

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 974

Short Title: Energy Efficiency in State Buildings. (Public)

Sponsors: Senators Lee; Carter, Cunningham, Foxx, Garwood, and Kinnaird.

Referred to: Appropriations/Base Budget.

April 5, 2001

A BILL TO BE ENTITLED

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

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

1 classes of transactions thus exempted from the requirements of
2 this paragraph; and (iii) delegating to any other State agency the
3 authority to approve the severance of buildings and standing
4 timber from State lands; upon such approval of severance, the
5 buildings and timber so affected shall be treated, for the
6 purposes of this Chapter, as personal property. Any contract
7 entered into or any proceeding instituted contrary to the
8 provisions of this paragraph is voidable in the discretion of the
9 Governor and Council of State.

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

15 The Department of Administration shall report to the Joint
16 Legislative Commission on Governmental Operations and to
17 the Fiscal Research Division no later than May 1 of each year
18 on leased office space.

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

- 29 e. To make all sales of real property (including marshlands or
30 swamplands) owned by the State or by any State agency, with
31 the approval of the Governor and Council of State in each
32 instance. All conveyances in fee by the State shall be executed
33 in accordance with the provisions of G.S. 146-74 through
34 146-78. Any conveyance of land made or contract to convey
35 land entered into without the approval of the Governor and
36 Council of State is voidable in the discretion of the Governor
37 and Council of State. The proceeds of all sales of swamplands
38 or marshlands shall be dealt with in the manner required by the
39 Constitution and statutes.

- 40 f. With the approval of the Governor and Council of State, to
41 make all leases and rentals of land or buildings owned by the
42 State or by any State agency, and to sublease land or buildings
43 leased by the State or by any State agency from another owner,
44 where such land or building owned or leased by the State or by

1 any State agency is not needed for current use. The Governor,
2 acting with the approval of the Council of State, may adopt
3 rules (i) exempting from any or all of the requirements of this
4 paragraph such classes of lease or rental transactions as he
5 deems advisable; and (ii) authorizing any State agency to enter
6 into and/or approve the classes of transactions thus exempted
7 from the requirements of this paragraph; and (iii) delegating to
8 any other State agency the authority to approve the severance of
9 buildings and standing timber from State lands; upon such
10 approval of severance, the buildings and timber so affected
11 shall be treated, for the purposes of this Chapter, as personal
12 property. Any lease or rental agreement entered into contrary to
13 the provisions of this paragraph is voidable in the discretion of
14 the Governor and Council of State.

- 15 g. To allocate and reallocate land, buildings, and space in
16 buildings to the several State agencies, in accordance with rules
17 adopted by the Governor with the approval of the Council of
18 State; provided that if the proposed reallocation is of land with
19 an appraised value of at least twenty-five thousand dollars
20 (\$25,000), the reallocation may only be made after consultation
21 with the Joint Legislative Commission on Governmental
22 Operations. The authority granted in this paragraph shall not
23 apply to the State Legislative Building and grounds or to the
24 Legislative Office Building and grounds.
- 25 h. To require any State agency to make reports regarding the land
26 and buildings owned by it or allocated to it at such times and in
27 such form as the Department may deem necessary.
- 28 i. To determine whether all deeds, judgments, and other
29 instruments whereby title to real estate has been or may be
30 acquired by the State or by any State agency have been properly
31 recorded in the county wherein the real property is situated, and
32 to make or cause to be made proper recordation of such
33 instruments. The Department may have previously recorded
34 instruments which conveyed title to or from the State or any
35 State agency or officer reindexed, where necessary, to show the
36 State of North Carolina or grantor or grantee, as the case may
37 be, and the cost of such reindexing shall be paid from the State
38 Land Fund.
- 39 j. To call upon the Attorney General for advice and assistance in
40 the performance of any of the foregoing duties.
- 41 k. None of the provisions of this subdivision apply to highway or
42 railroad rights-of-way or other interests or estates in land held
43 for the same or similar purposes, or to the acquisition or
44 disposition of such rights-of-way, interests, or estates in land.

