

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 389

Short Title: Energy Conservation for State Buildings-AB. (Public)

Sponsors: Representatives Tolson; Barbee, Barefoot, Haire, Morris, Shubert, and Wainwright.

Referred to: State Government, if favorable, Appropriations.

March 1, 2001

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THAT PROJECTS FOR IMPROVEMENTS TO EXISTING
2 FACILITIES FOR ENERGY EFFICIENCY RECEIVE THE HIGHEST LEVEL OF
3 PRIORITY FOR USE OF FUNDS IN THE REPAIRS AND RENOVATIONS
4 RESERVE ACCOUNT; TO ESTABLISH THE STATE FACILITIES ENERGY
5 CONSERVATION PROGRAM; TO AUTHORIZE THE DEPARTMENT OF
6 ADMINISTRATION TO ENTER INTO ALTERNATIVE FINANCING
7 AGREEMENTS FOR THE PURCHASE OF ENERGY CONSERVATION
8 PROJECTS; TO AUTHORIZE THE ISSUANCE OF BONDS THAT ARE
9 SECURED BY AN INTEREST IN THE PROPERTY PURCHASED; AND TO
10 ALLOW STATE DEPARTMENTS TO RETAIN YEAR-END REVERSIONS FOR
11 A PERIOD OF FOUR YEARS TO IMPLEMENT OPERATION AND
12 MAINTENANCE ENERGY CONSERVATION MEASURES.
13

14 Whereas, energy conservation projects that substantially reduce energy use
15 provide an opportunity to save large sums of money by reducing utility bills; and

16 Whereas, energy conservation projects that substantially reduce energy use
17 benefit the environment by slowing the depletion of nonrenewable energy sources, by
18 lessening the need to construct more power plants, and by reducing harmful emissions
19 and other negative side effects of energy use that harm the environment and the health
20 of the public; and

21 Whereas, the State should take a leadership role in energy conservation; and

22 Whereas, the positive impact on the State's budget and the positive impact on
23 the environment compel the State to implement energy conservation projects in State
24 facilities; Now, therefore,

25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** G.S. 143-15.3A reads as rewritten:

27 "**§ 143-15.3A. Repairs and Renovations Reserve Account.**

1 (a) There is established a Repairs and Renovations Reserve Account as a
2 restricted reserve in the General Fund. The State Controller shall reserve to the Repairs
3 and Renovations Reserve Account three percent (3%) of the replacement value of all
4 State buildings supported from the General Fund, at the end of each fiscal year.

5 (b) The funds in the Repairs and Renovations Reserve Account shall be used
6 only for the repair and renovation of State facilities and related infrastructure that are
7 supported from the General Fund. Funds from the Repairs and Renovations Reserve
8 Account shall be used only for the following types of projects:

- 9 (1) Roof repairs and replacements;
- 10 (2) Structural repairs;
- 11 (3) Repairs and renovations to meet federal and State standards;
- 12 (4) Repairs to electrical, plumbing, and heating, ventilating, and air-
13 conditioning systems;
- 14 (5) Improvements to meet the requirements of the Americans with
15 Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
- 16 (6) Improvements to meet fire safety needs;
- 17 (7) Improvements to existing facilities for energy efficiency;
- 18 (8) Improvements to remove asbestos, lead paint, and other contaminants,
19 including the removal and replacement of underground storage tanks;
- 20 (9) Improvements and renovations to improve use of existing space;
- 21 (10) Historical restoration;
- 22 (11) Improvements to roads, walks, drives, utilities infrastructure; and
23 (12) Drainage and landscape improvements.

24 Funds from the Repairs and Renovations Reserve Account shall not be used for new
25 construction or the expansion of the footprint of an existing facility unless required in
26 order to comply with federal or State codes or standards.

27 ~~The Director of the Budget shall not use funds in the Repairs and Renovations~~
28 ~~Reserve Account unless the use has been approved by an act of the General Assembly~~
29 ~~or, if the General Assembly is not in session, the Director of the Budget has first~~
30 ~~consulted with the Joint Legislative Commission on Governmental Operations under~~
31 ~~G.S. 143-15.3A(e). Improvements under subdivision (7) of this subsection shall receive~~
32 ~~the highest level of priority for use of funds from the Repairs and Renovations Reserve~~
33 ~~Account.~~

34 (c) The Governor shall consult with the Joint Legislative Commission on
35 Governmental Operations before making allocations from the Repairs and Renovations
36 Reserve Account.

37 Notwithstanding this subsection, whenever an expenditure is required because of an
38 emergency that poses an imminent threat to public health or public safety, and is either
39 the result of a natural event, such as a hurricane or a flood, or an accident, such as an
40 explosion or a wreck, the Governor may take action under this subsection without
41 consulting the Commission if the action is determined by the Governor to be related to
42 the emergency. The Governor shall report to the Commission on any expenditures made
43 under this paragraph no later than 30 days after making the expenditure and shall

1 identify in the report the emergency, the type of action taken, and how it was related to
2 the emergency."

3 **SECTION 2.** G.S. 143-341(4) reads as rewritten:

4 "(4) Real Property Control:

- 5 a. To prepare and keep current a complete and accurate inventory of all
6 land owned or leased by the State or by any State agency. This
7 inventory shall show the location, acreage, description, source of title
8 and current use of all land (including swamplands or marshlands)
9 owned by the State or by any State agency, and the agency to which
10 each tract is currently allocated. Surveys may be made where
11 necessary to obtain information for the purposes of this inventory.
12 Accurate plats or maps of all such land may be prepared, or copies
13 obtained where such maps or plats are available.
- 14 b. To prepare and keep current a complete and accurate inventory of all
15 buildings owned or leased (in whole or in part) by the State or by any
16 State agency. This inventory shall show the location, amount of floor
17 space and floor plans of every building owned or leased by the State or
18 by any State agency, and the agency to which each building, or space
19 therein, is currently allocated. Floor plans of every such building shall
20 be prepared or copies obtained where such floor plans are available,
21 where needed for use in the allocation of space therein.
- 22 c. To obtain and deposit with the Secretary of State the originals of all
23 deeds and other conveyances of real property to the State or to any
24 State agency, copies of all leases wherein the State or any State agency
25 is lessor or lessee, and certified copies of wills, judgments, and other
26 instruments whereby the State or any State agency has acquired title to
27 real property. Where an original of a deed, lease, or other instrument
28 cannot be found, but has been recorded in the registry of office of the
29 clerk of superior court of any county, a certified copy of such deed,
30 conveyance, or instrument shall be obtained and deposited with the
31 Secretary of State.
- 32 d. To acquire, whether by purchase, exercise of the power of eminent
33 domain, lease, or rental, all land, buildings, and space in buildings for
34 all State agencies, subject to the approval of the Governor and Council
35 of State in each instance. The Governor, acting with the approval of
36 the Council of State, may adopt rules (i) exempting from any or all of
37 the requirements of this paragraph such classes of lease, rental,
38 easement, and right-of-way transactions as he deems advisable; and
39 (ii) authorizing any State agency to enter into and/or approve the
40 classes of transactions thus exempted from the requirements of this
41 paragraph; and (iii) delegating to any other State agency the authority
42 to approve the severance of buildings and standing timber from State
43 lands; upon such approval of severance, the buildings and timber so
44 affected shall be treated, for the purposes of this Chapter, as personal

