

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 1354
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Short Title: Rural Infrastructure Bonds.

(Public)

Sponsors:

Referred to:

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
3 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE
4 STATE, TO ADDRESS STATEWIDE RURAL INFRASTRUCTURE NEEDS BY
5 PROVIDING FUNDS (1) FOR GRANTS AND LOANS TO LOCAL
6 GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER
7 COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND
8 WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR
9 GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE
10 ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

11 The General Assembly of North Carolina enacts:

12 Section 1. Short title. This act shall be known as the "Rural Infrastructure
13 Bond Act of 1998".

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

17 (a) Clean Water Bonds.

- 1 (1) \$465,000,000 to provide State matching funds required to receive
2 federal wastewater or water supply assistance funds and to provide
3 additional funding for the Clean Water Revolving Loan and Grant Fund
4 established in Chapter 159G of the General Statutes or to provide
5 funding by grants to local government units for wastewater treatment
6 and water supply and distribution needs;
- 7 (2) \$320,000,000 to provide loans to local government units to finance all
8 or a portion of the cost of construction, improvements, enlargements,
9 extensions, and reconstruction of water supply and distribution systems,
10 wastewater collection systems, wastewater treatment works, water
11 conservation projects, and water reuse projects.

12 The funds to be derived from the sale of the Clean Water Bonds
13 authorized by this act are sufficient to meet no more than a fraction of
14 the needs that now exist and will arise in the immediate future. For this
15 reason, although public necessity, the criteria established by Chapter
16 159G of the General Statutes, and the guidelines established by the
17 United States Environmental Protection Agency Hardship Grants
18 Program shall be the primary consideration in granting and loaning
19 funds, great emphasis shall also be placed on the creation of efficient
20 systems of regional wastewater disposal and regional water supply, on
21 the willingness and ability of local government units to meet their
22 responsibilities through sound fiscal policies, creative planning, and
23 efficient operation and management, and on having a capital
24 improvement plan.

25 (b) Natural Gas Bonds.

26 \$215,000,000 to provide grants, loans, or other financing to natural gas
27 local distribution companies, persons seeking natural gas distribution
28 franchises, State or local government agencies, or other entities for
29 construction of natural gas facilities.

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

- 32 (1) "Bond rating" means the numerical rating of a unit of local government
33 developed by the NCMC. The rating formula is based on 100 being a
34 theoretically "perfect" unit of local government and is an assessment of
35 the creditworthiness of the unit. Units of local government with a rating
36 below 75 or with no ratings have limited, if any, access to the private
37 markets for financing water and sewer or other debt.
- 38 (2) "Bonds" means bonds issued under this act.
- 39 (3) "Capacity grant" means a grant awarded by the Rural Economic
40 Development Center to a local government unit to pay all or a portion of
41 the cost associated with the planning and writing of a grant or loan
42 application, a capital improvement plan, or other efforts that support
43 growth and development of rural areas.

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

- 1 (8) " Credit facility" means an agreement entered into by the State
2 Treasurer on behalf of the State with a bank, savings and loan
3 association, or other banking institution, an insurance company,
4 reinsurance company, surety company, or other insurance institution, a
5 corporation, investment banking firm, or other investment institution, or
6 any financial institution or other similar provider of a credit facility,
7 which provider may be located within or without the United States of
8 America, such agreement providing for prompt payment of all or any
9 part of the principal or purchase price (whether at maturity, presentment
10 or tender for purchase, redemption, or acceleration), redemption
11 premium, if any, and interest on any bonds or notes payable on demand
12 or tender by the owner, in consideration of the State agreeing to repay
13 the provider of the credit facility in accordance with the terms and
14 provisions of such agreement.
- 15 (9) " Economically depressed area" means any of the following:
- 16 a. An economically distressed county as defined in G.S. 143B-
17 437.01.
- 18 b. That part of a rural county whose poverty rate is at least one
19 hundred fifty percent (150%) of the State poverty rate. For the
20 purpose of this section, the poverty rate is the percentage of the
21 population with income below the latest annual federal poverty
22 guidelines issued by the United States Department of Health and
23 Human Resources.
- 24 c. That part of a rural county that experiences an actual or imminent
25 loss of manufacturing jobs in a number that is equal to or exceeds
26 five percent (5%) of the total number of manufacturing jobs in
27 the part.
- 28 (10) " Local government units" means local government units as defined in
29 the Clean Water Revolving Loan and Grant Act.
- 30 (11) " NCMC" means the North Carolina Municipal Council, Inc., a
31 nonprofit North Carolina corporation which provides bond ratings, or
32 any successor thereto. In the event such corporation dissolves or no
33 longer performs the functions contemplated herein, such term shall
34 mean that comparable corporation designated by the State Treasurer.
- 35 (12) " Notes" means notes issued under this act.
- 36 (13) " Par formula" means any provision or formula adopted by the State to
37 provide for the adjustment, from time to time, of the interest rate or rates
38 borne by any bonds or notes, including:
- 39 a. A provision providing for such adjustment so that the purchase
40 price of such bonds or notes in the open market would be as close
41 to par as possible,
- 42 b. A provision providing for such adjustment based upon a
43 percentage or percentages of a prime rate or base rate, which

- 1 percentage or percentages may vary or be applied for different
2 periods of time, or
- 3 c. Such other provision as the State Treasurer may determine to be
4 consistent with this act and will not materially and adversely
5 affect the financial position of the State and the marketing of
6 bonds or notes at a reasonable interest cost to the State.
- 7 (14) " Rural county" means a county with a density of fewer than 200 people
8 per square mile based on the United States census.
- 9 (15) " Rural Economic Development Center" means the Rural Economic
10 Development Center, Inc., a nonprofit North Carolina corporation, or
11 any successor thereto. In the event such corporation dissolves or no
12 longer performs the functions contemplated herein, such term shall
13 mean that comparable corporation designated by the Governor.
- 14 (16) " State" means the State of North Carolina.
- 15 (17) " Supplemental grant" means a grant awarded by the Rural Economic
16 Development Center to a local government unit to assist in financing
17 wastewater collection systems, wastewater treatment works, water
18 conservation projects, water reuse projects, or water supply systems.
19 Supplemental grant funds shall supplement other funding and shall not
20 represent more than fifty percent (50%) of the total costs of the
21 wastewater collection systems, wastewater treatment works, water
22 conservation projects, water reuse projects, or water supply systems
23 financed.
- 24 (18) " Unsewered communities" means those communities lacking
25 centralized, publicly owned wastewater collection systems and
26 wastewater treatment works.
- 27 (19) " Wastewater collection systems" means wastewater collection systems
28 as defined in the Clean Water Revolving Loan and Grant Act.
- 29 (20) " Wastewater treatment works" means wastewater treatment works as
30 defined in the Clean Water Revolving Loan and Grant Act.
- 31 (21) " Water conservation projects" include, but are not limited to, any
32 construction, repair, renovation, expansion, replacement of components,
33 or other capital improvement, including related equipment and land
34 acquisition, designed to:
- 35 a. Eliminate the wasteful or unnecessary use or loss of water in the
36 operations of a wastewater collection system, wastewater
37 treatment works, or water supply system; or
- 38 b. Enhance the operation of a wastewater collection system,
39 wastewater treatment works, or water supply system to provide a
40 more efficient use of water.
- 41 (22) " Water Pollution Control Revolving Fund" means the fund described
42 by G.S. 159G-4(a) and G.S. 159G-5(c).

