determination by the
33 Department of Environment and Natural Resources shall be conclusive,
34 and all written requests for a hearing shall be retained as a permanent
35 part of the records pertaining to the application.
- 36 (4) Petition for Vote. A petition, demanding that the question of whether to
37 enter into a loan agreement with the State under this act be submitted to
38 voters, may be filed with the clerk of the local government unit applying
39 for the loan within 15 days after the public hearing required by this
40 section. The petition's sufficiency shall be determined and a
41 referendum, if any, shall be conducted according to the standards,
42 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.
- 43 (d) Priorities.

- 1 (1) Determination. Determination of priorities to be assigned each eligible
2 project shall be made semiannually by the Department of Environment
3 and Natural Resources during each fiscal year. Every eligible project
4 shall be considered by the Department of Environment and Natural
5 Resources with every other project eligible during this same priority
6 period.
- 7 (2) Priority Factors. All applications for loans under this act shall be
8 assigned a priority by the Department of Environment and Natural
9 Resources. The Department of Environment and Natural Resources
10 shall establish other priority factors criteria by rule.
- 11 (3) Assignment of Priority. A written statement relative to each priority
12 assigned shall be prepared by the Department of Environment and
13 Natural Resources and shall be attached to the application. The priority
14 assigned shall be conclusive.
- 15 (4) Failure to Qualify. If an application does not qualify for a loan as of the
16 prior period in which the application was eligible for consideration by
17 reason of the priority assigned, the application shall be considered
18 during the next succeeding priority period upon request of the applicant.
19 If the application again fails to qualify for a loan during the second
20 priority period by reason of the priority assigned, the application shall
21 receive no further consideration. An applicant may file a new
22 application at any time and may amend any pending application to
23 include additional data or information.
- 24 (5) Withdrawal of Commitment. Failure of an applicant within one year
25 after the date of acceptance of the loan to arrange for necessary
26 financing of the proposed project or award of the contract of the
27 construction of the proposed project shall constitute sufficient cause for
28 withdrawal of the commitment. Prior to withdrawal of a commitment,
29 the Department of Environment and Natural Resources shall give due
30 consideration to any extenuating circumstances presented by the
31 applicant as reasons for failure to arrange necessary financing or to
32 award a contract, and the commitment may be extended for an
33 additional period of time if, in the judgment of the Department of
34 Environment and Natural Resources, the extension is justified.
- 35 (e) Disbursement. To be eligible to receive the loans provided for in this
36 section, a local government unit must arrange to borrow the amounts necessary pursuant
37 to rules adopted by the Local Government Commission. No funds shall be disbursed
38 until the Department of Environment and Natural Resources gives a certificate of
39 eligibility to the effect that the applicant meets all eligibility criteria and that all
40 procedural requirements of this act have been met. The maximum principal amount of a
41 loan shall be one hundred percent (100%) of the cost of any eligible project.
- 42 (f) Intercept. The governing body of a local government unit shall by
43 resolution authorize to be included in its loan agreement a provision authorizing the State

1 Treasurer, upon failure of the local government unit to make a scheduled repayment of
2 the loan, to withhold from the local government unit any State funds that would
3 otherwise be distributed to the local government unit in an amount sufficient to pay all
4 sums then due and payable to the State as a repayment of the loan. In such event,
5 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
6 and apply such funds to the repayment of the loan, except that such funds shall not be
7 withheld if (i) before the execution of the loan agreement, such funds have been legally
8 pledged to secure special obligation bonds or other obligations of the local government
9 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
10 secure special obligation bonds or other obligations of the local government unit as
11 authorized in this subsection. After the execution of a loan agreement, all or any portion
12 of the State funds specified in the loan agreement to be so withheld may be pledged to
13 secure special obligation bonds or other obligations of the local government unit only
14 with the prior written consent of the State Treasurer.

15 The State Treasurer shall notify the Secretary of Revenue and the State
16 Controller of the amount to be withheld from the local government unit, and the
17 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
18 amount so requested to be applied by the State Treasurer to the repayment of the loan.