1 property. Any contract entered into or any proceeding instituted
2 contrary to the provisions of this paragraph is voidable in the
3 discretion of the Governor and Council of State.

- 4 d1. To require all State departments, institutions, and agencies to use
5 State-owned office space instead of negotiating or renegotiating leases
6 for rental of office space. Any lease entered into contrary to the
7 provisions of this paragraph is voidable in the discretion of the
8 Governor and the Council of State.

9 The Department of Administration shall report to the Joint
10 Legislative Commission on Governmental Operations and to the Fiscal
11 Research Division no later than May 1 of each year on leased office
12 space.

- 13 d2. To finance the cost of modification, rehabilitation, renovation, or
14 improvement of existing buildings or facilities, the acquisition and
15 installation of fixtures or equipment in existing buildings or facilities,
16 or any combination of the foregoing pursuant to an energy
17 conservation project under Part 3 of Article 3B of Chapter 143 of the
18 General Statutes, through installment purchase, lease purchase, or
19 other similar installment financing agreements or the issuance of bonds
20 of the State in the manner and to the extent set forth in Article 8 of
21 Chapter 142 of the General Statutes.

- 22 e. To make all sales of real property (including marshlands or
23 swamplands) owned by the State or by any State agency, with the
24 approval of the Governor and Council of State in each instance. All
25 conveyances in fee by the State shall be executed in accordance with
26 the provisions of G.S. 146-74 through 146-78. Any conveyance of land
27 made or contract to convey land entered into without the approval of
28 the Governor and Council of State is voidable in the discretion of the
29 Governor and Council of State. The proceeds of all sales of
30 swamplands or marshlands shall be dealt with in the manner required
31 by the Constitution and statutes.

- 32 f. With the approval of the Governor and Council of State, to make all
33 leases and rentals of land or buildings owned by the State or by any
34 State agency, and to sublease land or buildings leased by the State or
35 by any State agency from another owner, where such land or building
36 owned or leased by the State or by any State agency is not needed for
37 current use. The Governor, acting with the approval of the Council of
38 State, may adopt rules (i) exempting from any or all of the
39 requirements of this paragraph such classes of lease or rental
40 transactions as he deems advisable; and (ii) authorizing any State
41 agency to enter into and/or approve the classes of transactions thus
42 exempted from the requirements of this paragraph; and (iii) delegating
43 to any other State agency the authority to approve the severance of
44 buildings and standing timber from State lands; upon such approval of

1 severance, the buildings and timber so affected shall be treated, for the
2 purposes of this Chapter, as personal property. Any lease or rental
3 agreement entered into contrary to the provisions of this paragraph is
4 voidable in the discretion of the Governor and Council of State.

- 5 g. To allocate and reallocate land, buildings, and space in buildings to the
6 several State agencies, in accordance with rules adopted by the
7 Governor with the approval of the Council of State; provided that if
8 the proposed reallocation is of land with an appraised value of at least
9 twenty-five thousand dollars (\$25,000), the reallocation may only be
10 made after consultation with the Joint Legislative Commission on
11 Governmental Operations. The authority granted in this paragraph
12 shall not apply to the State Legislative Building and grounds or to the
13 Legislative Office Building and grounds.
- 14 h. To require any State agency to make reports regarding the land and
15 buildings owned by it or allocated to it at such times and in such form
16 as the Department may deem necessary.
- 17 i. To determine whether all deeds, judgments, and other instruments
18 whereby title to real estate has been or may be acquired by the State or
19 by any State agency have been properly recorded in the county
20 wherein the real property is situated, and to make or cause to be made
21 proper recordation of such instruments. The Department may have
22 previously recorded instruments which conveyed title to or from the
23 State or any State agency or officer reindexed, where necessary, to
24 show the State of North Carolina or grantor or grantee, as the case may
25 be, and the cost of such reindexing shall be paid from the State Land
26 Fund.
- 27 j. To call upon the Attorney General for advice and assistance in the
28 performance of any of the foregoing duties.
- 29 k. None of the provisions of this subdivision apply to highway or railroad
30 rights-of-way or other interests or estates in land held for the same or
31 similar purposes, or to the acquisition or disposition of such
32 rights-of-way, interests, or estates in land.
- 33 l. To manage and control the vacant and unappropriated lands,
34 swamplands, lands acquired by the State by virtue of being sold for
35 taxes, and submerged lands of the State, pursuant to Chapter 146 of the
36 General Statutes.
- 37 m. To contract for or approve all contracts for all appraisals and surveys
38 of real property for all State agencies; provided, however, this
39 provision shall not apply to appraisals and surveys obtained in
40 connection with the acquisition of highway rights-of-way, borrow pits,
41 or other interests or estates in land acquired for the same or similar
42 purposes, or to the disposition thereof, by the Board of Transportation.
- 43 n. To petition for the annexation of state-owned lands into any
44 municipality."

1 **SECTION 3.** Article 3B of Chapter 143 of the General Statutes is amended
2 by adding a new Part to read:

3 "Part 3. State Facilities Energy Conservation Program.

4 "§ 143-64.18. Definitions.