1 (23) " Water reuse" means the actual use or application of treated wastewater
2 in or on areas which require water but do not require potable water
3 quality.

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

6 Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject
7 to a favorable vote of a majority of the qualified voters of the State who vote on the
8 question of issuing Clean Water Bonds in the election called and held as provided in this
9 act, the State Treasurer is hereby authorized, by and with the consent of the Council of
10 State, to issue and sell, at one time or from time to time, general obligation bonds of the
11 State to be designated "State of North Carolina Clean Water Bonds", with any additional
12 designations as may be determined to indicate the issuance of bonds from time to time, or
13 notes of the State as provided in this act, in an aggregate principal amount not exceeding
14 seven hundred eighty-five million dollars (\$785,000,000) for the purpose of providing
15 funds, with any other available funds, for the purposes authorized in this act.

16 (b) Natural Gas Bonds. Subject to a favorable vote of a majority of the
17 qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the
18 election called and held as provided in this act, the State Treasurer is hereby authorized,
19 by and with the consent of the Council of State, to issue and sell, at one time or from time
20 to time, general obligation bonds of the State to be designated "State of North Carolina
21 Natural Gas Bonds", with any additional designations as may be determined to indicate
22 the issuance of bonds from time to time, or notes of the State as provided in this act, in an
23 aggregate principal amount not exceeding two hundred fifteen million dollars
24 (\$215,000,000) for the purpose of providing funds, with any other available funds, for the
25 purposes authorized in this act.

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

29 (1) The proceeds of three hundred fifty-five million dollars (\$355,000,000)
30 of Clean Water Bonds shall be used by the Department of Environment
31 and Natural Resources to provide State matching funds required to
32 receive federal wastewater or water supply assistance funds, for grants
33 to local government units for the same purposes for which funds in the
34 Clean Water Revolving Loan and Grant Fund may be used, and for
35 grants to fund hardship projects in accordance with the guidelines
36 established by the United States Environmental Protection Agency
37 Hardship Grants Program. The grants shall be made for the purpose of
38 paying the cost of water supply systems, wastewater collection systems,
39 and wastewater treatment works, water conservation projects, and water
40 reuse projects.

41 Of the proceeds of the three hundred fifty-five million dollars
42 (\$355,000,000) referred to in this Section 5(a)(1), the sum of three
43 hundred million dollars (\$300,000,000) shall be allocated as follows:

- 1 a. High-Unit Cost Wastewater Account
- 2 1. Reserved for grants to local government units
- 3 whose bond rating is less than 75 or who have no bond
- 4 rating \$70,000,000
- 5 2. Reserved for grants to local government units whose bond
- 6 rating is 75 or greater \$80,000,000
- 7 b. High-Unit Cost Water Supply Account
- 8 1. Reserved for grants to local government units
- 9 whose bond rating is less than 75 or who have no bond
- 10 rating \$70,000,000
- 11 2. Reserved for grants to local government units whose bond
- 12 rating is 75 or greater \$80,000,000

13 The proceeds may be (i) transferred directly to the Clean Water
14 Revolving Loan and Grant Fund to make grants, (ii) used to make
15 grants directly to the appropriate local government qualifying for a grant
16 from the Clean Water Revolving Loan and Grant Fund, (iii) used for
17 any combination of (i) and (ii), or (iv) used in such other manner as
18 shall effectuate the clean water purposes of this act.

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 fraction of
21 the needs that now exist and will arise in the immediate future. For this
22 reason, although public necessity, the criteria established by Chapter
23 159G of the General Statutes, and the guidelines established by the
24 United States Environmental Protection Agency Hardship Grants
25 Program shall be the primary consideration in granting and loaning
26 funds, great emphasis shall also be placed on the creation of efficient
27 systems of regional wastewater disposal and regional water supply, on
28 the willingness and ability of local government units to meet their
29 responsibilities through sound fiscal policies, creative planning, and
30 efficient operation and management, and on having a capital
31 improvement plan.

32 Of the proceeds of the three hundred fifty-five million dollars
33 (\$355,000,000) referred to in this Section 5(a)(1), the sum of thirty-five
34 million dollars (\$35,000,000) shall be used to provide State funds
35 necessary for the 1999-2000, 2000-2001, 2001-2002, 2002-2003, and
36 2003-2004 fiscal years to match the federal wastewater or water supply
37 assistance funds deposited in the Water Pollution Control Revolving
38 Fund or another fund that is used to pay the cost of water supply
39 systems, wastewater collection systems, or wastewater treatment works
40 and is eligible to receive federal matching funds, unless the General
41 Assembly has provided the required match through other sources, in
42 which event this priority shall cease to exist to the extent of the
43 availability of the other sources. The Department of Environment and

1 Natural Resources shall certify to the State Treasurer the amount of
2 funds required for the State match for each of the fiscal years ending
3 June 30, 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30,
4 2003, and June 30, 2004, and the extent to which the General Assembly
5 has provided other funds for this purpose. Upon certification each year
6 of the amount of funds required for the State match for that fiscal year,
7 the State Treasurer may issue from the thirty-five million dollars
8 (\$35,000,000) the amount certified up to thirty-five million dollars
9 (\$35,000,000). Upon certification for the State match required for the
10 fiscal year ending June 30, 2004, the State Treasurer may issue the
11 remaining balance of the thirty-five million dollars (\$35,000,000) of the
12 Clean Water Bonds authorized by this subdivision for the purpose of
13 funding the State match for that fiscal year and for any other purposes
14 authorized by this subdivision. The proceeds of the bonds necessary for
15 the State match for each fiscal year shall be deposited in the Water
16 Pollution Control Revolving Fund or another appropriate fund or
17 account determined by the State Treasurer.