- 1 l. To manage and control the vacant and unappropriated lands,
2 swamplands, lands acquired by the State by virtue of being sold
3 for taxes, and submerged lands of the State, pursuant to Chapter
4 146 of the General Statutes.
- 5 m. To contract for or approve all contracts for all appraisals and
6 surveys of real property for all State agencies; provided,
7 however, this provision shall not apply to appraisals and
8 surveys obtained in connection with the acquisition of highway
9 rights-of-way, borrow pits, or other interests or estates in land
10 acquired for the same or similar purposes, or to the disposition
11 thereof, by the Board of Transportation.
- 12 n. To petition for the annexation of state-owned lands into any
13 municipality."

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

16 "Part 3. State Facilities Energy Conservation Program.

17 **"§ 143-64.18. Definitions.**

18 The following definitions apply in this Part:

- 19 (1) Energy Office. – The State Energy Office of the Department of
20 Administration.
- 21 (2) Energy conservation project. – Has the same meaning as set forth in
22 G.S. 142-62.
- 23 (3) Implementation cost. – Cost as defined in G.S. 142-62(6) plus the
24 interest on special indebtedness incurred pursuant to Article 8 of
25 Chapter 142 of the General Statutes to finance the project.
- 26 (4) State facility. – A building owned by the State or a group of buildings
27 owned by the State that are served by a central energy distribution
28 system or by components of a central energy distribution system.
- 29 (5) Technical analysis. – A specialized engineering study conducted
30 within a State facility to identify specific energy conservation projects,
31 the implementation costs of these projects, and the expected energy
32 and energy savings and energy cost savings after implementation.

33 **"§ 143-64.18A. State Facilities Energy Conservation Program.**

34 (a) The General Assembly finds that:

- 35 (1) State government should take a leadership role in aggressively
36 undertaking energy conservation in North Carolina.
- 37 (2) After the implementation cost of the energy conservation project is
38 paid, the State will save substantial sums of money in reduced utility
39 bills.
- 40 (3) The actual energy savings that result from an energy conservation
41 project should offset, in whole or in part, the implementation cost of
42 the energy conservation project.
- 43 (4) The State should undertake only those energy conservation projects
44 that are projected to require less than an aggregate of six years for the

1 recoupment of the implementation cost based on the projected energy
2 cost savings from implementing the energy conservation project, and
3 the term of the financing should not exceed the expected economic life
4 of the energy conservation project being financed.

5 (5) The State should give highest priority to those energy conservation
6 projects that are projected to require less than an aggregate of two
7 years for the recoupment of the implementation cost of the energy
8 conservation project based on the projected energy cost savings of the
9 improvement.

10 (6) It is in the best interest of the State to authorize financing of energy
11 conservation projects pursuant to Article 8 of Chapter 142 of the
12 General Statutes.

13 (b) The State Facilities Energy Conservation Program is established to more
14 efficiently use energy resources in State facilities and to reduce the utility costs of the
15 State. The Energy Office shall develop, administer, and coordinate the State Facilities
16 Energy Conservation Program.

17 (c) The State Facilities Energy Conservation Program shall assist State agencies
18 as follows:

19 (1) Serve as a source of technical support for energy conservation
20 management.

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

23 (d) The Energy Office shall:

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

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

27 (3) Provide criteria for the selection of State projects or facilities to
28 participate in this Program and develop a format that comports with
29 these criteria.

30 (4) Develop procedures for the technical analyses required under G.S.
31 143-64.18C and procedures for implementing energy conservation
32 projects.

33 (5) Select, in order of priority and in consultation with the Office of State
34 Construction under the Department of Administration, State projects or
35 facilities to participate in this Program.

36 (6) Assess energy conservation program savings.

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

40 **"§ 143-64.18B. Energy Technical Analysis Loan Fund.**

41 (a) The Energy Technical Analysis Loan Fund is created. This Fund is a
42 nonreverting revolving loan fund to be administered by the Energy Office. This Fund
43 shall consist of moneys appropriated or allocated to it by the General Assembly and any

1 grants, fees, or other moneys paid to it. The interest accruing to the Fund is credited to
2 the Fund.