5 The following definitions apply in this Part:

- 6 (1) Energy Office. – The State Energy Office of the Department of
7 Administration.
8 (2) Energy conservation project. – Has the same meaning as set forth in
9 G.S. 142-62.
10 (3) Implementation cost. – Cost as defined in G.S. 142-62(6) plus the
11 interest on special indebtedness incurred pursuant to Article 8 of
12 Chapter 142 of the General Statutes to finance the project.
13 (4) State facility. – A building owned by the State or a group of buildings
14 owned by the State that are served by a central energy distribution
15 system or by components of a central energy distribution system.
16 (5) Technical analysis. – A specialized engineering study conducted
17 within a State facility to identify specific energy conservation projects,
18 the implementation costs of these projects, and the expected energy
19 and energy savings and energy cost savings after implementation.

20 "§ 143-64.18A. State Facilities Energy Conservation Program.

21 (a) The General Assembly finds that:

- 22 (1) State government should take a leadership role in aggressively
23 undertaking energy conservation in North Carolina.
24 (2) After the implementation cost of the energy conservation project is
25 paid, the State will save substantial sums of money in reduced utility
26 bills.
27 (3) The actual energy savings that result from an energy conservation
28 project should offset, in whole or in part, the implementation cost of
29 the energy conservation project.
30 (4) The State should undertake only those energy conservation projects
31 that are projected to require less than an aggregate of six years for the
32 recoupment of the implementation cost based on the projected energy
33 cost savings from implementing the energy conservation project, and
34 the term of the financing should not exceed the expected economic life
35 of the energy conservation project being financed.
36 (5) The State should give highest priority to those energy conservation
37 projects that are projected to require less than an aggregate of two
38 years for the recoupment of the implementation cost of the energy
39 conservation project based on the projected energy cost savings of the
40 improvement.
41 (6) It is in the best interest of the State to authorize financing of energy
42 conservation projects pursuant to Article 8 of Chapter 142 of the
43 General Statutes.

1 **(b)** The State Facilities Energy Conservation Program is established to more
2 efficiently use energy resources in State facilities and to reduce the utility costs of the
3 State. The Energy Office shall develop, administer, and coordinate the State Facilities
4 Energy Conservation Program.

5 **(c)** The State Facilities Energy Conservation Program shall assist State agencies
6 as follows:

7 **(1)** Serve as a source of technical support for energy conservation
8 management.

9 **(2)** Identify sources of moneys for conducting technical analyses pursuant
10 to G.S. 143-64.18C.

11 **(d)** The Energy Office shall:

12 **(1)** When necessary to carry out its duties under this Part, enter into
13 contracts with State agencies and other qualified contractors.

14 **(2)** Adopt rules to carry out the provisions of this Part.

15 **(3)** Provide criteria for the selection of State projects or facilities to
16 participate in this Program and develop a format that comports with
17 these criteria.

18 **(4)** Develop procedures for the technical analyses required under G.S.
19 143-64.18C and procedures for implementing energy conservation
20 projects.

21 **(5)** Select, in order of priority and in consultation with the Office of State
22 Construction under the Department of Administration, State projects or
23 facilities to participate in this Program.

24 **(6)** Assess energy conservation program savings.

25 **(7)** Be responsible for considering the costs of the constituent fixtures or
26 improvements over their economic life during the selection of projects
27 or facilities to participate in this Program.

28 **"§ 143-64.18B. Energy Technical Analysis Loan Fund.**

29 **(a)** The Energy Technical Analysis Loan Fund is created. This Fund is a
30 nonreverting revolving loan fund to be administered by the Energy Office. This Fund
31 shall consist of moneys appropriated or allocated to it by the General Assembly and any
32 grants, fees, or other moneys paid to it. The interest accruing to the Fund is credited to
33 the Fund.

34 **(b)** The Energy Technical Analysis Loan Fund may be used for State
35 departments, institutions, or agencies for the cost of conducting a technical analysis
36 under G.S. 143-64.18C. The State department, institution, or agency for which the
37 technical analysis was conducted shall repay the Fund within 60 days of receiving
38 financing to implement an energy conservation project or within 180 days of
39 determining that no energy conservation project will be implemented under this Part.

40 **"§ 143-64.18C. Identification and implementation of energy conservation projects.**

41 **(a)** Each State project or facility that is selected shall undergo a technical analysis
42 conducted by an engineer qualified to conduct the analysis. When the Energy Office
43 enters into a contract with a State agency whereby the State agency is to select and
44 contract with an engineer to conduct the technical analysis of the agency's facilities, the

1 State agency shall select the engineer within 60 days after entering into the contract with
2 the Energy Office. The Energy Office, in consultation with the Department of
3 Administration, shall review all completed technical analyses. If the Energy Office does
4 not approve a technical analysis, the energy conservation project shall not be
5 implemented.

6 (b) Only those energy conservation projects identified by the technical analysis
7 that are economically practical and that are projected not to require more than an
8 aggregate of six years for the recoupment through energy cost savings of the estimated
9 implementation cost of the improvements may be implemented. Those energy
10 conservation projects identified by the technical analysis that are projected to not
11 require more than an aggregate of two years for the recoupment of the estimated
12 implementation cost of the improvements shall be given priority.

13 (c) Selected energy conservation projects may be financed pursuant to Article 8
14 of Chapter 142 of the General Statutes only with the prior written consent of the State
15 agency receiving the benefit of the energy conservation project to be financed.

16 (d) The Energy Office shall notify the Joint Legislative Commission on
17 Governmental Operations of any energy conservation project having a construction cost
18 greater than five thousand dollars (\$5,000) prior to executing the financing documents.

19 (e) Selection of a designer for an energy conservation project shall occur within
20 60 days after the Office of State Budget and Management certifies the availability of
21 funds for the project.

22 **"§ 143-64.18D. Grants; appropriations.**

23 Moneys appropriated by the General Assembly and any grants, fees, or other
24 moneys provided for the purpose of funding the cost of an energy conservation project
25 shall be applied to pay the cost of implementing the project, including the technical
26 analysis conducted in accordance with G.S. 143-64.18C, in a manner consistent with the
27 provisions of Article 8 of Chapter 142 of the General Statutes.