18 Of the proceeds of the three hundred fifty-five million dollars
19 (\$355,000,000) referred to in this Section 5(a)(1), the sum of twenty
20 million dollars (\$20,000,000) shall be used to provide hardship grants to
21 eligible local government units to assist with wastewater treatment
22 works and wastewater collection systems. Such grants shall be awarded
23 and administered by the Department of Environment and Natural
24 Resources in accordance with the guidelines established by the United
25 States Environmental Protection Agency Hardship Grants Program.

26 Although public necessity, the criteria established by Chapter 159G
27 of the General Statutes, and the guidelines established by the United
28 States Environmental Protection Agency Hardship Grants Program shall
29 be the primary consideration in granting and loaning funds, great
30 emphasis shall also be placed on the creation of efficient systems of
31 regional wastewater disposal and regional water supply, on the
32 willingness and ability of local government units to meet their
33 responsibilities through sound fiscal policies, creative planning, and
34 efficient operation and management, and on having a capital
35 improvement plan.

- 36 (2) The proceeds of sixty million dollars (\$60,000,000) of Clean Water
37 Bonds shall be used for the purpose of making grants to local
38 government units to pay the cost of clean water projects in connection
39 with the location of industry to, and expansion of industry in, the State.
40 These grants shall be awarded and administered by the Department of
41 Commerce. These funds shall be applied to pay the costs of grants
42 awarded in the same manner as funds in the Industrial Development
43 Fund created in G.S. 143B-437.01(a), for use in accordance with G.S.

1 143B-437.01(a), subject to the further limitations on the provisions of
2 G.S. 143B-437.01(a) set forth below, and shall be applied to pay the
3 costs of grants awarded in the same manner as funds in the Utility
4 Account of the Industrial Development Fund created in G.S. 143B-
5 437.01(b1), for use in accordance with G.S. 143B-437.01(b1), subject to
6 the further limitations on the provisions of G.S. 143B-437.01(b1) set
7 forth below. In applying the provisions of G.S. 143B-437.01(a) or G.S.
8 143B-437.01(b1), as the case may be, the following exceptions shall
9 apply:

- 10 a. The funds shall be used only for grants to local governments, not
11 for loans.
- 12 b. Grants shall be awarded only to projects the Secretary of
13 Commerce finds will have a favorable impact on the clean water
14 objectives of the State.
- 15 c. The only purposes for which grants may be made are
16 construction of or improvements to new or existing water or
17 sewer distribution lines or equipment, construction of or
18 improvements to new or existing wastewater treatment works, or
19 improvements that will expand the capacity of existing
20 wastewater treatment works or water supply systems.
- 21 d. The projects may be located only in counties that are
22 economically distressed as defined in G.S. 143B-437.01 or have
23 a population of less than 50,000.
- 24 e. Grants may be made with respect to the following industries as
25 defined in G.S. 105-129.2: manufacturing and processing, and
26 warehousing and wholesale trades.
- 27 f. No match is required for the grants.
- 28 g. The provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b1),
29 as the case may be, that limit the expenditure of funds to costs of
30 utility lines or facilities located on the site of the new or proposed
31 industrial building or that are directly related to the operation of
32 the specific industrial activity at the building, shall not apply if
33 the utility lines or facilities being provided will further the clean
34 water objectives of the State.

35 The General Assembly finds that the purpose of providing water and
36 sewer distribution lines and wastewater treatment works in
37 economically distressed counties is to provide clean water in North
38 Carolina in several different ways. First, these projects will reduce
39 industrial reliance on wells, septic tanks, and other similar facilities.
40 Second, when a distribution line is extended to an industrial facility in
41 an area not otherwise served by water and sewer infrastructure,
42 residents, other businesses, and local governments can hook into the
43 distribution line, bringing clean water, wastewater treatment, or both to

1 the unserved area. Also, the installation and expansion of water supply
2 and wastewater treatment facilities to provide water supply and
3 wastewater treatment in connection with new or expanding industry will
4 result in additional water supply and treatment facilities available to the
5 residents, other businesses, and local governments in the area where the
6 installation or expansion occurs.

7 The proceeds of the Clean Water Bonds, issued for the purpose
8 described in this Section 5(a)(2), shall be held in the Clean Water Bonds
9 Fund until needed for expenditure by the grantee for the payment of the
10 cost for the purpose for which the grant is made. The Department of
11 Commerce shall maintain records that document the timing and purpose
12 for which each expenditure of proceeds of a grant is made.

13 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
14 Bonds shall be used to provide supplemental and capacity grants to
15 eligible local government units to match federal, State, and other grant
16 or loan program funds to plan or improve needed water and sewer
17 projects in economically depressed areas of North Carolina. Such
18 grants shall be awarded and administered by the Rural Economic
19 Development Center. Those proceeds shall be allocated as follows:

- 20 a. Supplemental Grants \$40,000,000
21 b. Capacity Grants \$10,000,000

22 The Rural Economic Development Center shall certify to the State
23 Treasurer the amount of funds required, not to exceed eight million
24 dollars (\$8,000,000) for supplemental grants, not to exceed two million
25 dollars (\$2,000,000) for capacity grants, and not to exceed a total of ten
26 million dollars (\$10,000,000) in supplemental and capacity grants, for
27 each of the fiscal years ending June 30, 1999, June 30, 2000, June 30,
28 2001, June 30, 2002, June 30, 2003, and June 30, 2004. Upon
29 certification each year of the amount of funds required for that fiscal
30 year, the State Treasurer may issue the amount certified up to ten
31 million dollars (\$10,000,000). Upon certification for the fiscal year
32 ending June 30, 2004, the State Treasurer may issue the remaining
33 balance of the fifty million dollars (\$50,000,000) of the Clean Water
34 Bonds authorized by this subdivision for any other purposes authorized
35 by this subdivision.

