

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 1189

Short Title: Timely Payment/UNC Special Bonds. (Public)

Sponsors: Representative Haire (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Appropriations.

May 30, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE TIMELY PAYMENT OF SPECIAL BONDS FOR THE  
3 CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 3 of Chapter 116D of the General Statutes is amended by  
6 adding a new section to read:

7 "**§ 116D-32. Timely payment of special obligation bonds.**

8 (a) This section applies only to the special obligation bonds issued by the Board where  
9 (i) in the bond resolution or trust agreement authorizing or securing such bonds and at the time  
10 of issuance of the bonds, the Board has expressly and irrevocably elected to have the provisions  
11 of this section apply and (ii) the debt service schedule for the bonds has been received by the  
12 Director of the Budget.

13 (b) Whenever the paying agent for the bonds has not received payment of principal of  
14 or interest on bonds to which this section applies fifteen days immediately before the date on  
15 which such payment is due, the paying agent shall notify the Director of the Budget and the  
16 Board, by telephone, facsimile, or other similar communication, followed by written  
17 verification, of such payment status. The Director of the Budget shall immediately contact the  
18 Board and determine whether the Board will make the payment by the date due.

19 (c) If the Board indicates that the institution will not make the payment by the date due,  
20 the Director of the Budget shall forward the amount in immediately available funds necessary  
21 to make the payment of principal of or interest on the bonds to the paying agent and shall  
22 withhold such amount, in the following order of priority, from the following:

23 (1) The next succeeding appropriations payment designated for the continuing  
24 operation of the institution for whose benefit the Board issued the bonds  
25 pursuant to an appropriation under G.S. 116-11(9)b, which appropriation  
26 was based upon a budget recommendation described in G.S. 116-11(9)a(i).

27 (2) The next succeeding appropriation payment allocated by the Board to the  
28 institution for whose benefit the Board issued the bonds pursuant to an  
29 appropriation to the Board under G.S. 116-11(9)b, which appropriation was  
30 based upon a budget recommendation described in G.S. 116-11(9)a(iii).

31 (3) The next succeeding appropriation payment of any other amounts.

32 (d) If the amount of all succeeding appropriations payments in subdivisions (1) through  
33 (3) of subsection (c) of this section is insufficient to pay the amount necessary, the Director of  
34 the Budget shall withhold amounts from each succeeding appropriation payments in the order  
35 set forth in subsection (c) of this section, including payments to be made in succeeding fiscal



1 years but not to include more than twelve months of payments, until the total payment of  
2 principal and interest has been withheld.

3 (e) The amounts forwarded to the paying agent by the Director of the Budget shall be  
4 applied by the paying agent solely to the payment of the principal of and interest on the bonds  
5 of the Board for which the amounts were forwarded. The Director of the Budget shall notify  
6 the Board, the chief financial officer or officers of the institution whose appropriations have  
7 been withheld and payments made pursuant to this section.

8 (f) The Board shall, for bonds to which this section applies, file with the Director of the  
9 Budget a notice that sets forth the name and amount of the bonds, the institution for whose  
10 benefit the Board issued the bonds, the scheduled debt service for the bonds and the name,  
11 address and telephone number of the paying agent for the bonds. The Board shall provide to  
12 the Director of the Budget such additional information and documentation as the Director of the  
13 Budget may request from time to time regarding such bonds. The failure of the Board to file  
14 notice and information shall not affect the obligation of the Director of the Budget to pay the  
15 appropriation payments as set forth in subsection (c) of this section.

16 (g) The State covenants with the purchasers and beneficial owners of bonds issued by  
17 the Board that it will not repeal, revoke or rescind the provisions of this section or modify or  
18 amend the same so as to limit or impair the rights and remedies granted by this section for so  
19 long as the bonds covered by this section are outstanding; but nothing in this subsection shall  
20 be deemed or construed to require the State to continue the payment of State appropriations to  
21 the Board or any institution or to limit or prohibit the State from repealing, amending or  
22 modifying any law relating to the amount of State appropriations to the Board or any institution  
23 or the manner of payment or timing thereof. Nothing in this section shall be deemed or  
24 construed to create a debt of the State with respect to such bonds within the meaning of any  
25 State constitutional provision or to create any liability except to the extent provided in this  
26 section.

27 (h) Whenever the Director of the Budget is required by this section to make a payment  
28 of principal of or interest on bonds on behalf of the Board, the Director of the Budget, or the  
29 Director's designee, shall initiate an audit of the institution for whose benefit such bonds were  
30 issued to determine the reason for the nonpayment and to assist the Board and the institution, if  
31 necessary, in developing and implementing measures to assure that future payments will be  
32 made when due.

33 (i) To the extent permitted by the bond resolution or trust agreement to which this  
34 section applies, whenever the Director of the Budget is required by this section to make a  
35 payment of principal of or interest on bonds on behalf of the Board from appropriations to the  
36 Board and the institution and the debt service deficiency resulted because of a failure to collect  
37 revenues, the Board may, upon collection of the delinquent revenues, transfer such delinquent  
38 revenues later out of the revenue fund created under the bond resolution or trust agreement to  
39 the constituent institution."

40 **SECTION 2.** This act becomes effective July 1, 2012, and applies to special  
41 obligations bonds issued by the Board pursuant to this act on or after that date.