28 **"§ 143-64.18E. Additional reporting requirements.**

29 The Energy Office shall report on a quarterly basis to the Joint Legislative
30 Commission on Governmental Operations. This report shall include:

- 31 (1) The technical analyses conducted in the previous quarter, including the
32 location of the State facilities subject to the analyses and the results of
33 the analyses.
- 34 (2) The estimated implementation cost of each proposed project, the
35 projected energy savings, and the projected payback period for each
36 energy conservation project.
- 37 (3) The energy conservation projects that were initiated during the
38 previous quarter, the terms of the financing, and the progress to date.
- 39 (4) The energy conservation projects that were completed during the
40 previous quarter, including the actual cost of constructing each energy
41 conservation project.
- 42 (5) The financings that were fully paid during the previous quarter,
43 including the amount of time required for the implementation cost of

1 each energy conservation project to be recouped, based on the energy
2 savings of the project.

3 (6) Any other information requested by the Commission.

4 **"§ 143-64.18F. Scope of this Part.**

5 The provisions of this Part apply to all State facilities, including facilities in The
6 University of North Carolina System and State hospitals."

7 **SECTION 4.** Chapter 142 of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 8.

10 "Energy Conservation Projects Finance Act.

11 **"§ 142-60. Short title.**

12 This Article is the State Energy Conservation Projects Finance Act.

13 **"§ 142-61. Findings and purpose.**

14 The General Assembly finds as follows:

15 (1) Energy conservation projects that substantially reduce energy use
16 provide an opportunity to save large sums of money by reducing utility
17 bills.

18 (2) Energy conservation projects that substantially reduce energy use
19 benefit the environment by slowing the depletion of nonrenewable
20 energy sources, by lessening the need to construct more power plants,
21 and by reducing harmful emissions and other negative side effects of
22 energy use that harm the environment and the health of the public.

23 (3) The State should take a leadership role in energy conservation.

24 (4) The positive impact on the State's budget and the positive impact on
25 the environment compel the State to implement energy conservation
26 projects in State facilities.

27 **"§ 142-62. Definitions.**

28 The following definitions shall apply in this Article:

29 (1) Alternative financing agreement. – An agreement entered into pursuant
30 to the provisions of this Article to finance an energy conservation
31 project, including a lease-purchase agreement, an installment-purchase
32 agreement, or any other similar installment-financing agreements, but
33 does not include a contract that does not create a security interest in
34 real property owned by the State or that meets any of the following
35 conditions:

36 a. It constitutes an operating lease under generally accepted
37 accounting principles.

38 b. It provides for the payment over its full term, including periods
39 that may be added to the original term through the exercise of
40 options to renew or extend, of an aggregate principal amount
41 not in excess of five thousand dollars (\$5,000) or the greater
42 amount as may be established by the Council of State, in the
43 event that the Council of State determines: (i) the aggregate
44 amount to be paid under such contracts will not have a

- 1 significant impact on the State budgetary process or the
2 economy of the State; and (ii) the change will lessen the
3 administrative burden on the State.
- 4 c. It is executed and provides for making all payments, including
5 payment to be made during any period that may be added to the
6 original term through the exercise of options to renew or
7 extend, in the same fiscal year.
- 8 (2) Alternative financing agreement indebtedness. – Indebtedness incurred
9 under an alternative financing agreement, including certificates of
10 participation indebtedness.
- 11 (3) Bonded indebtedness. – Bonds and bond anticipation notes, including
12 refunding bonds and notes, authorized to be issued under this Article.
- 13 (4) Certificates of participation. – Certificates or other instruments
14 delivered by a special corporation evidencing the assignment of
15 proportionate undivided interests in rights to receive payments
16 pursuant to an alternative financing agreement.
- 17 (5) Certificates of participation indebtedness. – Alternative financing
18 agreement indebtedness incurred by the State under a plan of finance
19 where a special corporation obtains funds to pay the cost of an energy
20 conservation project to be financed through the delivery by the special
21 corporation of certificates of participation.
- 22 (6) Cost. – The term shall include:
- 23 a. The cost of construction, modification, rehabilitation,
24 renovation, improvement, acquisition, or installation in
25 connection with an energy conservation project.
- 26 b. The cost of engineering, architectural, and other consulting
27 services as may be required, including the cost of performing
28 the technical analysis in accordance with G.S. 143-64.18C.
- 29 c. Finance charges, reserves for debt service, and interest prior to
30 and during construction, and, if deemed advisable by the State
31 Treasurer, for a period not exceeding two years after the
32 estimated date of completion of construction.
- 33 d. Administrative expenses and charges.
- 34 e. The cost of bond insurance, investment contracts, credit and
35 liquidity facilities, interest rate swap agreements, and other
36 derivative products, financial and legal consultants, and related
37 costs of the incurrence or issuance of special indebtedness, as
38 determined by the State Treasurer.
- 39 f. The cost of reimbursing the State for payments made for any
40 costs described in this subdivision.
- 41 g. Any other costs and expenses necessary or incidental to
42 implementing the purposes of this Article.
- 43 (7) Credit facility. – An agreement entered into by the State Treasurer or a
44 special corporation on behalf of the State with a bank, savings and loan

1 association, or other banking institution; an insurance company,
2 reinsurance company, surety company, or other insurance institution; a
3 corporation, investment banking firm, or other investment institution;
4 or any financial institution or other similar provider of a credit facility,
5 which provider may be located within or without the United States of
6 America; the agreement providing for prompt payment of all or any
7 part of the principal or purchase price (whether at maturity,
8 presentment or tender for purchase, redemption, or acceleration),
9 redemption premium, if any, and interest on any special indebtedness
10 payable on demand or tender by the owner in consideration of the
11 State agreeing to repay the provider of the credit facility in accordance
12 with the terms and provisions of the agreement.

13 (8) Department of Administration. – The North Carolina Department of
14 Administration, or, if the Department is abolished or otherwise
15 divested of its functions under this Article, the public body succeeding
16 it in its principal functions, or upon which are conferred by law the
17 rights, powers, and duties given by this Article to the Department.

18 (9) Energy conservation project includes any of the following that are
19 intended to reduce energy costs or consumption or to allow the use of
20 an alternative energy source and that may include integral control and
21 measurement devices:

22 a. Any modification, rehabilitation, renovation, or improvement of
23 existing State facilities.

24 b. Any acquisition and installation of fixtures or equipment in
25 existing State facilities.

26 c. Any combination of the foregoing.

27 (10) Fiscal year. – The fiscal year of the State beginning on July 1 of each
28 calendar year and ending on June 30 of the next calendar year.