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

9 **"§ 143-64.18C. Identification and implementation of energy conservation projects.**

10 (a) Each State project or facility that is selected shall undergo a technical analysis
11 conducted by an engineer qualified to conduct the analysis. When the Energy Office
12 enters into a contract with a State agency whereby the State agency is to select and
13 contract with an engineer to conduct the technical analysis of the agency's facilities, the
14 State agency shall select the engineer within 60 days after entering into the contract with
15 the Energy Office. The Energy Office, in consultation with the Department of
16 Administration, shall review all completed technical analyses. If the Energy Office does
17 not approve a technical analysis, the energy conservation project shall not be
18 implemented.

19 (b) Only those energy conservation projects identified by the technical analysis
20 that are economically practical and that are projected not to require more than an
21 aggregate of six years for the recoupment through energy cost savings of the estimated
22 implementation cost of the improvements may be implemented. Those energy
23 conservation projects identified by the technical analysis that are projected to not
24 require more than an aggregate of two years for the recoupment of the estimated
25 implementation cost of the improvements shall be given priority.

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

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

32 (e) Selection of a designer for an energy conservation project shall occur within
33 60 days after the Office of State Budget, Planning, and Management certifies the
34 availability of funds for the project.

35 **"§ 143-64.18D. Grants; appropriations.**

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

41 **"§ 143-64.18E. Additional reporting requirements.**

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

1 agreement, or any other similar installment-financing agreements, but
2 does not include a contract that does not create a security interest in
3 real property owned by the State or that meets any of the following
4 conditions:

5 a. It constitutes an operating lease under generally accepted
6 accounting principles.

7 b. It provides for the payment over its full term, including periods
8 that may be added to the original term through the exercise of
9 options to renew or extend, of an aggregate principal amount
10 not in excess of five thousand dollars (\$5,000) or the greater
11 amount as may be established by the Council of State, in the
12 event that the Council of State determines: (i) the aggregate
13 amount to be paid under such contracts will not have a
14 significant impact on the State budgetary process or the
15 economy of the State; and (ii) the change will lessen the
16 administrative burden on the State.

17 c. It is executed and provides for making all payments, including
18 payment to be made during any period that may be added to the
19 original term through the exercise of options to renew or
20 extend, in the same fiscal year.

21 (2) Alternative financing agreement indebtedness. – Indebtedness incurred
22 under an alternative financing agreement, including certificates of
23 participation indebtedness.

24 (3) Bonded indebtedness. – Bonds and bond anticipation notes, including
25 refunding bonds and notes, authorized to be issued under this Article.

26 (4) Certificates of participation. – Certificates or other instruments
27 delivered by a special corporation evidencing the assignment of
28 proportionate undivided interests in rights to receive payments
29 pursuant to an alternative financing agreement.

30 (5) Certificates of participation indebtedness. – Alternative financing
31 agreement indebtedness incurred by the State under a plan of finance
32 where a special corporation obtains funds to pay the cost of an energy
33 conservation project to be financed through the delivery by the special
34 corporation of certificates of participation.

35 (6) Cost. – The term shall include:

36 a. The cost of construction, modification, rehabilitation,
37 renovation, improvement, acquisition, or installation in
38 connection with an energy conservation project.

39 b. The cost of engineering, architectural, and other consulting
40 services as may be required, including the cost of performing
41 the technical analysis in accordance with G.S. 143-64.18C.

42 c. Finance charges, reserves for debt service, and interest prior to
43 and during construction, and, if deemed advisable by the State