19 (g) Inspection. Inspection of a project for which a loan has been made under
20 this act may be performed by qualified personnel of the Department of Environment and
21 Natural Resources or may be performed by qualified engineers registered in this State
22 approved by the Department of Environment and Natural Resources. No person shall be
23 approved to perform inspections who is an officer employed by the local government unit
24 to which the loan was made or who is an owner, officer, employer, or agent of a
25 contractor or subcontractor engaged in the construction of the project for which the loan
26 was made. For the purpose of payment of inspection fees, inspection services shall be
27 included in the term "cost" as used in this act.

28 (h) Rules. The State Treasurer, the Local Government Commission, and the
29 Department of Environment and Natural Resources may adopt, modify, and repeal rules
30 necessary for the administration of their respective duties under this act. Uniform rules
31 may be jointly adopted where feasible and desirable, and no rule, jointly adopted, may be
32 modified or revoked except upon concurrence of all agencies involved.

33 (i) Federal Grants and Loans. In order to carry out the purposes of this act to
34 secure the greatest possible benefits to the citizens of this State of the funds appropriated,
35 the State Treasurer, the Local Government Commission, and the Department of
36 Environment and Natural Resources shall adopt rules and criteria, not inconsistent with
37 provisions of this act, as are necessary and appropriate to conform to regulations for
38 federal grants and loans for any of the purposes set forth in this act.

39 (j) Report by Department of Environment and Natural Resources. The
40 Department of Environment and Natural Resources shall prepare and file each year on or
41 before July 31 with the Joint Legislative Commission on Governmental Operations and
42 the Fiscal Research Division a report for the preceding fiscal year concerning the

1 allocation and making of loans authorized by this act. The report shall set forth for the
2 preceding fiscal year:

- 3 (1) Itemized and total allocations of loans authorized and unallocated funds
4 for the loan program as of the end of the preceding fiscal year;
- 5 (2) Identification of each loan agreement entered into by the State during
6 the preceding fiscal year and the total amount of loans authorized by
7 such loan agreements;
- 8 (3) The amount disbursed to each local government unit pursuant to such
9 loan agreements during the preceding fiscal year and the total amount of
10 such disbursements;
- 11 (4) The loan repayments made by each local government unit pursuant to
12 such loan agreements and the total amount of such loan repayments
13 during the preceding fiscal year; and
- 14 (5) A summary for the five preceding years of the information required by
15 subdivisions (1) through (4) of this subsection.

16 The report shall be signed by the Secretary of Environment and Natural Resources.

17 (k) Local Government Commission.

18 (1) Local government units may execute debt instruments payable to the
19 State in order to obtain loans provided for in this act. Local government
20 units shall pledge or agree to apply as security for such obligations:

- 21 a. Any available source of revenues of the local government unit,
22 including revenues from benefitted facilities or systems, provided
23 that (i) the local government unit has not otherwise pledged the
24 revenues as security for, or contractually agreed to apply the
25 revenues to, the payment of any other obligations of the local
26 government unit, (ii) the use of the revenues is not otherwise
27 restricted by law, or (iii) the revenues are not derived from the
28 exercise of the local government unit's taxing power; or
- 29 b. Their faith and credit; or
- 30 c. Any combination of a. or b. above.

31 The faith and credit of a local government unit shall not be pledged or
32 be deemed to have been pledged unless the requirements of Article 4 of
33 Chapter 159 of the General Statutes have been met. The State
34 Treasurer, with the assistance of the Local Government Commission,
35 shall develop and adopt appropriate debt instruments for use under this
36 act.

- 37 (2) Nothing contained in this act shall prohibit any local government unit
38 from applying any funds of the local government unit not otherwise
39 restricted as to use by law to the payment of any debt instrument
40 payable to the State incurred pursuant to the provisions of this act.
- 41 (3) The Local Government Commission shall review and approve proposed
42 loans to local government units under this act under the provisions of
43 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local

1 Government Commission in considering the ability of a local
2 government unit to repay a loan may regard as a source of revenue for
3 repayment of a loan revenue sources that may not be available other
4 than on an annual discretionary basis and that may not be subject to a
5 pledge or agreement to apply. Loans under this act shall be outstanding
6 debts for the purposes of Article 10 of Chapter 159 of the General
7 Statutes.

- 8 (4) The State Treasurer shall annually certify to the General Assembly the
9 financial condition of the loan program and identify existing
10 delinquencies.