29 (11) Par formula. – Any provision or formula adopted by the State to
30 provide for the adjustment, from time to time, of the interest rate or
31 rates borne or provided for by any special indebtedness, including:

32 a. A provision providing for the adjustment so that the special
33 indebtedness in the open market would be as close to par as
34 possible.

35 b. A provision providing for the adjustment based upon a
36 percentage or percentages of a prime rate or base rate, which
37 percentage or percentages may vary or be applied for different
38 periods of time.

39 c. Any other provision as the State Treasurer may determine to be
40 consistent with this Article and will not materially and
41 adversely affect the financial position of the State and the
42 marketing of special indebtedness at a reasonable interest cost
43 to the State.

- 1 (12) Special corporation. – A nonprofit corporation created under Chapter
2 55A of the General Statutes for the purpose of facilitating the
3 incurrence of certificates of participation indebtedness by the State
4 under this Article or any private corporation or other entity issuing
5 certificates of participation pursuant to this Article.
6 (13) Special indebtedness. – Alternative financing agreement indebtedness
7 and bonded indebtedness.
8 (14) State. – The State of North Carolina.
9 (15) State agency. – Every agency, institution, board, commission, bureau,
10 council, department, division, officer, and employee of the State, but
11 does not include counties, municipal corporations, political
12 subdivisions, county and city boards of education, and other local
13 public bodies.
14 (16) State facility. – State facility as defined in G.S. 143-64.18.
15 (17) State Treasurer. – The incumbent Treasurer, from time to time, of the
16 State.

17 **"§ 142-63. Authorization of special indebtedness.**

18 The State may enter into, incur, or issue special indebtedness subject to the terms
19 and conditions set forth in this Article for the purpose of financing the cost of energy
20 conservation projects in a principal amount not to exceed thirty million dollars
21 (\$30,000,000) at any one time.

22 **"§ 142-64. Procedure for incurrence or issuance of special indebtedness.**

23 (a) Any State agency or the Energy Office, with the prior written consent of the
24 State agency, shall contact the Department of Administration whenever the State agency
25 intends to use special indebtedness to finance an energy conservation project. If the
26 Department of Administration intends to use special indebtedness to finance capital
27 facilities, it shall provide written notice to the State Treasurer advising the State
28 Treasurer of its proposed intent. The State Treasurer may require a preliminary
29 conference with the Department of Administration to consider the proposed financing.

30 After the filing notice and after a preliminary conference, if one is required, the State
31 Treasurer shall consult with the Office of State Budget, Planning, and Management as
32 to the revenues expected by the Office to be available to pay all sums to come due on
33 the special indebtedness during the term. If, after consulting with the Office of State
34 Budget, Planning, and Management, the State Treasurer determines by written
35 certificate that it may be desirable to use special indebtedness to finance capital
36 facilities, the Department of Administration shall request the Council of State to give its
37 preliminary approval of the use of special indebtedness to finance capital facilities.
38 Copies of the notice and certificate required by this subsection shall be filed promptly
39 with the Council of State.

40 (b) The Council of State, upon receipt of the items required by subsection (a) of
41 this section, shall adopt a resolution granting or denying preliminary approval of
42 financing. A resolution granting preliminary approval may include any other terms,
43 conditions, and restrictions as the Council of State may deem necessary or desirable.

44 (c) Council of State approval.

- 1 (1) Before any special indebtedness is incurred or issued pursuant to this
2 Article, the Council of State shall authorize by resolution:
3 a. The provision of a particular energy conservation project or, in
4 general terms, the types or classifications of energy
5 conservation projects to be provided, and
6 b. The aggregate principal amount of the special indebtedness or
7 maximum principal amount, the maturity or maximum maturity
8 and the interest rate or rates (or the equivalent) or maximum
9 rate of the special indebtedness to be incurred or issued.

10 The resolution shall include any other matters as the Council of State
11 may deem necessary, including adopting or approving documentation
12 providing for the incurrence or issuance and sale of special
13 indebtedness and making determinations or granting consents or
14 approvals as may be authorized in G.S. 142-68 and G.S. 142-69.

- 15 (2) If the Council of State authorizes in general terms the types or
16 classifications of energy conservation projects to be financed, then the
17 particular energy conservation projects and the principal amount of
18 special indebtedness to be incurred or issued for each particular energy
19 conservation project shall be determined by the Department of
20 Administration. The Department of Administration shall make the
21 determination after considering any factors that the Department deems
22 relevant in determining that the particular energy conservation project
23 suggested is desirable for the efficient operation of the State and its
24 agencies and is in the best interest of the State.

- 25 (3) In the discretion of the Council of State, the resolution required by
26 subsection (b) of this section and the resolution required by
27 subdivision (1) of this subsection may be adopted as one resolution.

28 (d) No special indebtedness shall be incurred or issued without the prior written
29 approval of the State Treasurer. In determining whether the proposed financing is
30 approved, the State Treasurer may consider any factors as the State Treasurer shall
31 deem relevant in order to find and determine the following:

- 32 (1) The amounts to become due under the special indebtedness, including
33 the interest component, are not excessive for the purpose proposed.
34 (2) The increase, if any, in State revenues, including taxes, necessary to
35 pay the sums to become due under the special indebtedness are not
36 excessive.
37 (3) The special indebtedness can be incurred or issued on terms desirable
38 to the State.

39 This approval shall be in addition to any preliminary approval given pursuant to subsection (a)
40 of this section.

41 (e) In the absence of a determination by the Council of State, the State Treasurer,
42 after consultation with the Department of Administration, shall determine whether the
43 financing is affected by alternative financing agreement indebtedness, certificates of
44 participation indebtedness, bonded indebtedness, or some combination thereof.

1 (f) The State Treasurer, after consultation with the Department of
2 Administration, shall develop appropriate documents for use under this Article, and the
3 State Treasurer shall employ and designate the financial consultants, underwriters, and
4 bond attorneys to be associated with the incurrence or issuance of special indebtedness.

5 **"§ 142-65. Security; other requirements.**

6 (a) Special indebtedness shall create a security interest in all or any part of the
7 energy conservation projects financed by the special indebtedness, and in the case of the
8 modification, rehabilitation, renovation, or improvement of existing facilities, in all or
9 some portion of the facilities, to secure the following:

10 (1) Lease or installment payments to be made to the lessor, seller, or other
11 individual or entity advancing moneys or providing financing under an
12 alternative financing agreement.