- 1 Treasurer, for a period not exceeding two years after the
2 estimated date of completion of construction.
- 3 d. Administrative expenses and charges.
- 4 e. The cost of bond insurance, investment contracts, credit and
5 liquidity facilities, interest rate swap agreements, and other
6 derivative products, financial and legal consultants, and related
7 costs of the incurrence or issuance of special indebtedness, as
8 determined by the State Treasurer.
- 9 f. The cost of reimbursing the State for payments made for any
10 costs described in this subdivision.
- 11 g. Any other costs and expenses necessary or incidental to
12 implementing the purposes of this Article.
- 13 (7) Credit facility. – An agreement entered into by the State Treasurer or a
14 special corporation on behalf of the State with a bank, savings and loan
15 association, or other banking institution; an insurance company,
16 reinsurance company, surety company, or other insurance institution; a
17 corporation, investment banking firm, or other investment institution;
18 or any financial institution or other similar provider of a credit facility,
19 which provider may be located within or without the United States of
20 America; the agreement providing for prompt payment of all or any
21 part of the principal or purchase price (whether at maturity,
22 presentment or tender for purchase, redemption, or acceleration),
23 redemption premium, if any, and interest on any special indebtedness
24 payable on demand or tender by the owner in consideration of the
25 State agreeing to repay the provider of the credit facility in accordance
26 with the terms and provisions of the agreement.
- 27 (8) Department of Administration. – The Department of Administration,
28 or, if the Department is abolished or otherwise divested of its functions
29 under this Article, the public body succeeding it in its principal
30 functions, or upon which are conferred by law the rights, powers, and
31 duties given by this Article to the Department.
- 32 (9) Energy conservation project includes any of the following that are
33 intended to reduce energy costs or consumption or to allow the use of
34 an alternative energy source and that may include integral control and
35 measurement devices:
- 36 a. Any modification, rehabilitation, renovation, or improvement of
37 existing State facilities.
- 38 b. Any acquisition and installation of fixtures or equipment in
39 existing State facilities.
- 40 c. Any combination of the foregoing.
- 41 (10) Fiscal year. – The fiscal year of the State beginning on July 1 of each
42 calendar year and ending on June 30 of the next calendar year.

- 1 (11) Par formula. – Any provision or formula adopted by the State to
2 provide for the adjustment, from time to time, of the interest rate or
3 rates borne or provided for by any special indebtedness, including:
4 a. A provision providing for the adjustment so that the special
5 indebtedness in the open market would be as close to par as
6 possible.
7 b. A provision providing for the adjustment based upon a
8 percentage or percentages of a prime rate or base rate, which
9 percentage or percentages may vary or be applied for different
10 periods of time.
11 c. Any other provision as the State Treasurer may determine to be
12 consistent with this Article and will not materially and
13 adversely affect the financial position of the State and the
14 marketing of special indebtedness at a reasonable interest cost
15 to the State.
- 16 (12) Special corporation. – A nonprofit corporation created under Chapter
17 55A of the General Statutes for the purpose of facilitating the
18 incurrence of certificates of participation indebtedness by the State
19 under this Article or any private corporation or other entity issuing
20 certificates of participation pursuant to this Article.
- 21 (13) Special indebtedness. – Alternative financing agreement indebtedness
22 and bonded indebtedness.
- 23 (14) State. – The State of North Carolina.
- 24 (15) State agency. – Every agency, institution, board, commission, bureau,
25 council, department, division, officer, and employee of the State, but
26 does not include counties, municipal corporations, political
27 subdivisions, county and city boards of education, and other local
28 public bodies.
- 29 (16) State facility. – State facility as defined in G.S. 143-64.18.
- 30 (17) State Treasurer. – The incumbent Treasurer, from time to time, of the
31 State.

32 **§ 142-63. Authorization of special indebtedness.**

33 The State may enter into, incur, or issue special indebtedness subject to the terms
34 and conditions set forth in this Article for the purpose of financing the cost of energy
35 conservation projects in a principal amount not to exceed thirty million dollars
36 (\$30,000,000) at any one time.

37 **§ 142-64. Procedure for incurrence or issuance of special indebtedness.**

38 (a) Any State agency or the Energy Office, with the prior written consent of the
39 State agency, shall contact the Department of Administration whenever the State agency
40 intends to use special indebtedness to finance an energy conservation project. If the
41 Department of Administration intends to use special indebtedness to finance capital
42 facilities, it shall provide written notice to the State Treasurer advising the State
43 Treasurer of its proposed intent. The State Treasurer may require a preliminary
44 conference with the Department of Administration to consider the proposed financing.

1 After the filing notice and after a preliminary conference, if one is required, the State
2 Treasurer shall consult with the Office of State Budget, Planning, and Management as
3 to the revenues expected by the Office to be available to pay all sums to come due on
4 the special indebtedness during the term. If, after consulting with the Office of State
5 Budget, Planning, and Management, the State Treasurer determines by written
6 certificate that it may be desirable to use special indebtedness to finance capital
7 facilities, the Department of Administration shall request the Council of State to give its
8 preliminary approval of the use of special indebtedness to finance capital facilities.
9 Copies of the notice and certificate required by this subsection shall be filed promptly
10 with the Council of State.

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

15 (c) Council of State approval.