11 Section 11. Reports. (a) The Rural Economic Development Center shall
12 prepare and file each year on or before July 31 with the Joint Legislative Commission on
13 Governmental Operations and the Fiscal Research Division a report for the preceding
14 fiscal year concerning the allocation and making of grants authorized by this act. The
15 report shall set forth for the preceding fiscal year:

- 16 (1) Itemized and total allocations of grants authorized and unallocated funds
17 for the grant program as of the end of the preceding fiscal year;
18 (2) Identification of each grant agreement entered into by the Rural
19 Economic Development Center during the preceding fiscal year and the
20 total amount of grants authorized by such grant agreements;
21 (3) The amount disbursed to each local government unit pursuant to such
22 grant agreements during the preceding fiscal year and the total amount
23 of such disbursements; and
24 (4) A summary for the five preceding years of the information required by
25 subdivisions (1) through (3) of this subsection.

26 The report shall be signed by the Chair of the Board of Directors of the Rural Economic
27 Development Center.

28 (b) The Department of Environment and Natural Resources shall prepare and file
29 each year on or before July 31 with the Joint Legislative Commission on Governmental
30 Operations and the Fiscal Research Division a report for the preceding fiscal year
31 concerning the allocation and making of grants authorized by this act. The report shall
32 set forth for the preceding fiscal year:

- 33 (1) Itemized and total allocations of grants authorized and unallocated funds
34 for the grant program as of the end of the preceding fiscal year;
35 (2) Identification of each grant agreement entered into by the Department of
36 Environment and Natural Resources during the preceding fiscal year
37 and the total amount of grants authorized by such grant agreements;
38 (3) The amount disbursed to each local government unit pursuant to such
39 grant agreements during the preceding fiscal year and the total amount
40 of such disbursements; and
41 (4) A summary for the five preceding years of the information required by
42 subdivisions (1) through (3) of this subsection.

43 The report shall be signed by the Secretary of Environment and Natural Resources.

1 Section 12. Minority business participation. The goals set by G.S. 143-128 for
2 participation in projects by minority businesses apply to projects funded by the proceeds
3 of bonds or notes issued under this act. The Department of Environment and Natural
4 Resources and the Rural Economic Development Center shall monitor compliance with
5 this requirement and shall report to the General Assembly by January 1 of each year on
6 the participation by minority businesses in these projects.

7 Section 13. Interpretation of act. (a) Additional Method. The foregoing sections of
8 this act shall be deemed to provide an additional and alternative method for the doing of
9 the things authorized thereby and shall be regarded as supplemental and additional to
10 powers conferred by other laws, and shall not be regarded as in derogation of any powers
11 now existing.

12 (b) Statutory References. References in this act to specific sections or Chapters of
13 the General Statutes or to specific acts are intended to be references to these sections,
14 Chapters, or acts as they may be amended from time to time by the General Assembly.

15 (c) Broad Construction. This act, being necessary for the health and welfare of the
16 people of the State, shall be broadly construed to effect the purposes thereof.

17 (d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent
18 with the provisions of any general laws, or parts thereof, the provisions of this act shall be
19 controlling.

20 (e) Severability. If any provision of this act or the application thereof to any
21 person or circumstance is held invalid, such invalidity shall not affect other provisions or
22 applications of the act which can be given effect without the invalid provision or
23 application, and to this end the provisions of this act are declared to be severable.

24 Section 14. Chapter 43 of the General Statutes is amended by adding a new
25 Article to read:

26 **"ARTICLE 72.**

27 **"STATE INFRASTRUCTURE COUNCIL.**

28 **"§ 143-690. Council established; purpose; members; terms of office; quorum;**
29 **compensation; termination.**

30 (a) Establishment. – There is established the State Infrastructure Council. The
31 Council shall be located within the Department of Environment and Natural Resources
32 for organizational, budgetary, and administrative purposes.

33 (b) Purpose. – The purpose of the Council is to develop a State strategic plan that
34 addresses North Carolina's water supply and distribution and wastewater treatment needs.

35 (c) Membership. – The Council shall consist of 17 members, five of whom are ex
36 officio and 12 of whom are appointed as follows:

37 (1) Four persons appointed by the Governor.