13 (2) Payment of the principal of and interest on bonded indebtedness.

14 (b) Documentation relating to any special indebtedness may include provisions
15 requiring the Governor to submit in the Governor's budget proposal or any amendments
16 or supplements thereto appropriations necessary to make the payments required by any
17 special indebtedness.

18 (c) Amounts payable by the State under an alternative financing agreement or
19 issue of bonded indebtedness during any biennium or fiscal year, each being called a
20 fiscal period for purposes of this subsection, shall be limited to funds appropriated for
21 the fiscal period by the General Assembly in its discretion. During any interim period
22 after the adoption by the General Assembly of appropriation legislation for a fiscal
23 period and prior to the adoption by the General Assembly of appropriation legislation
24 for the next fiscal period, an alternative financing agreement or issue of bonded
25 indebtedness, the payment of which during the interim period has not been provided for
26 by appropriation legislation, may be incurred or issued only if, in addition to
27 compliance with the other provisions of this Article, the Director of the Budget has filed
28 with the State Treasurer a certificate stating that sufficient unencumbered money is
29 available to make the required payments during the interim period on the alternative
30 financing agreement or issue of bonded indebtedness. The unencumbered money shall
31 be appropriated and reserved for making the payments upon execution of the alternative
32 financing agreement or issuance of bonded indebtedness, subject to the right of the
33 General Assembly to modify or rescind the appropriations.

34 (d) No deficiency judgment shall be rendered against the State in any action for
35 breach of any obligation contained in an alternative financing agreement or issue of
36 bonded indebtedness, and the taxing power of the State shall not be pledged directly or
37 indirectly to secure any moneys due under an alternative financing agreement or issue
38 of bonded indebtedness. In the event that the General Assembly does not appropriate
39 sums sufficient to make payments required under an alternative financing agreement or
40 issue of bonded indebtedness, the net proceeds received from the sale or other
41 disposition of the property subject to the lien or security interest shall be applied to
42 satisfy the payment obligations in accordance with the deed of trust, security agreement,
43 or other documentation relating to the lien or security interest, and the net proceeds are
44 hereby deemed appropriated for the purpose of making the payments. Any net proceeds

1 in excess of the amount required to satisfy the obligations of the State under an
2 alternative financing agreement or issue of bonded indebtedness shall be paid to the
3 State Treasurer for deposit to the General Fund.

4 (e) No alternative financing agreement or issue of bonded indebtedness may
5 contain a nonsubstitution clause that restricts the right of the State to do the following:

6 (1) Continue to provide a service or activity.

7 (2) Replace or provide a substitute for any energy conservation project
8 financed or purchased by alternative financing agreement or issue of
9 bonded indebtedness.

10 (f) An alternative financing agreement or issue of bonded indebtedness may
11 create a lien or security interest in any one or more or all of the energy conservation
12 projects being financed, and the estimated value of the energy conservation projects
13 subject to the lien or security interest need not bear any particular relationship to the
14 principal amount of the agreement or issue.

15 (g) Nothing in this Article shall limit the right of the Council of State to grant
16 multiple liens or security interests in an energy conservation project to the extent not
17 otherwise limited by the terms of other special indebtedness.

18 (h) Special indebtedness may contain provisions for protecting and enforcing the
19 rights and remedies of the lessor, seller, or other individual or entity advancing moneys
20 or providing financing under an alternative financing agreement or the owners of
21 bonded indebtedness as may be reasonable and proper and not in violation of law, that
22 shall include the following:

23 (1) Covenants setting forth the duties of the State regarding the purposes
24 for which the proceeds of special indebtedness may be applied.

25 (2) The disposition and application of the revenues of the State, including
26 taxes.

27 (3) The duties of the State regarding the capital facilities financed,
28 including the payment of the costs of insurance and maintenance of the
29 capital facilities.

30 (4) The disposition of any charges and collection of any revenues and
31 administrative charges.

32 (5) The terms and conditions of the issuance of additional special
33 indebtedness.

34 (6) The custody, safeguarding, investment, and application of all moneys.

35 **"§ 142-66. Alternative financing agreement indebtedness.**

36 (a) The State Treasurer, after consultation with the Department of
37 Administration, shall approve all documentation providing for the incurrence of
38 alternative financing agreement indebtedness.

39 (b) Any alternative financing agreement may provide for payments that represent
40 the principal and interest components of the cost of the energy conservation project to
41 be leased or acquired, as determined by the State Treasurer.

42 (c) A State agency may enter into alternative financing agreements pursuant to
43 any applicable public or competitive bidding process or any private or negotiated
44 process, to the extent required by applicable law, and if not required, as may be

1 determined by the Department of Administration after consulting with the State
2 Treasurer.

3 (d) All alternative financing agreements shall be executed on behalf of the State
4 by the Department of Administration after having been approved by the State Treasurer.

5 (e) If the State Treasurer determines that it is in the best interest of the State, the
6 State Treasurer may arrange for the delivery of a credit facility to secure payment under
7 any alternative financing agreement. The State Treasurer may also provide that
8 payments by the State representing the interest component of the payments to be made
9 under an alternative financing agreement may be calculated based upon a variable
10 interest rate.

11 (f) All other conditions set forth elsewhere in this Article regarding alternative
12 financing agreement indebtedness shall also be satisfied prior to incurring any
13 alternative financing agreement indebtedness.

14 (g) To the extent applicable and as may be conclusively determined by the State
15 Treasurer, G.S. 142-69 through G.S. 142-71 shall apply to alternative financing
16 agreement indebtedness.

17 **"§ 142-67. Additional requirements for certificates of participation indebtedness.**

18 (a) The State Treasurer, after consultation with the Department of
19 Administration, shall approve the use of an alternative financing agreement in
20 connection with the delivery of certificates of participation by a special corporation.

21 (b) The documentation providing for the delivery and sale of certificates of
22 participation shall be approved by the State Treasurer. The special corporation, if used,
23 shall request the approval of the State Treasurer in writing and shall furnish information
24 and documentation relating to the delivery and sale of the certificates of participation as
25 the State Treasurer may request. In determining whether the approval is granted, the
26 State Treasurer shall consider the factors provided for in G.S. 142-64(d) and the effect
27 of the proposed financing on any scheduled or proposed sale of debt obligations by the
28 State or any State agency or by any unit of local government in the State.