16 (1) Before any special indebtedness is incurred or issued pursuant to this
17 Article, the Council of State shall authorize by resolution:

18 a. The provision of a particular energy conservation project or, in
19 general terms, the types or classifications of energy
20 conservation projects to be provided, and

21 b. The aggregate principal amount of the special indebtedness or
22 maximum principal amount, the maturity or maximum maturity
23 and the interest rate or rates (or the equivalent) or maximum
24 rate of the special indebtedness to be incurred or issued.

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

30 (2) If the Council of State authorizes in general terms the types or
31 classifications of energy conservation projects to be financed, then the
32 particular energy conservation projects and the principal amount of
33 special indebtedness to be incurred or issued for each particular energy
34 conservation project shall be determined by the Department of
35 Administration. The Department of Administration shall make the
36 determination after considering any factors that the Department deems
37 relevant in determining that the particular energy conservation project
38 suggested is desirable for the efficient operation of the State and its
39 agencies and is in the best interest of the State.

40 (3) In the discretion of the Council of State, the resolution required by
41 subsection (b) of this section and the resolution required by
42 subdivision (1) of this subsection may be adopted as one resolution.

43 (d) No special indebtedness shall be incurred or issued without the prior written
44 approval of the State Treasurer. In determining whether the proposed financing is

1 approved, the State Treasurer may consider any factors as the State Treasurer shall
2 deem relevant in order to find and determine the following:

- 3 (1) The amounts to become due under the special indebtedness, including
4 the interest component, are not excessive for the purpose proposed.
- 5 (2) The increase, if any, in State revenues, including taxes, necessary to
6 pay the sums to become due under the special indebtedness are not
7 excessive.
- 8 (3) The special indebtedness can be incurred or issued on terms desirable
9 to the State.

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

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

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

20 **"§ 142-65. Security; other requirements.**

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

- 25 (1) Lease or installment payments to be made to the lessor, seller, or other
26 individual or entity advancing moneys or providing financing under an
27 alternative financing agreement.
- 28 (2) Payment of the principal of and interest on bonded indebtedness.

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

33 (c) Amounts payable by the State under an alternative financing agreement or
34 issue of bonded indebtedness during any biennium or fiscal year, each being called a
35 fiscal period for purposes of this subsection, shall be limited to funds appropriated for
36 the fiscal period by the General Assembly in its discretion. During any interim period
37 after the adoption by the General Assembly of appropriation legislation for a fiscal
38 period and prior to the adoption by the General Assembly of appropriation legislation
39 for the next fiscal period, an alternative financing agreement or issue of bonded
40 indebtedness, the payment of which during the interim period has not been provided for
41 by appropriation legislation, may be incurred or issued only if, in addition to
42 compliance with the other provisions of this Article, the Director of the Budget has filed
43 with the State Treasurer a certificate stating that sufficient unencumbered money is
44 available to make the required payments during the interim period on the alternative

1 financing agreement or issue of bonded indebtedness. The unencumbered money shall
2 be appropriated and reserved for making the payments upon execution of the alternative
3 financing agreement or issuance of bonded indebtedness, subject to the right of the
4 General Assembly to modify or rescind the appropriations.

5 (d) No deficiency judgment shall be rendered against the State in any action for
6 breach of any obligation contained in an alternative financing agreement or issue of
7 bonded indebtedness, and the taxing power of the State shall not be pledged directly or
8 indirectly to secure any moneys due under an alternative financing agreement or issue
9 of bonded indebtedness. In the event that the General Assembly does not appropriate
10 sums sufficient to make payments required under an alternative financing agreement or
11 issue of bonded indebtedness, the net proceeds received from the sale or other
12 disposition of the property subject to the lien or security interest shall be applied to
13 satisfy the payment obligations in accordance with the deed of trust, security agreement,
14 or other documentation relating to the lien or security interest, and the net proceeds are
15 hereby deemed appropriated for the purpose of making the payments. Any net proceeds
16 in excess of the amount required to satisfy the obligations of the State under an
17 alternative financing agreement or issue of bonded indebtedness shall be paid to the
18 State Treasurer for deposit to the General Fund.

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

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

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

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

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

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

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

40 (2) The disposition and application of the revenues of the State, including
41 taxes.