38 (2) Four persons appointed by the President Pro Tempore of the Senate.

39 (3) Four persons appointed by the Speaker of the House of Representatives.

40 (4) The following persons or their designees, ex officio:

41 a. The Secretary of Commerce.

42 b. The Secretary of Environment and Natural Resources.

43 c. The State Treasurer.

1 d. The Executive Director of the League of Municipalities.

2 e. The Executive Director of the County Commissioners
3 Association.

4 The members appointed to the State Infrastructure Council shall be chosen from
5 among individuals who have the ability and commitment to promote and fulfill the
6 purposes of the Council, including individuals who have demonstrated expertise in the
7 fields of environmental science, particularly the areas of wastewater treatment and water
8 supply and distribution, public planning, public financing, public health, and economic
9 development.

10 (d) Terms. – Members shall serve for two-year terms, with no prohibition against
11 being reappointed, except initial appointments shall be for terms as follows:

12 (1) The Governor shall initially appoint two members for a term of two
13 years and two members for a term of three years.

14 (2) The President Pro Tempore of the Senate shall initially appoint two
15 members for a term of two years and two members for a term of three
16 years.

17 (3) The Speaker of the House of Representatives shall initially appoint two
18 members for a term of two years and two members for a term of three
19 years.

20 Initial terms shall begin on July 1, 1998.

21 (e) Chair. – The chair shall be appointed biennially by the Governor from among
22 the membership of the Council. The initial term shall begin on July 1, 1998.

23 (f) Vacancies. – A vacancy in the Council or as chair of the Council resulting
24 from the resignation of a member or otherwise shall be filled in the same manner in
25 which the original appointment was made and the term shall be for the balance of the
26 unexpired term.

27 (g) Compensation. – The Council members shall receive no salary as a result of
28 servng on the Council but shall receive per diem, subsistence, and travel expenses in
29 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

30 (h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if
31 that section applied to this Article.

32 (i) Meetings. – The chair shall convene the Council. Meetings shall be held as
33 often as necessary, but not less than four times a year.

34 (j) Quorum. – A majority of the members of the Council shall constitute a quorum
35 for the transaction of business. The affirmative vote of a majority of the members present
36 at meetings of the Council shall be necessary for action to be taken by the Council.

37 **§ 143-691. Duties of the Council.**

38 (a) Duties. – The Council shall have the following duties:

39 (1) To plan and develop a State strategic plan that addresses North
40 Carolina's water supply and distribution and wastewater treatment
41 needs.

- 1 (2) To evaluate the State's natural resource base and existing water and
2 sewer systems and to project statewide future needs for water and sewer
3 systems.
- 4 (3) To analyze current and proposed statutes, rules, and programs that
5 address or affect State water and sewer needs.
- 6 (4) To analyze the roles of State and local government and other parties in
7 addressing water and sewer needs and to recommend the appropriate
8 roles for each with regard to addressing future water and sewer needs.

9 **"§ 143-692. Staff and offices.**

10 The Department of Environment and Natural Resources shall provide office space and
11 staff for the State Infrastructure Council as requested by the Council.

12 **"§ 143-693. Council reports.**

13 The Council shall report to the Joint Legislative Commission on Governmental
14 Operations, with a written report to the Fiscal Research Division, by October 1, 1998, and
15 annually thereafter, regarding the implementation of this Article. In its report the Council
16 shall include any recommendations regarding statewide water and sewer needs that
17 require review or action by the General Assembly."

18 Section 15. G.S. 159G-6 reads as rewritten:

19 **"§ 159G-6. Distribution of funds.**

20 (a) Revolving loans and grants.