36 Grants made from the proceeds of this fifty million dollars
37 (\$50,000,000) for supplemental grants shall be based on the following
38 criteria:

- 39 a. The applicant shall be a local government unit.
40 b. The applicant shall be a rural county or a local government unit
41 located in a rural county.
42 c. First priority shall be given to a water supply system, wastewater
43 collection system, or wastewater treatment work that creates or

1 retains jobs. A water supply system, wastewater collection
2 system, or wastewater treatment work shall also receive funding
3 priority if the project is located in an economically distressed
4 county as defined by G.S. 143B-437.01.

- 5 d. A water supply system, wastewater collection system, or
6 wastewater treatment work that is proposed in a nondistressed
7 county must meet at least one of the following criteria: (i) be
8 located in that part of a rural nondistressed county where the
9 poverty rate is at least one hundred fifty percent (150%) of the
10 State poverty rate, (ii) be located in that part of a rural
11 nondistressed county where the unemployment rate is at least
12 double the State unemployment rate for the most recent reporting
13 period available, or (iii) be located in that part of a rural
14 nondistressed county that experiences an actual or imminent loss
15 of jobs in a number that equals or exceeds five percent (5%) of
16 the total number of jobs in that part of the county. Any grant
17 awarded for a water supply system, wastewater collection
18 system, or wastewater treatment work in a nondistressed county
19 shall be matched on a dollar-for-dollar basis in the amount of the
20 grant awarded.

21 Although public necessity and the criteria listed above shall
22 be the primary consideration in granting and loaning funds, great
23 emphasis shall also be placed on the creation of efficient systems
24 of regional wastewater disposal and regional water supply, on the
25 willingness and ability of local government units to meet their
26 responsibilities through sound fiscal policies, creative planning,
27 and efficient operation and management, and on having a capital
28 improvement plan. However, funds shall not be expended for the
29 repair or replacement of low-pressure pipe wastewater systems.

30 The Rural Economic Development Center shall award grants
31 to units of local government for the purposes authorized by this
32 Section 5(a)(2) in accordance with the criteria set forth above.
33 When the Rural Economic Development Center authorizes a
34 grant, the Rural Economic Development Center shall notify the
35 State Treasurer of the authorization and shall submit to the State
36 Treasurer the grant application and records relevant to the grant's
37 authorization. The State Treasurer shall review the grant and
38 relevant documents to verify that the grant complies with the
39 requirements of this act. The State Treasurer shall complete the
40 review no later than 30 days after the receipt of the grant
41 application and relevant records from the Rural Economic
42 Development Center, and shall notify the Rural Economic

1 Development Center that the review has been completed and of
 2 the State Treasurer's findings.

3 The proceeds of the Clean Water Bonds issued for the
 4 purpose described in this section shall be held in the Clean Water
 5 Bonds Fund until needed for expenditure by the grantee for the
 6 payment of costs for the purposes for which the grant is made.
 7 The Rural Economic Development Center shall maintain records
 8 that document the timing and purpose for which each expenditure
 9 of proceeds of a grant is made and shall furnish such records to
 10 the State Treasurer at the time a request for payment to or on
 11 behalf of a grantee is to be made.

12 At the end of each fiscal year, the Rural Economic
 13 Development Center shall provide to the State Treasurer any
 14 records that document the timing and purposes of the
 15 expenditures by the grantee units of local government of the
 16 proceeds of the grants funded from the proceeds of the Clean
 17 Water Bonds during that fiscal year that have not already been
 18 provided to the State Treasurer.

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

- 25 a. Wastewater collection systems and wastewater treatment works.
 - 26 1. Reserved for loans to local government units whose bond
 - 27 rating is less than 75 or who have no bond rating
 - 28 \$10,000,000
 - 29 2. Reserved for loans to local government units whose bond
 - 30 rating is 75 or more \$150,000,000
- 31 b. Water supply and distribution systems and water conservation
 - 32 projects.
 - 33 1. Reserved for loans to local government units whose bond
 - 34 rating is less than 75 or who have no bond rating...
 - 35 \$10,000,000
 - 36 2. Reserved for loans to local government units
 - 37 whose bond rating is 75 or more..... \$150,000,000

38 The proceeds shall be used to make loans directly to local
 39 government units qualifying for a loan from the Clean Water Revolving
 40 Loan and Grant Fund or loaned in such other manner as shall effectuate
 41 the purposes of this act. To qualify for a loan for the purpose of paying
 42 the cost of water supply systems, a local government unit must have a
 43 water supply facility plan approved by the Department of Environment

1 and Natural Resources. A water supply facility plan submitted by a
2 local government unit to the Department under G.S. 143-355(l) will be
3 sufficient to meet this requirement. To qualify for a loan for the
4 purpose of paying the cost of wastewater collection systems or
5 wastewater treatment works, a local government unit must have a
6 wastewater facility plan approved by the Department of Environment
7 and Natural Resources. A wastewater facility plan must project future
8 wastewater treatment needs, must present a long-range plan to meet
9 those needs, and must include plans for system operations and
10 maintenance of the facilities being built with the bond proceeds. In
11 addition, great emphasis shall also be placed on having a capital
12 improvement plan.

13 The Department of Environment and Natural Resources shall set the
14 priorities and determine the eligibility of local government units for
15 these loans in accordance with Section 10 of this act. The form of the
16 loans and the details thereof including, without limitation, the maturity,
17 interest rate, and amortization schedule shall be determined, from time
18 to time, by the State Treasurer. In making these determinations, the
19 State Treasurer shall consider the purpose of the loans, the ability of
20 local government units to repay the loans, and the security for the loans.
21 The interest rates on these loans shall reflect the self-supporting nature
22 of the loan program and shall be sufficient to cover substantially all
23 payments of debt service on the three hundred twenty million dollars
24 (\$320,000,000) of Clean Water Bonds and the issuance costs and
25 administrative expenses associated with the issuance of these bonds and
26 the making of these loans, subject to any applicable requirements of the
27 federal tax law.

28 Repayments of the loans shall be credited to the General Fund and
29 may be used to pay, directly or indirectly, debt service on the bonds and
30 notes issued. Repayments may be initially placed into such fund or
31 account as may be determined by the State Treasurer for the purpose of
32 determining compliance with applicable requirements of the federal tax
33 law and shall be expended and disbursed therefrom under the direction
34 and supervision of the Director of the Budget.