42 (3) The duties of the State regarding the capital facilities financed,
43 including the payment of the costs of insurance and maintenance of the
44 capital facilities.

1 (4) The disposition of any charges and collection of any revenues and
2 administrative charges.

3 (5) The terms and conditions of the issuance of additional special
4 indebtedness.

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

6 **"§ 142-66. Alternative financing agreement indebtedness.**

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

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

13 (c) A State agency may enter into alternative financing agreements pursuant to
14 any applicable public or competitive bidding process or any private or negotiated
15 process, to the extent required by applicable law, and if not required, as may be
16 determined by the Department of Administration after consulting with the State
17 Treasurer.

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

20 (e) If the State Treasurer determines that it is in the best interest of the State, the
21 State Treasurer may arrange for the delivery of a credit facility to secure payment under
22 any alternative financing agreement. The State Treasurer may also provide that
23 payments by the State representing the interest component of the payments to be made
24 under an alternative financing agreement may be calculated based upon a variable
25 interest rate.

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

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

32 **"§ 142-67. Additional requirements for certificates of participation indebtedness.**

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

36 (b) The documentation providing for the delivery and sale of certificates of
37 participation shall be approved by the State Treasurer. The special corporation, if used,
38 shall request the approval of the State Treasurer in writing and shall furnish information
39 and documentation relating to the delivery and sale of the certificates of participation as
40 the State Treasurer may request. In determining whether the approval is granted, the
41 State Treasurer shall consider the factors provided for in G.S. 142-64(d) and the effect
42 of the proposed financing on any scheduled or proposed sale of debt obligations by the
43 State or any State agency or by any unit of local government in the State.

1 (c) After filing with the State Treasurer a written request of a special corporation
2 to sell the certificates of participation, the certificates of participation may be sold by
3 the State Treasurer in a manner, either at public or private sale, and for a price as the
4 State Treasurer shall determine to be in the best interest of the State and to effect the
5 purposes of this Article, provided that the sale is approved by the special corporation.
6 The certificates of participation shall bear interest at a rate as determined by the State
7 Treasurer, with the approval of the special corporation.

8 (d) Certificates of participation may be delivered pursuant to a trust agreement
9 with a corporate trustee approved by the State Treasurer, and the provisions of G.S.
10 142-69(h) shall apply to the trust agreement to the extent applicable.

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

14 **"§ 142-68. Bonded indebtedness.**

15 The State Treasurer may, with the consent of the Council of State as provided in this
16 Article, issue and sell at one time, or from time to time, bonds of the State to be
17 designated 'State of North Carolina Limited Obligation Bonds, Series ' or notes of
18 the State as provided in G.S. 142-69, for the purpose of providing funds, with any other
19 available funds, for the uses authorized in this Article.

20 **"§ 142-69. Issuance of bonds and notes.**

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

31 (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be
32 issued in certificated or uncertificated form. If issued in certificated form, bonds or
33 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's
34 facsimile signature, shall be signed by the State Treasurer or shall bear the State
35 Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile
36 of the Great Seal shall be impressed or imprinted on the bonds or notes. If bonds or
37 notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or
38 notes shall also bear a manual signature which may be that of a bond registrar, trustee,
39 paying agent, or designated assistant of the State Treasurer. If any officer whose
40 signature or facsimile signature appears on bonds or notes ceases to be the officer before
41 the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless
42 have the same validity for all purposes as if the officer had remained in office until
43 delivery of the bonds and notes, and bonds or notes may bear the facsimile signatures of
44 persons who at the actual time of the execution of the bonds or notes shall be the proper

1 officers to sign any bond or note although at the date of the bond or note those persons
2 may not have been the officers. The form and denomination of bonds or notes, including
3 the provisions with respect to registration of the bonds or notes and any system for their
4 registration, shall be as the State Treasurer may determine in conformity with this
5 Article. However, nothing in this Article shall prohibit the State Treasurer from
6 proceeding, with respect to the issuance and form of the bonds or notes, under the
7 provisions of Chapter 159E of the General Statutes.

