

## Chapter 116D.

### Higher Education Bonds.

#### Article 1.

#### General Provisions.

#### § 116D-1. Definitions.

The following definitions apply in this Chapter:

- (1) Board of Governors. – The Board of Governors of the University.
- (2) Capital facility. – Any one or more of the following for the University or for a community college:
  - a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.
  - b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
  - c. Land or an interest in land.
  - d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.
- (3) Cost. – Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:
  - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.
  - b. The cost of engineering, architectural, and other consulting services as may be required.
  - c. The cost of providing personnel to ensure effective project management.
  - d. Finance charges, reserves for debt service, and interest prior to and during construction.
  - e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.
  - f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.
  - g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

- h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.
- (4) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (5) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.
- (6) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.
- (7) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:
  - a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.
  - b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.
  - c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.
- (8) Securities issued under this Chapter. – Any of the following:
  - a. University improvement general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.
  - b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.
  - c. Community college general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.
- (9) State. – The State of North Carolina.
- (10) State Treasurer. – The incumbent Treasurer, from time to time, of the State.
- (11) University. – The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Media, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum. (2000-3, s. 1.2; 2019-139, s. 2.1(c).)

## **§ 116D-2. General provisions.**

(a) Signatures. – Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. – Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. – Securities issued under this Chapter are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. – All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter. (2000-3, s. 1.2.)

### **§ 116D-3. Reports.**

(a) Board of Governors. – The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) Repealed by Session Laws 2012-142, s. 9.4(c), effective July 1, 2012.

(2) Special Obligation Bonds. – The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. – Upon issuance of university improvement general obligation bonds under Article 2 of this Chapter or community college general obligation bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(c) Repealed by Session Laws 2012-142, s. 8.3(b), effective July 1, 2012. (2000-3, s. 1.2; 2012-142, ss. 8.3(b), 9.4(c); 2021-60, s. 1.2.)

### **§ 116D-4. Minority and historically underutilized business participation.**

(a) **Minority Business Participation.** – The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this section. The following State agencies shall monitor compliance with this requirement and shall report to the Joint Legislative Oversight Committee on General Government by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

(b) **[Participation in Providing Professional Services.]** – The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this section. As used in this subsection, the term "historically underutilized business" means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection. (2000-3, s. 7(a), (b); 2001-487, s. 26; 2021-180, s. 37.1(a).)

**§ 116D-5:** Repealed by Session Laws 2011-43, s. 1, effective April 19, 2011.