29 (c) After filing with the State Treasurer a written request of a special corporation
30 to sell the certificates of participation, the certificates of participation may be sold by
31 the State Treasurer in a manner, either at public or private sale, and for a price as the
32 State Treasurer shall determine to be in the best interest of the State and to effect the
33 purposes of this Article, provided that the sale is approved by the special corporation.
34 The certificates of participation shall bear interest at a rate as determined by the State
35 Treasurer, with the approval of the special corporation.

36 (d) Certificates of participation may be delivered pursuant to a trust agreement
37 with a corporate trustee approved by the State Treasurer, and the provisions of G.S.
38 142-69(h) shall apply to the trust agreement to the extent applicable.

39 (e) All other conditions set forth elsewhere in this Article regarding certificates
40 of participation indebtedness, including the conditions set forth in G.S. 142-66, shall
41 also be satisfied prior to incurring any certificates of participation indebtedness.

42 **"§ 142-68. Bonded indebtedness.**

43 The State Treasurer may, with the consent of the Council of State as provided in this
44 Article, issue and sell at one time, or from time to time, bonds of the State to be

1 designated 'State of North Carolina Limited Obligation Bonds, Series _____' or notes of
2 the State as provided in G.S. 142-69, for the purpose of providing funds, with any other
3 available funds, for the uses authorized in this Article.

4 **"§ 142-69. Issuance of bonds and notes.**

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

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

36 (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State
37 as to the manner in which bonds or notes shall be offered for sale, whether at public or
38 private sale, whether within or without the United States of America, and whether by
39 publishing notices in certain newspapers and financial journals, mailing notices, inviting
40 bids by correspondence, negotiating contracts of purchase or otherwise, the State
41 Treasurer may sell bonds or notes at one time, or from time to time, at a rate of interest,
42 which may vary from time to time, and at the price, including a price less than the face
43 amount of the bonds or notes, as determined by the State Treasurer. All expenses

1 incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the
2 State Treasurer from the proceeds of bonds or notes or other available moneys.

3 (d) Application of Proceeds. – The proceeds of any bonds or notes shall be used
4 solely for the purposes for which the bonds or notes were issued and shall be disbursed
5 in the manner and under restrictions, if any, as the Council of State may provide in the
6 resolution authorizing the issuance of, or in any trust agreement securing, the bonds or
7 notes.

8 Any additional moneys received by means of a grant from the United States of
9 America or any agency or department or from any other source to aid in financing the
10 cost of an energy conservation project may be disbursed, to the extent permitted by the
11 terms of the grant, regardless of any limitations imposed by this Article.

12 (e) Notes; Repayment. – With the consent of the Council of State, the State
13 Treasurer may borrow money and execute and issue notes of the State for the borrowed
14 money under the following circumstances:

15 (1) For anticipating the sale of bonds the issuance of which the Council of
16 State shall have approved, if the State Treasurer shall deem it
17 advisable to postpone the issuance of the bonds.

18 (2) For the payment of interest on or any installment of principal of any
19 bonds then outstanding, if there are not sufficient funds in the State
20 treasury with which to pay the interest or installment or principal as
21 they respectively become due.

22 (3) For the renewal of any loan evidenced by notes authorized herein.

23 (4) For the purposes authorized by this Article.

24 (5) For refunding bonds or notes or alternative financing agreement
25 indebtedness as authorized by this Article.

26 Funds derived from the sale of bonds or notes may be used in the payment of any
27 bond anticipation notes issued under this Article. Funds provided by the General
28 Assembly for the payment of interest on or principal of bonds shall be used in paying
29 the interest on or principal of any notes and any renewals of any notes, the proceeds of
30 which shall have been used in paying interest on or principal of the bonds.

31 (f) Refunding Bonds and Notes. – With the consent of the Council of State, the
32 State Treasurer may issue and sell refunding bonds and notes for the purpose of
33 refunding bonds or notes or alternative financing agreement indebtedness issued
34 pursuant to this Article. The refunding bonds and notes may be combined with any
35 other issues of State bonds and notes similarly secured. Refunding bonds or notes may
36 be issued at any time prior to the final maturity of the debt or obligation to be refunded.
37 The proceeds from the sale of any refunding bonds or notes shall be applied only as
38 follows:

39 (1) To the immediate payment and retirement of the obligations
40 being refunded.

41 (2) If not required for the immediate payment of the obligations
42 being refunded, the proceeds shall be deposited in trust to
43 provide for the payment and retirement of the obligations being

1 refunded and to pay any expenses incurred in connection with
2 the refunding. Money in any trust fund may be invested in:

- 3 a. Direct obligations of the United States government.
4 b. Obligations the principal of and interest on which are
5 guaranteed by the United States government.
6 c. To the extent then permitted by law, in obligations of any
7 agency or instrumentality of the United States government.
8 d. Certificates of deposit issued by a bank or trust company
9 located in the State, if the certificates are secured by a pledge of
10 any of the obligations described in subdivision (1), (2), or (3) of
11 subsection (e) of this section, having any aggregate market
12 value, exclusive of accrued interest, equal at least to the
13 principal amount of the certificates secured.

14 Nothing in this section shall be construed as a limitation on the duration of any deposit
15 in trust for the retirement of obligations being refunded that have not matured and that
16 are not presently redeemable, or if presently redeemable, have not been called for
17 redemption.

18 (g) Security. – Payment of the principal of and the interest on bonds and notes
19 shall be secured as provided in G.S. 142-65.