8 (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State
9 as to the manner in which bonds or notes shall be offered for sale, whether at public or
10 private sale, whether within or without the United States of America, and whether by
11 publishing notices in certain newspapers and financial journals, mailing notices, inviting
12 bids by correspondence, negotiating contracts of purchase or otherwise, the State
13 Treasurer may sell bonds or notes at one time, or from time to time, at a rate of interest,
14 which may vary from time to time, and at the price, including a price less than the face
15 amount of the bonds or notes, as determined by the State Treasurer. All expenses
16 incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the
17 State Treasurer from the proceeds of bonds or notes or other available moneys.

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

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

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

- 30 (1) For anticipating the sale of bonds the issuance of which the Council of
31 State shall have approved, if the State Treasurer shall deem it
32 advisable to postpone the issuance of the bonds.
- 33 (2) For the payment of interest on or any installment of principal of any
34 bonds then outstanding, if there are not sufficient funds in the State
35 treasury with which to pay the interest or installment or principal as
36 they respectively become due.
- 37 (3) For the renewal of any loan evidenced by notes authorized herein.
- 38 (4) For the purposes authorized by this Article.
- 39 (5) For refunding bonds or notes or alternative financing agreement
40 indebtedness as authorized by this Article.

41 Funds derived from the sale of bonds or notes may be used in the payment of any
42 bond anticipation notes issued under this Article. Funds provided by the General
43 Assembly for the payment of interest on or principal of bonds shall be used in paying

1 the interest on or principal of any notes and any renewals of any notes, the proceeds of
2 which shall have been used in paying interest on or principal of the bonds.

3 (f) Refunding Bonds and Notes. – With the consent of the Council of State, the
4 State Treasurer may issue and sell refunding bonds and notes for the purpose of
5 refunding bonds or notes or alternative financing agreement indebtedness issued
6 pursuant to this Article. The refunding bonds and notes may be combined with any
7 other issues of State bonds and notes similarly secured. Refunding bonds or notes may
8 be issued at any time prior to the final maturity of the debt or obligation to be refunded.
9 The proceeds from the sale of any refunding bonds or notes shall be applied only as
10 follows:

- 11 (1) To the immediate payment and retirement of the obligations being
12 refunded.
- 13 (2) If not required for the immediate payment of the obligations being
14 refunded, the proceeds shall be deposited in trust to provide for the
15 payment and retirement of the obligations being refunded and to pay
16 any expenses incurred in connection with the refunding. Money in any
17 trust fund may be invested in:
- 18 a. Direct obligations of the United States government.
- 19 b. Obligations the principal of and interest on which are
20 guaranteed by the United States government.
- 21 c. To the extent then permitted by law, in obligations of any
22 agency or instrumentality of the United States government.
- 23 d. Certificates of deposit issued by a bank or trust company
24 located in the State, if the certificates are secured by a pledge of
25 any of the obligations described in subdivision (1), (2), or (3) of
26 subsection (e) of this section, having any aggregate market
27 value, exclusive of accrued interest, equal at least to the
28 principal amount of the certificates secured.

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

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

35 (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and
36 notes issued under the provisions of this Article may be secured by a trust agreement
37 between the State and a corporate trustee or by a resolution of the Council of State
38 providing for the appointment of a corporate trustee. The corporate trustee may be, in
39 either case, any trust company or bank having the powers of a trust company within or
40 without the State. A trust agreement or resolution may provide for security, pledges, and
41 assignments with respect to a trust agreement or resolution as may be permitted under
42 this Article and further provide for the granting of a lien or security interest in the
43 collateral authorized by G.S. 142-65. The trust agreement or resolution may contain
44 those provisions for protecting and enforcing the rights and remedies of the owners of