35 (5) If bond proceeds remain unspent, five years from the date on which the
36 bonds were issued, then the General Assembly may at any session after
37 that five-year period of time increase or decrease the allocations of the
38 proceeds of the Clean Water Bonds set forth in (1), (2), (3), (4), and (5)
39 above, so long as the aggregate amount of the allocations does not
40 exceed seven hundred eighty-five million dollars (\$785,000,000).

41 (6) To the extent otherwise authorized by law, and to the extent the use
42 otherwise accomplishes the clean water objectives of the State, this act
43 does not prohibit a local government unit from using the proceeds of

1 Clean Water Bonds for projects that accomplish the clean water
2 objectives of this State through contracts or other arrangements with
3 private entities.

4 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be
5 used for the purpose of providing grants, loans, or other financing to natural gas local
6 distribution companies, persons seeking natural gas distribution franchises, State or local
7 government agencies, or other entities for the costs of constructing natural gas facilities,
8 including pipelines, compressors, interests in real property, and related equipment for the
9 delivery of natural gas in order to facilitate the expansion of natural gas facilities to
10 unserved areas of the State in accordance with the findings of the General Assembly
11 described in Section 15 of this act.

12 Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of
13 Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of
14 bonds the issuance of which has been anticipated by bond anticipation notes or the
15 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
16 fund to be designated "Clean Water Bonds Fund", which may include such appropriate
17 special accounts therein as may be determined by the State Treasurer and shall be
18 disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be
19 allocated and expended as provided in this act.

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

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

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

4 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,
5 including premium thereon, if any, except the proceeds of bonds the issuance of which
6 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or
7 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural
8 Gas Bonds Fund", which may include such appropriate special accounts therein as may
9 be determined by the State Treasurer, and shall be disbursed as provided in this act.
10 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in
11 this act. The proceeds may be used in accordance with G.S. 62-159 or may be
12 distributed in accordance with the provisions of legislation enacted by the General
13 Assembly in 1998 or later providing for the allocation of the bond proceeds for the
14 purposes provided in this act.

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

21 Moneys in the Natural Gas Bonds Fund or any separate natural gas fund or
22 account established under this act may be invested from time to time by the State
23 Treasurer in the same manner permitted for investment of moneys belonging to the State
24 or held in the State treasury, except with respect to grant money to the extent otherwise
25 directed by the terms of the grant. Investment earnings, except investment earnings with
26 respect to grant money to the extent otherwise directed or restricted by the terms of the
27 grant, may be (i) credited to the Natural Gas Bonds Fund or any separate natural gas fund
28 or account established under this act; (ii) used to pay debt service on the Natural Gas
29 Bonds authorized by this act; (iii) used to satisfy compliance with applicable
30 requirements of the federal tax law; or (iv) transferred to the General Fund of the State.

31 The proceeds of Natural Gas Bonds and notes may be used with any other
32 moneys made available by the General Assembly for providing grants, loans, or other
33 financing in accordance with this act, including the proceeds of any other State bond
34 issues, whether heretofore made available or which may be made available at the session
35 of the General Assembly at which this act is ratified or any subsequent sessions. The
36 proceeds of Natural Gas Bonds and notes shall be expended and disbursed under the
37 direction and supervision of the Director of the Budget. The funds provided by this act
38 for construction of natural gas facilities shall be disbursed for the purposes provided in
39 this act upon warrants drawn on the State Treasurer by the State Controller, which
40 warrants shall not be drawn until requisition has been approved by the Director of the
41 Budget and which requisition shall be approved only after full compliance with the
42 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

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

5 (c) Costs. Allocations to the costs of a capital improvement or undertaking in
6 each case may include allocations to pay the costs set forth in Section 3(7)c., d., e., f., and
7 g. of this act in connection with the issuance of bonds for that capital improvement or
8 undertaking.

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

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

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

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

31 "[] FOR [] AGAINST
32 the issuance of two hundred fifteen million dollars (\$215,000,000) State of North
33 Carolina Natural Gas Bonds constituting general obligation bonds of the State secured by
34 a pledge of the faith and credit and taxing power of the State for the purpose of providing
35 funds, with any other available funds, to provide grants, loans, or other financing to
36 public or private entities for construction of natural gas facilities in order to facilitate the
37 expansion of natural gas facilities to unserved portions of the State."

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

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

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

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

37 (c) Manner of Sale; Expenses. Subject to determination by the Council of State as
38 to the manner in which bonds or notes shall be offered for sale, whether at public or
39 private sale, whether within or without the United States of America, and whether by
40 publishing notices in certain newspapers and financial journals, mailing notices, inviting
41 bids by correspondence, negotiating contracts of purchase or otherwise, the State
42 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
43 or rates of interest, which may vary from time to time, and at such price or prices,

1 including a price less than the face amount of the bonds or the notes, as the State
2 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
3 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
4 other available moneys.

5 (d) Notes; Repayment.

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

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

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

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

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

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

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

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

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

36 (g) Investment Eligibility. Bonds and notes are hereby made securities in
37 which all public officers, agencies, and public bodies of the State and its political
38 subdivisions, all insurance companies, trust companies, investment companies, banks,
39 savings banks, savings and loan associations, credit unions, pension or retirement funds,
40 other financial institutions engaged in business in the State, executors, administrators,
41 trustees, and other fiduciaries may properly and legally invest funds, including capital in
42 their control or belonging to them. Bonds and notes are hereby made securities which
43 may properly and legally be deposited with and received by any officer or agency of the

1 State or political subdivision of the State for any purpose for which the deposit of bonds,
2 notes, or obligations of the State or any political subdivision is now or may hereafter be
3 authorized by law.

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

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

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

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

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

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

8 Except as otherwise permitted by Section 6 of this act with respect to the use of
9 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
10 Account other than funds set aside for administrative expenses, including expenses
11 related to determining compliance with applicable requirements of the federal tax law and
12 costs of issuance, shall be used to make loans for the purposes provided in this act. The
13 State Treasurer shall be responsible for making and administering all loans pursuant to
14 the provisions of this section.

15 (c) Application for Loans; Hearings.

16 (1) Eligibility/Initial Hearing.