- 21 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
22 and Grant Fund, other than funds set aside for administrative expenses,
23 shall be used for revolving loans and grants to local government units
24 for construction costs of wastewater treatment works, wastewater
25 collection systems and water supply systems and other assistance as
26 provided in this Chapter.
- 27 (2) The maximum principal amount of a revolving loan or a grant may be
28 one hundred percent (100%) of the nonfederal share of the construction
29 costs of any eligible project. The maximum principal amount of
30 revolving loans made to any one local government unit during any fiscal
31 year shall be ~~three ten million dollars (\$3,000,000).~~ (\$10,000,000). The
32 maximum principal amount of grants made to any one local government
33 unit during any fiscal year shall be ~~one three million dollars (\$1,000,000).~~
34 (\$3,000,000).
- 35 (3) The State Treasurer shall be responsible for investing and distributing
36 all funds appropriated or accruing to the Clean Water Revolving Loan
37 and Grant Fund for revolving loans and grants under this Chapter. In
38 fulfilling his responsibilities under this section, the State Treasurer shall
39 make a written request to the Department of Environment and Natural
40 Resources to arrange for the appropriated funds to be (i) transferred
41 from the appropriate accounts to a local government unit to provide
42 funds for one or more revolving loans or grants or (ii) invested as
43 authorized by this Chapter with the interest on and the principal of such

1 investments to be transferred to the local government unit to provide
2 funds for one or more revolving loans or grants.

3 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
4 the various Wastewater Accounts in each fiscal year shall be used to make revolving
5 loans and grants to local government units as provided below. The Department of
6 Environment and Natural Resources shall disburse no funds from the Wastewater
7 Accounts except upon receipt of written approval of the disbursement from the
8 Environmental Management Commission.

9 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
10 the General Wastewater Revolving Loan and Grant Account shall be
11 used exclusively for the purpose of providing for revolving construction
12 loans or grants in connection with approved wastewater treatment work
13 or wastewater collection system projects.

14 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
15 Wastewater Account shall be available for grants to applicants for high-
16 unit cost wastewater projects. Eligibility of an applicant for such a grant
17 shall be determined by comparing estimated average household user
18 fees for water and sewer service, for debt service and operation and
19 maintenance costs, to one and one-half percent (1.5%) of the median
20 household income in the ~~county~~ local government unit in which the
21 project is located. The projects which would require estimated average
22 household water and sewer user fees greater than one and one-half
23 percent (1.5%) of the median household income are defined as high-unit
24 cost wastewater projects and will be eligible for a grant equal to the
25 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of
26 this section.

27 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
28 Emergency Wastewater Revolving Loan Account shall be available for
29 revolving emergency loans to applicants in the event the Environmental
30 Management Commission certifies that a serious public health hazard,
31 related to the inadequacy of existing wastewater facilities, is present or
32 imminent in a community.

33 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
34 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
35 loans and grants to local government units as provided below. The Department of
36 Environment and Natural Resources shall disburse no funds from the Water Supply
37 Accounts except upon receipt of written approval of the disbursement from the Division
38 of Environmental Health.

39 (1) General Water Supply Revolving Loan and Grant Account. – The funds
40 in the General Water Supply Revolving Loan and Grant Account shall
41 be used exclusively for the purpose of providing for revolving
42 construction loans and grants in connection with water supply systems
43 generally and not upon a county allotment basis.

- 1 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
2 Cost Water Supply Account shall be available for grants to applicants
3 for high-unit cost water supply systems, on the same basis as provided
4 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.
- 5 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
6 Emergency Water Supply Revolving Loan Account shall be available
7 for revolving emergency loans to applicants in the event the Division of
8 Environmental Health certifies that a serious public health hazard,
9 related to the water supply system, is present or imminent in a
10 community.
- 11 (d) Repealed by Session Laws 1991, c. 186, s. 4.
- 12 (e) Notwithstanding any other provision of this Chapter, funds in the Water
13 Pollution Control Revolving Fund shall not be available as grants except to the extent
14 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
15 thereunder."

16 Section 16. The General Assembly finds that:

- 17 (1) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws
18 directed the North Carolina Utilities Commission to require the
19 franchised natural gas local distribution companies to file reports with
20 the Commission detailing their plans for providing natural gas service in
21 areas of the State where natural gas service is not available, and directed
22 the Commission and the Public Staff to provide independent analyses
23 and summaries of those reports together with status reports of natural
24 gas service in the State to the Joint Legislative Utility Review
25 Committee; and
- 26 (2) The reports of the utilities, the Commission, and the Public Staff
27 indicate that the construction of facilities and the extension of natural
28 gas service in some areas of the State may not be economically feasible
29 with traditional funding methods; and
- 30 (3) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)
31 authorizing special funding methods, including the use of supplier
32 refunds and customer surcharges, to facilitate the expansion of natural
33 gas service; and
- 34 (4) While the 1991 legislation has been successful in providing some
35 natural gas service to previously unserved areas of the State, that
36 legislation has not been sufficient to facilitate the extension of service
37 that is necessary and in the public interest there are still counties with no
38 gas service or virtually no gas service; and
- 39 (5) It is therefore necessary to authorize additional funding methods,
40 including appropriations from the General Assembly and the proceeds
41 of general obligation bonds, to further facilitate the expansion of natural
42 gas service.