1 any bonds or notes issued as may be reasonable and proper and not in violation of law,
2 including covenants setting forth the duties of the State regarding the purposes for
3 which bond or note proceeds may be applied, the disposition and application of the
4 revenues or assets of the State, the duties of the State regarding energy conservation
5 projects financed, the disposition of any charges and collection of any revenues and
6 administrative charges, the terms and conditions of the issuance of additional bonds and
7 notes, and the custody, safeguarding, investment, and application of all moneys. All
8 bonds and notes issued under this Article shall be equally and ratably secured as
9 provided in the trust agreement or resolution, without priority by reasons of number, or
10 dates of bonds or notes, execution, or delivery, in accordance with the provisions of this
11 Article and of the trust agreement or resolution. However, the trust agreement or
12 resolution may provide that bonds or notes issued pursuant to this Article shall, to the
13 extent and in the manner prescribed in the trust agreement or resolution, be subordinated
14 and junior in standing, with respect to the payment of principal and interest and to the
15 security of the bonds or notes, to any other bonds or notes. It shall be lawful for any
16 bank or trust company that may act as depository of the proceeds of bonds or notes,
17 revenues, or any other money loaned under this Article to furnish any indemnifying
18 bonds or to pledge securities as may be required by the State Treasurer. Any trust
19 agreement or resolution may set out the rights and remedies of the owners of any bonds
20 or notes and of any trustee and may restrict the individual rights of action by the
21 owners. In addition, any trust agreement or resolution may contain any other provisions
22 as the State Treasurer may deem reasonable and proper for the security of the owners of
23 any bonds or notes. Expenses incurred in carrying out the provisions of any trust
24 agreement or resolution may be treated as a part of the cost of any energy conservation
25 project or as an administrative charge and may be paid from the proceeds of the bonds
26 or notes or from any other available funds.

27 **"§ 142-70. Variable rate demand bonds and notes.**

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

- 30 (1) Be made payable from time to time on demand or tender for purchase
31 by the owner of the bonds or notes provided a credit facility supports
32 the bonds or notes, unless the State Treasurer specifically determines
33 that a credit facility is not required upon a finding and determination
34 by the State Treasurer that the absence of a credit facility will not
35 materially and adversely affect the financial position of the State and
36 the marketing of the bonds or notes at a reasonable interest cost to the
37 State.
- 38 (2) Be additionally supported by a credit facility.
- 39 (3) Be made subject to redemption or a mandatory tender for purchase
40 prior to maturity.
- 41 (4) Bear interest at a rate that may vary from periods of time, all as may be
42 provided in the proceedings providing for the issuance of the bonds or
43 notes, including the variations as may be permitted pursuant to a par
44 formula.

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

5 (b) If the aggregate principal amount payable by the State under a credit facility
6 is in excess of the aggregate principal amount of bonds or notes secured by the credit
7 facility, whether as a result of the inclusion in the credit facility of a provision for the
8 payment of interest for a limited period of time or the payment of a redemption
9 premium or for any other reason, then the amount of authorized but unissued bonds or
10 notes during the term of the credit facility shall not be less than the amount of the
11 excess, unless the payment of the excess is otherwise provided for by agreement of the
12 State executed by the State Treasurer.

13 **"§ 142-71. Other agreements.**

14 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond
15 insurance, investment contracts, credit and liquidity facilities, interest rate swap
16 agreements and other derivative products, and any other related instruments and matters
17 as the State Treasurer shall determine desirable in connection with the incurrence or
18 issuance of special indebtedness.

19 **"§ 142-72. Tax exemption.**

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

27 **"§ 142-73. Investment eligibility.**

28 Bonds and notes and alternative financing agreement indebtedness are hereby made
29 securities or obligations in which all public officers, agencies, and public bodies of the
30 State and its political subdivisions, all insurance companies, trust companies,
31 investment companies, banks, savings banks, savings and loan associations, credit
32 unions, pension or retirement funds, other financial institutions engaged in business in
33 the State, executors, administrators, trustees, and other fiduciaries may properly and
34 legally invest funds, including capital in their control or belonging to them. Bonds and
35 notes and alternative financing agreement indebtedness are hereby made securities or
36 obligations that may properly and legally be deposited with and received by any officer
37 or agency of the State or political subdivision of the State for any purpose for which the
38 deposit of bonds, notes, or obligations of the State or any political subdivision is now or
39 may hereafter be authorized by law.

40 **"§ 142-74. Procurement of energy conservation projects.**

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

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

6 **SECTION 5.(b)** Liberal Construction. This act, being necessary for the
7 health and welfare of the people of the State, shall be liberally construed to effect the
8 purposes thereof.

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

12 **SECTION 5.(d)** Severability. If any provision of this act or the application
13 thereof to any person or circumstance is held invalid, the invalidity shall not affect other
14 provisions or applications of the act which can be given effect without the invalid
15 provision or application, and to this end the provisions of this act are declared to be
16 severable.

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

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