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

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

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

- 33 1. The applicant is a local government unit;
- 34 2. The applicant has the financial capacity to pay the
35 principal of and interest on its proposed loan as evidenced
36 by the approval of the Local Government Commission;
- 37 3. The applicant has substantially complied or will
38 substantially comply with all applicable laws, rules,
39 regulations, and ordinances, whether federal, State, or
40 local; and
- 41 4. The applicant has agreed by official resolution to adopt
42 and place into effect a schedule of fees and charges or the
43 application of other sources of revenue which will provide

1 adequate funds for proper operation, maintenance, and
2 administration of the project and repayment of all
3 principal and interest on the loan.

4 (2) Assessment. The Department of Environment and Natural Resources
5 may require any applicant to file with its application an assessment of
6 the impact the project for which the funds are sought will have upon
7 meeting the facility needs of the area within which the project is to be
8 located.

9 (3) Hearing by the Department of Environment and Natural Resources or
10 the Local Government Commission. A public hearing may be held by
11 the Department of Environment and Natural Resources or the Local
12 Government Commission at any time on any application. Public
13 hearings may also be held by the Department of Environment and
14 Natural Resources in its discretion upon written request from any citizen
15 or taxpayer who is a resident of the county or counties in which the
16 project is to be located or a resident of the local government unit that
17 proposes to borrow moneys under this act, if it appears that the public
18 interest will be served by the hearing. The written request shall set forth
19 each objection to the proposed project or other reason for requesting a
20 hearing on the application and shall contain the name and address of the
21 persons submitting it. In deciding whether to grant a request for a
22 hearing on an application, the Department of Environment and Natural
23 Resources may consider the application, the written objections to the
24 proposed project, and the facility needs and shall determine if the public
25 interest will be served by a hearing. The determination by the
26 Department of Environment and Natural Resources shall be conclusive,
27 and all written requests for a hearing shall be retained as a permanent
28 part of the records pertaining to the application.

29 (4) Petition for Vote. A petition, demanding that the question of whether to
30 enter into a loan agreement with the State under this act be submitted to
31 voters, may be filed with the clerk of the local government unit applying
32 for the loan within 15 days after the public hearing required by this
33 section. The petition's sufficiency shall be determined and a
34 referendum, if any, shall be conducted according to the standards,
35 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

36 (d) Priorities.

37 (1) Determination. Determination of priorities to be assigned each eligible
38 project shall be made semiannually by the Department of Environment
39 and Natural Resources during each fiscal year. Every eligible project
40 shall be considered by the Department of Environment and Natural
41 Resources with every other project eligible during this same priority
42 period.

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

1 withheld if (i) before the execution of the loan agreement, such funds have been legally
2 pledged to secure special obligation bonds or other obligations of the local government
3 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
4 secure special obligation bonds or other obligations of the local government unit as
5 authorized in this subsection. After the execution of a loan agreement, all or any portion
6 of the State funds specified in the loan agreement to be so withheld may be pledged to
7 secure special obligation bonds or other obligations of the local government unit only
8 with the prior written consent of the State Treasurer.

9 The State Treasurer shall notify the Secretary of Revenue and the State
10 Controller of the amount to be withheld from the local government unit, and the
11 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
12 amount so requested to be applied by the State Treasurer to the repayment of the loan.

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

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

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

33 (j) Report by Department of Environment and Natural Resources. The
34 Department of Environment and Natural Resources shall prepare and file each year on or
35 before July 31 with the Joint Legislative Commission on Governmental Operations and
36 the Fiscal Research Division a report for the preceding fiscal year concerning the
37 allocation and making of loans authorized by this act. The report shall set forth for the
38 preceding fiscal year:

- 39 (1) Itemized and total allocations of loans authorized and unallocated funds
40 for the loan program as of the end of the preceding fiscal year;
- 41 (2) Identification of each loan agreement entered into by the State during
42 the preceding fiscal year and the total amount of loans authorized by
43 such loan agreements;

- 1 (3) The amount disbursed to each local government unit pursuant to such
2 loan agreements during the preceding fiscal year and the total amount of
3 such disbursements;
- 4 (4) The loan repayments made by each local government unit pursuant to
5 such loan agreements and the total amount of such loan repayments
6 during the preceding fiscal year; and
- 7 (5) A summary for the five preceding years of the information required by
8 subdivisions (1) through (4) of this subsection.
- 9 The report shall be signed by the Secretary of Environment and Natural Resources.
- 10 (k) Local Government Commission.
- 11 (1) Local government units may execute debt instruments payable to the
12 State in order to obtain loans provided for in this act. Local government
13 units shall pledge or agree to apply as security for such obligations:
- 14 a. Any available source of revenues of the local government unit,
15 including revenues from benefitted facilities or systems, provided that
16 (i) the local government unit has not otherwise pledged the revenues as
17 security for, or contractually agreed to apply the revenues to, the
18 payment of any other obligations of the local government unit, (ii) the
19 use of the revenues is not otherwise restricted by law, or (iii) the
20 revenues are not derived from the exercise of the local government
21 unit's taxing power; or
- 22 b. Their faith and credit; or
- 23 c. Any combination of a. or b. above.
- 24 The faith and credit of a local government unit shall not be pledged
25 or be deemed to have been pledged unless the requirements of Article 4
26 of Chapter 159 of the General Statutes have been met. The State
27 Treasurer, with the assistance of the Local Government Commission,
28 shall develop and adopt appropriate debt instruments for use under this
29 act.
- 30 (2) Nothing contained in this act shall prohibit any local government unit
31 from applying any funds of the local government unit not otherwise
32 restricted as to use by law to the payment of any debt instrument
33 payable to the State incurred pursuant to the provisions of this act.
- 34 (3) The Local Government Commission shall review and approve proposed
35 loans to local government units under this act under the provisions of
36 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
37 Government Commission in considering the ability of a local
38 government unit to repay a loan may regard as a source of revenue for
39 repayment of a loan revenue sources that may not be available other
40 than on an annual discretionary basis and that may not be subject to a
41 pledge or agreement to apply. Loans under this act shall be outstanding
42 debts for the purposes of Article 10 of Chapter 159 of the General
43 Statutes.