20 (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and
21 notes issued under the provisions of this Article may be secured by a trust agreement
22 between the State and a corporate trustee or by a resolution of the Council of State
23 providing for the appointment of a corporate trustee. The corporate trustee may be, in
24 either case, any trust company or bank having the powers of a trust company within or
25 without the State. A trust agreement or resolution may provide for security, pledges, and
26 assignments with respect to a trust agreement or resolution as may be permitted under
27 this Article and further provide for the granting of a lien or security interest in the
28 collateral authorized by G.S. 142-65. The trust agreement or resolution may contain
29 those provisions for protecting and enforcing the rights and remedies of the owners of
30 any bonds or notes issued as may be reasonable and proper and not in violation of law,
31 including covenants setting forth the duties of the State regarding the purposes for
32 which bond or note proceeds may be applied, the disposition and application of the
33 revenues or assets of the State, the duties of the State regarding energy conservation
34 projects financed, the disposition of any charges and collection of any revenues and
35 administrative charges, the terms and conditions of the issuance of additional bonds and
36 notes, and the custody, safeguarding, investment, and application of all moneys. All
37 bonds and notes issued under this Article shall be equally and ratably secured as
38 provided in the trust agreement or resolution, without priority by reasons of number, or
39 dates of bonds or notes, execution, or delivery, in accordance with the provisions of this
40 Article and of the trust agreement or resolution. However, the trust agreement or
41 resolution may provide that bonds or notes issued pursuant to this Article shall, to the
42 extent and in the manner prescribed in the trust agreement or resolution, be subordinated
43 and junior in standing, with respect to the payment of principal and interest and to the
44 security of the bonds or notes, to any other bonds or notes. It shall be lawful for any

1 bank or trust company that may act as depository of the proceeds of bonds or notes,
2 revenues, or any other money loaned under this Article to furnish any indemnifying
3 bonds or to pledge securities as may be required by the State Treasurer. Any trust
4 agreement or resolution may set out the rights and remedies of the owners of any bonds
5 or notes and of any trustee and may restrict the individual rights of action by the
6 owners. In addition, any trust agreement or resolution may contain any other provisions
7 as the State Treasurer may deem reasonable and proper for the security of the owners of
8 any bonds or notes. Expenses incurred in carrying out the provisions of any trust
9 agreement or resolution may be treated as a part of the cost of any energy conservation
10 project or as an administrative charge and may be paid from the proceeds of the bonds
11 or notes or from any other available funds.

12 **"§ 142-70. Variable rate demand bonds and notes.**

13 (a) In fixing the details of bonds and notes, the State Treasurer may provide that
14 these bonds and notes may:

15 (1) Be made payable from time to time on demand or tender for purchase
16 by the owner of the bonds or notes provided a credit facility supports
17 the bonds or notes, unless the State Treasurer specifically determines
18 that a credit facility is not required upon a finding and determination
19 by the State Treasurer that the absence of a credit facility will not
20 materially and adversely affect the financial position of the State and
21 the marketing of the bonds or notes at a reasonable interest cost to the
22 State.

23 (2) Be additionally supported by a credit facility.

24 (3) Be made subject to redemption or a mandatory tender for purchase
25 prior to maturity.

26 (4) Bear interest at a rate that may vary from periods of time, all as may be
27 provided in the proceedings providing for the issuance of the bonds or
28 notes, including the variations as may be permitted pursuant to a par
29 formula.

30 (5) Be made the subject of a remarketing agreement whereby an attempt is
31 made to remarket bonds or notes to new purchasers prior to their
32 presentment for payment to the provider of the credit facility or to the
33 State.

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

42 **"§ 142-71. Other agreements.**

43 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond
44 insurance, investment contracts, credit and liquidity facilities, interest rate swap

1 agreements and other derivative products, and any other related instruments and matters
2 as the State Treasurer shall determine desirable in connection with the incurrence or
3 issuance of special indebtedness.

4 **"§ 142-72. Tax exemption.**

5 Bonds and notes and alternative financing agreement indebtedness shall be exempt
6 from all State, county, and municipal taxation or assessment, direct or indirect, general
7 or special, whether imposed for the purpose of general revenue or otherwise, excluding
8 inheritance and gift taxes and income taxation on gain from the transfer thereof. The
9 interest on bonds and notes and the interest component of payments made under
10 alternative financing agreements, including the interest component of certificates of
11 participation, are not subject to taxation as to income.

12 **"§ 142-73. Investment eligibility.**

13 Bonds and notes and alternative financing agreement indebtedness are hereby made
14 securities or obligations in which all public officers, agencies, and public bodies of the
15 State and its political subdivisions, all insurance companies, trust companies,
16 investment companies, banks, savings banks, savings and loan associations, credit
17 unions, pension or retirement funds, other financial institutions engaged in business in
18 the State, executors, administrators, trustees, and other fiduciaries may properly and
19 legally invest funds, including capital in their control or belonging to them. Bonds and
20 notes and alternative financing agreement indebtedness are hereby made securities or
21 obligations that may properly and legally be deposited with and received by any officer
22 or agency of the State or political subdivision of the State for any purpose for which the
23 deposit of bonds, notes, or obligations of the State or any political subdivision is now or
24 may hereafter be authorized by law.

25 **"§ 142-74. Procurement of energy conservation projects.**

26 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General
27 Statutes and any other laws or rules of the State that relate to the acquisition and
28 construction of State property shall apply to the financing of energy conservation
29 projects through the use of special indebtedness."

30 **SECTION 5.(a)** Interpretation of act. Additional method. The foregoing
31 sections of this act are to provide an additional and alternative method for the doing of
32 the things authorized thereby and shall be regarded as supplemental and additional to
33 powers conferred by other laws and shall not be regarded as in derogation of any
34 powers now existing.

35 **SECTION 5.(b)** Liberal construction. This act, being necessary for the
36 health and welfare of the people of the State, shall be liberally construed to effect the
37 purposes thereof.

38 **SECTION 5.(c)** Inconsistent provisions. Insofar as the provisions of this act
39 are inconsistent with the provisions of any general laws, or parts thereof, the provisions
40 of this act shall be controlling.

41 **SECTION 5.(d)** Severability. If any provision of this act or the application
42 thereof to any person or circumstance is held invalid, the invalidity shall not affect other
43 provisions or applications of the act which can be given effect without the invalid

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

3 **SECTION 6.** Of the General Fund current operations appropriations credit
4 balance remaining at the end of each fiscal year in the utilities budget code of a State
5 department, any amount of that General Fund appropriation for that fiscal year may be
6 carried forward by any State department for the next four years. Of the funds carried
7 forward for that fiscal year, eighty percent (80%) shall be used for documented energy
8 conservation projects as defined in G.S. 142-62, as enacted in Section 4 of this act. The
9 remaining twenty percent (20%) may be utilized in the discretion of the State
10 department. However, the amount carried forward under this section shall not exceed
11 two and one-half percent (2½%) of the General Fund appropriation. The Director of the
12 Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund
13 current operations credit balance remaining in each utilities budget code of each
14 department.

15 **SECTION 7.** This act becomes effective July 1, 2001.