1 Section 17. Chapter 62 of the General Statutes is amended by adding a new
2 section to read:

3 **"§ 62-159. Additional funding for natural gas expansion.**

4 (a) In order to facilitate the construction of facilities in and the extension of natural
5 gas service to unserved areas, the Commission may provide funding through
6 appropriations from the General Assembly or the proceeds of general obligation bonds as
7 provided in this section to either (i) an existing natural gas local distribution company or
8 (ii) a person or a gas district awarded a new franchise, for the construction of natural gas
9 facilities that it otherwise would not be economically feasible for the company or person
10 to construct.

11 (b) The use of funds provided under this section shall be pursuant to an order of
12 the Commission after a public hearing. The Commission shall ensure that all projects for
13 which funds are provided under this section are consistent with the intent of this section
14 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular
15 project pursuant to this section, the Commission shall consider the scope of a proposed
16 project, including the number of unserved counties and the number of anticipated
17 customers that would be served, the total cost of the project, the extent to which the
18 project is considered feasible, and other relevant factors affecting the public interest. In
19 determining economic feasibility, the Commission shall employ the net present value
20 method of analysis on a project specific basis. Only those projects with a negative net
21 present value shall be determined to be economically infeasible for the company or
22 person to construct. In no event shall the Commission provide funding under this section
23 of an amount greater than the negative net present value of any proposed project as
24 determined by the Commission. If at any time a project is determined by the
25 Commission to have become economically feasible, the Commission may require the
26 recipient of funding to remit to the Commission appropriate funds related to the project,
27 and the Commission may order those funds to be returned with interest in a reasonable
28 amount to be determined by the Commission. Funds returned, together with interest,
29 shall be deposited in a special account with the State Treasurer to be used for other
30 expansion projects pursuant to the provisions of this section. Utility plant acquired with
31 expansion funds shall be included in the local distribution company's rate base at zero
32 cost except to the extent such funds have been remitted by the company pursuant to order
33 of the Commission.

34 (c) To the extent that one or more of the counties included in a proposed
35 project to be funded pursuant to this section are counties affected by the loss of exclusive
36 franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the
37 public interest requires that the person obtaining the franchise or funding pursuant to this
38 section be given an exclusive franchise and that the existing franchise be canceled. Any
39 new exclusive franchise granted under this subsection shall be subject to the provisions of
40 G.S. 62-36A(b).

41 (d) The Commission, after hearing, shall adopt rules to implement this section as
42 soon as practicable. The Commission and Public Staff shall report to the Joint

1 Legislative Utility Review Committee on the use of funding provided under this section
2 in conjunction with the reports required under G.S. 62-36A."

3 Section 18. G.S. 62-2 reads as rewritten:

4 "**§ 62-2. Declaration of policy.**

5 (a) Upon investigation, it has been determined that the rates, services and
6 operations of public utilities as defined herein, are affected with the public interest and
7 that the availability of an adequate and reliable supply of electric power and natural gas
8 to the people, economy and government of North Carolina is a matter of public policy. It
9 is hereby declared to be the policy of the State of North Carolina:

- 10 (1) To provide fair regulation of public utilities in the interest of the public;
11 (2) To promote the inherent advantage of regulated public utilities;
12 (3) To promote adequate, reliable and economical utility service to all of
13 the citizens and residents of the State;
14 (3a) To assure that resources necessary to meet future growth through the
15 provision of adequate, reliable utility service include use of the entire
16 spectrum of demand-side options, including but not limited to
17 conservation, load management and efficiency programs, as additional
18 sources of energy supply and/or energy demand reductions. To that end,
19 to require energy planning and fixing of rates in a manner to result in
20 the least cost mix of generation and demand-reduction measures which
21 is achievable, including consideration of appropriate rewards to utilities
22 for efficiency and conservation which decrease utility bills;
23 (4) To provide just and reasonable rates and charges for public utility
24 services without unjust discrimination, undue preferences or advantages,
25 or unfair or destructive competitive practices and consistent with long-
26 term management and conservation of energy resources by avoiding
27 wasteful, uneconomic and inefficient uses of energy;
28 (4a) To assure that facilities necessary to meet future growth can be financed
29 by the utilities operating in this State on terms which are reasonable and
30 fair to both the customers and existing investors of such utilities; and to
31 that end to authorize fixing of rates in such a manner as to result in
32 lower costs of new facilities and lower rates over the operating lives of
33 such new facilities by making provisions in the rate-making process for
34 the investment of public utilities in plants under construction;
35 (5) To encourage and promote harmony between public utilities, their users
36 and the environment;
37 (6) To foster the continued service of public utilities on a well-planned and
38 coordinated basis that is consistent with the level of energy needed for
39 the protection of public health and safety and for the promotion of the
40 general welfare as expressed in the State energy policy;
41 (7) To seek to adjust the rate of growth of regulated energy supply facilities
42 serving the State to the policy requirements of statewide development;

- 1 (8) To cooperate with other states and with the federal government in
2 promoting and coordinating interstate and intrastate public utility
3 service and reliability of public utility energy supply; and
4 (9) To facilitate the construction of facilities in and the extension of natural
5 gas service to unserved areas in order to promote the public welfare
6 throughout the State and to that end to authorize the creation of ~~an~~
7 expansion ~~fund~~ funds for ~~each~~ natural gas local distribution ~~company~~
8 companies to be administered under the supervision of the North
9 Carolina Utilities Commission.

10 (b) To these ends, therefore, authority shall be vested in the North Carolina
11 Utilities Commission to regulate public utilities generally, their rates, services and
12 operations, and their expansion in relation to long-term energy conservation and
13 management policies and statewide development requirements, and in the manner and in
14 accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be
15 construed to imply any extension of Utilities Commission regulatory jurisdiction over
16 any industry or enterprise that is not subject to the regulatory jurisdiction of said
17 Commission.

18 Because of technological changes in the equipment and facilities now available and
19 needed to provide telephone and telecommunications services, changes in regulatory
20 policies by the federal government, and changes resulting from the court-ordered
21 divestiture of the American Telephone and Telegraph Company, competitive offerings of
22 certain types of telephone and telecommunications services may be in the public interest.
23 Consequently, authority shall be vested in the North Carolina Utilities Commission to
24 allow competitive offerings of local exchange, exchange access, and long distance
25 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with
26 the provisions of G.S. 62-110, and the Commission is further authorized after notice to
27 affected parties and hearing to deregulate or to exempt from regulation under any or all
28 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.
29 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or
30 exemption from regulation is in the public interest; or (ii) a public utility as defined in
31 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that
32 the service or business of such public utility is competitive and that such deregulation or
33 exemption from regulation is in the public interest.

34 The policy and authority stated in this section shall be applicable to common carriers
35 of passengers by motor vehicle and their regulation by the North Carolina Utilities
36 Commission only to the extent that they are consistent with the provisions of the Bus
37 Regulatory Reform Act of 1985.

38 The North Carolina Utilities Commission may develop regulatory policies to govern
39 the provision of telecommunications services to the public which promote efficiency,
40 technological innovation, economic growth, and permit telecommunications utilities a
41 reasonable opportunity to compete in an emerging competitive environment, giving due
42 regard to consumers, stockholders, and maintenance of reasonably affordable local
43 exchange service and long distance service."

1 Section 19. Effective date. Sections 14 and 15 of this act become effective
2 only if the voters approve the issuance of the Clean Water Bonds authorized by this act in
3 the election required by Section 7 of this act. The remaining sections of this act are
4 effective when the act becomes law, and the Utilities Commission shall begin
5 immediately the rule-making process mandated by G.S. 62-159(d), as enacted by Section
6 17 of this act.