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

4 Section 11. Reports. (a) The Rural Economic Development Center shall
5 prepare and file each year on or before July 31 with the Joint Legislative Commission on
6 Governmental Operations and the Fiscal Research Division a report for the preceding
7 fiscal year concerning the allocation and making of grants authorized by this act. The
8 report shall be signed by the Chair of the Board of Directors of the Rural Economic
9 Development Center. The report shall set forth for the preceding fiscal year:

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

20 (b) The Department of Environment and Natural Resources shall prepare and file
21 each year on or before July 31 with the Joint Legislative Commission on Governmental
22 Operations and the Fiscal Research Division a report for the preceding fiscal year
23 concerning the allocation and making of grants authorized by this act. The report shall be
24 signed by the Secretary of Environment and Natural Resources. The report shall set forth
25 for the preceding fiscal year:

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

36 (c) The Department of Commerce shall prepare and file each year on or before
37 July 31 with the Joint Legislative Commission on Governmental Operations and the
38 Fiscal Research Division a report for the preceding fiscal year concerning the allocation
39 and making of grants authorized by this act. The report shall be signed by the Secretary
40 of Commerce. The report shall set forth for the preceding fiscal year:

- 41 (1) Itemized and total allocations of grants authorized and unallocated funds
42 for the grant program as of the end of the preceding fiscal year;

- 1 (2) Identification of each grant agreement entered into by the Department of
2 Commerce during the preceding fiscal year and the total amount of
3 grants authorized by the grant agreements;
- 4 (3) The amount disbursed to each local government unit pursuant to the
5 grant agreements during the preceding fiscal year and the total amount
6 of the disbursements; and
- 7 (4) A summary for the five preceding years of the information required by
8 subdivisions (1) through (3) of this subsection.

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

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

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

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

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

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

32 Section 14. G.S. 159G-6 reads as rewritten:

33 **"§ 159G-6. Distribution of funds.**

34 (a) Revolving loans and grants.

- 35 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
36 and Grant Fund, other than funds set aside for administrative expenses,
37 shall be used for revolving loans and grants to local government units
38 for construction costs of wastewater treatment works, wastewater
39 collection systems and water supply systems and other assistance as
40 provided in this Chapter.

- 41 (2) The maximum principal amount of a revolving loan or a grant may be
42 one hundred percent (100%) of the nonfederal share of the construction
43 costs of any eligible project. The maximum principal amount of

1 revolving loans made to any one local government unit during any fiscal
2 year shall be ~~three-five~~ million dollars ~~(\$3,000,000)-(\$5,000,000)~~. The
3 maximum principal amount of grants made to any one local government
4 unit during any fiscal year shall be ~~one-two~~ million dollars ~~(\$1,000,000)-~~
5 ~~(\$2,000,000)~~.

- 6 (3) The State Treasurer shall be responsible for investing and distributing
7 all funds appropriated or accruing to the Clean Water Revolving Loan
8 and Grant Fund for revolving loans and grants under this Chapter. In
9 fulfilling his responsibilities under this section, the State Treasurer shall
10 make a written request to the Department of Environment and Natural
11 Resources to arrange for the appropriated funds to be (i) transferred
12 from the appropriate accounts to a local government unit to provide
13 funds for one or more revolving loans or grants or (ii) invested as
14 authorized by this Chapter with the interest on and the principal of such
15 investments to be transferred to the local government unit to provide
16 funds for one or more revolving loans or grants.

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

- 23 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
24 the General Wastewater Revolving Loan and Grant Account shall be
25 used exclusively for the purpose of providing for revolving construction
26 loans or grants in connection with approved wastewater treatment work
27 or wastewater collection system projects.

- 28 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
29 Wastewater Account shall be available for grants to applicants for high-
30 unit cost wastewater projects. Eligibility of an applicant for such a grant
31 shall be determined by comparing estimated average household user
32 fees for water and sewer service, for debt service and operation and
33 maintenance costs, to one and one-half percent (1.5%) of the median
34 household income in the ~~county~~ local government unit in which the
35 project is located. The projects which would require estimated average
36 household water and sewer user fees greater than one and one-half
37 percent (1.5%) of the median household income are defined as high-unit
38 cost wastewater projects and will be eligible for a grant equal to the
39 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of
40 this section.

- 41 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
42 Emergency Wastewater Revolving Loan Account shall be available for
43 revolving emergency loans to applicants in the event the Environmental

1 Management Commission certifies that a serious public health hazard,
2 related to the inadequacy of existing wastewater facilities, is present or
3 imminent in a community.

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

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

15 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
16 Cost Water Supply Account shall be available for grants to applicants
17 for high-unit cost water supply systems, on the same basis as provided
18 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

19 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
20 Emergency Water Supply Revolving Loan Account shall be available
21 for revolving emergency loans to applicants in the event the Division of
22 Environmental Health certifies that a serious public health hazard,
23 related to the water supply system, is present or imminent in a
24 community.

25 (d) Repealed by Session Laws 1991, c. 186, s. 4.

26 (e) Notwithstanding any other provision of this Chapter, funds in the Water
27 Pollution Control Revolving Fund shall not be available as grants except to the extent
28 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
29 thereunder."

30 Section 15. The General Assembly finds that:

31 (1) The General Assembly has previously found that it is the policy of this
32 State to facilitate the extension of natural gas facilities to unserved areas
33 of the State; and

34 (2) The extension of natural gas facilities to unserved areas of the State is
35 necessary for the health of the people and of the environment; and

36 (3) The extension of natural gas facilities to unserved areas of the State will
37 aid and encourage the location of manufacturing enterprises and
38 industrial facilities in those areas of the State, will encourage new
39 construction, homes, and other businesses in those areas of the State,
40 will increase the population, taxable property, agricultural industries,
41 and business prospects in the State; and

42 (4) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws
43 directed the North Carolina Utilities Commission to require the

1 franchised natural gas local distribution companies to file reports with
2 the Commission detailing their plans for providing natural gas service in
3 areas of the State where natural gas service is not available, and directed
4 the Commission and the Public Staff to provide independent analyses
5 and summaries of those reports together with status reports of natural
6 gas service in the State to the Joint Legislative Utility Review
7 Committee; and

8 (5) The reports of the utilities, the Commission, and the Public Staff
9 indicate that the construction of facilities and the extension of natural
10 gas service in some areas of the State may not be economically feasible
11 with traditional funding methods; and

12 (6) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)
13 authorizing special funding methods, including the use of supplier
14 refunds and customer surcharges, to facilitate the expansion of natural
15 gas service; and

16 (7) While the 1991 legislation has been successful in providing some
17 natural gas service to previously unserved areas of the State, that
18 legislation has not been sufficient to facilitate the extension of service
19 that is necessary and in the public interest, and there are still counties
20 with no gas service or virtually no gas service; and

21 (8) It is therefore necessary to authorize additional funding methods,
22 including appropriations from the General Assembly and the proceeds
23 of general obligation bonds, to further facilitate the expansion of natural
24 gas service.

25 Section 16. Chapter 62 of the General Statutes is amended by adding a new
26 section to read:

27 **"§ 62-159. Additional funding for natural gas expansion.**

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

35 (b) The use of funds provided under this section shall be pursuant to an order of
36 the Commission after a public hearing. The Commission shall ensure that all projects for
37 which funds are provided under this section are consistent with the intent of this section
38 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular
39 project pursuant to this section, the Commission shall consider the scope of a proposed
40 project, including the number of unserved counties and the number of anticipated
41 customers that would be served, the total cost of the project, the extent to which the
42 project is considered feasible, and other relevant factors affecting the public interest. In
43 determining economic feasibility, the Commission shall employ the net present value

1 method of analysis on a project specific basis. Only those projects with a negative net
2 present value shall be determined to be economically infeasible for the company, person,
3 or gas district to construct. In no event shall the Commission provide funding under this
4 section of an amount greater than the negative net present value of any proposed project
5 as determined by the Commission. If at any time a project is determined by the
6 Commission to have become economically feasible, the Commission shall require the
7 recipient of funding to remit to the Commission appropriate funds related to the project,
8 and the Commission may order those funds to be returned with interest in a reasonable
9 amount to be determined by the Commission. Funds returned, together with interest,
10 shall be deposited with the State Treasurer to be used for other expansion projects
11 pursuant to the provisions of this section. A utility plant acquired with expansion funds
12 shall be included in the local distribution company's rate base at zero cost except to the
13 extent such funds have been remitted by the company pursuant to order of the
14 Commission. In the event a gas district wishes to sell or otherwise dispose of facilities
15 financed with funds received under this section, it must first notify the Commission
16 which shall determine the method of repayment or accounting for those funds.

17 (c) To the extent that one or more of the counties included in a proposed
18 project to be funded pursuant to this section are counties affected by the loss of exclusive
19 franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the
20 public interest requires that the person obtaining the franchise or funding pursuant to this
21 section be given an exclusive franchise and that the existing franchise be canceled. Any
22 new exclusive franchise granted under this subsection shall be subject to the provisions of
23 G.S. 62-36A(b). This subsection does not apply to gas districts formed under Article 28
24 of Chapter 160A of the General Statutes.

25 (d) The Commission, after hearing, shall adopt rules to implement this section as
26 soon as practicable. The Commission and Public Staff shall report to the Joint
27 Legislative Utility Review Committee on the use of funding provided under this section
28 in conjunction with the reports required under G.S. 62-36A."

29 Section 17. G.S. 62-2 reads as rewritten:

30 "**§ 62-2. Declaration of policy.**

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

- 36 (1) To provide fair regulation of public utilities in the interest of the public;
- 37 (2) To promote the inherent advantage of regulated public utilities;
- 38 (3) To promote adequate, reliable and economical utility service to all of
39 the citizens and residents of the State;
- 40 (3a) To assure that resources necessary to meet future growth through the
41 provision of adequate, reliable utility service include use of the entire
42 spectrum of demand-side options, including but not limited to
43 conservation, load management and efficiency programs, as additional

1 sources of energy supply and/or energy demand reductions. To that end,
2 to require energy planning and fixing of rates in a manner to result in
3 the least cost mix of generation and demand-reduction measures which
4 is achievable, including consideration of appropriate rewards to utilities
5 for efficiency and conservation which decrease utility bills;

6 (4) To provide just and reasonable rates and charges for public utility
7 services without unjust discrimination, undue preferences or advantages,
8 or unfair or destructive competitive practices and consistent with long-
9 term management and conservation of energy resources by avoiding
10 wasteful, uneconomic and inefficient uses of energy;

11 (4a) To assure that facilities necessary to meet future growth can be financed
12 by the utilities operating in this State on terms which are reasonable and
13 fair to both the customers and existing investors of such utilities; and to
14 that end to authorize fixing of rates in such a manner as to result in
15 lower costs of new facilities and lower rates over the operating lives of
16 such new facilities by making provisions in the rate-making process for
17 the investment of public utilities in plants under construction;

18 (5) To encourage and promote harmony between public utilities, their users
19 and the environment;

20 (6) To foster the continued service of public utilities on a well-planned and
21 coordinated basis that is consistent with the level of energy needed for
22 the protection of public health and safety and for the promotion of the
23 general welfare as expressed in the State energy policy;

24 (7) To seek to adjust the rate of growth of regulated energy supply facilities
25 serving the State to the policy requirements of statewide development;

26 (8) To cooperate with other states and with the federal government in
27 promoting and coordinating interstate and intrastate public utility
28 service and reliability of public utility energy supply; and

29 (9) To facilitate the construction of facilities in and the extension of natural
30 gas service to unserved areas in order to promote the public welfare
31 throughout the State and to that end to authorize the creation of ~~an~~
32 expansion fund—funds for each—natural gas local distribution company
33 companies or gas districts to be administered under the supervision of
34 the North Carolina Utilities Commission.

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

1 Because of technological changes in the equipment and facilities now available and
2 needed to provide telephone and telecommunications services, changes in regulatory
3 policies by the federal government, and changes resulting from the court-ordered
4 divestiture of the American Telephone and Telegraph Company, competitive offerings of
5 certain types of telephone and telecommunications services may be in the public interest.
6 Consequently, authority shall be vested in the North Carolina Utilities Commission to
7 allow competitive offerings of local exchange, exchange access, and long distance
8 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with
9 the provisions of G.S. 62-110, and the Commission is further authorized after notice to
10 affected parties and hearing to deregulate or to exempt from regulation under any or all
11 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.
12 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or
13 exemption from regulation is in the public interest; or (ii) a public utility as defined in
14 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that
15 the service or business of such public utility is competitive and that such deregulation or
16 exemption from regulation is in the public interest.

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

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

27 Section 18. Effective date. Section 14 of this act becomes effective only if
28 the voters approve the issuance of the Clean Water Bonds authorized by this act in the
29 election required by Section 7 of this act. The remaining sections of this act are effective
30 when the act becomes law, and the Utilities Commission shall begin immediately the
31 rule-making process mandated by G.S. 62-159(d), as enacted by Section 16 of this act.