

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 95*

State Personnel and State Government Committee Substitute Adopted 6/1/93

Short Title: State Energy Conservation Program.

(Public)

Sponsors:

Referred to: Finance.

February 9, 1993

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE ANNUAL DEPARTMENT BUDGET REQUESTS TO
2 INCLUDE A SEPARATE LINE ITEM FOR ENERGY EXPENSES; TO
3 ESTABLISH THE STATE FACILITIES ENERGY CONSERVATION
4 PROGRAM; TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO
5 ENTER INTO ALTERNATIVE FINANCING AGREEMENTS FOR THE
6 PURCHASE OF ENERGY CONSERVATION PROJECTS; AND TO
7 AUTHORIZE THE ISSUANCE OF BONDS THAT ARE SECURED BY AN
8 INTEREST IN THE PROPERTY PURCHASED.
9

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

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

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

18 Whereas, the positive impact on the State's budget and the positive impact on
19 the environment compel the State to implement energy conservation projects in State
20 facilities; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 Section 1. G.S. 143-6(a) reads as rewritten:

1 "(a) On or before the first day of September in the even-numbered years, each of
2 the departments, bureaus, divisions, officers, boards, commissions, institutions, and
3 other State agencies and undertakings receiving or asking financial aid from the State,
4 or receiving or collecting funds under the authority of any general law of the State, shall
5 furnish the Director all the information, data and estimates which he may request with
6 reference to past, present and future appropriations and expenditures, receipts, revenue,
7 and income. The budget estimates shall include for those agencies which pay for
8 energy directly a line item for actual energy expenses itemized by type of energy."

9 Sec. 2. G.S. 143-341(4) reads as rewritten:

10 "(4) Real Property Control:

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

1 Governor and Council of State in each instance. 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, rental, easement, and right-of-
5 way transactions as he deems advisable; and (ii) authorizing any
6 State agency to enter into and/or approve the classes of
7 transactions thus exempted from the requirements of this
8 paragraph; and (iii) delegating to any other State agency the
9 authority to approve the severance of buildings and standing
10 timber from State lands; upon such approval of severance, the
11 buildings and timber so affected shall be treated, for the
12 purposes of this Chapter, as personal property. Any contract
13 entered into or any proceeding instituted contrary to the
14 provisions of this paragraph is voidable in the discretion of the
15 Governor and Council of State.

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

21 The Department of Administration shall report to the Joint
22 Legislative Commission on Governmental Operations and to
23 the Fiscal Research Division no later than May 1 of each year
24 on leased office space.

- 25 d2. To finance the cost of modification, rehabilitation, renovation,
26 or improvement of existing buildings or facilities, or the
27 acquisition and installation of fixtures or equipment in existing
28 buildings or facilities, or any combination of the foregoing
29 pursuant to an energy conservation project under Part 2 of
30 Article 3B of Chapter 143 of the General Statutes, through
31 installment purchase, lease purchase, or other similar
32 installment financing agreements or the issuance of bonds of the
33 State in the manner and to the extent set forth in Article 8 of
34 Chapter 142 of the General Statutes.

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

- 1 marshlands shall be dealt with in the manner required by the
2 Constitution and statutes.
- 3 f. With the approval of the Governor and Council of State, to
4 make all leases and rentals of land or buildings owned by the
5 State or by any State agency, and to sublease land or buildings
6 leased by the State or by any State agency from another owner,
7 where such land or building owned or leased by the State or by
8 any State agency is not needed for current use. The Governor,
9 acting with the approval of the Council of State, may adopt
10 rules (i) exempting from any or all of the requirements of this
11 paragraph such classes of lease or rental transactions as he
12 deems advisable; and (ii) authorizing any State agency to enter
13 into and/or approve the classes of transactions thus exempted
14 from the requirements of this paragraph; and (iii) delegating to
15 any other State agency the authority to approve the severance of
16 buildings and standing timber from State lands; upon such
17 approval of severance, the buildings and timber so affected
18 shall be treated, for the purposes of this Chapter, as personal
19 property. Any lease or rental agreement entered into contrary to
20 the provisions of this paragraph is voidable in the discretion of
21 the Governor and Council of State.
- 22 g. To allocate and reallocate land, buildings, and space in
23 buildings to the several State agencies, in accordance with rules
24 adopted by the Governor with the approval of the Council of
25 State; provided that if the proposed reallocation is of land with
26 an appraised value of at least twenty-five thousand dollars
27 (\$25,000), the reallocation may only be made after consultation
28 with the Joint Legislative Commission on Governmental
29 Operations. The authority granted in this paragraph shall not
30 apply to the State Legislative Building and grounds or to the
31 Legislative Office Building and grounds.
- 32 h. To require any State agency to make reports regarding the land
33 and buildings owned by it or allocated to it at such times and in
34 such form as the Department may deem necessary.
- 35 i. To determine whether all deeds, judgments, and other
36 instruments whereby title to real estate has been or may be
37 acquired by the State or by any State agency have been properly
38 recorded in the county wherein the real property is situated, and
39 to make or cause to be made proper recordation of such
40 instruments. The Department may have previously recorded
41 instruments which conveyed title to or from the State or any
42 State agency or officer reindexed, where necessary, to show the
43 State of North Carolina or grantor or grantee, as the case may

1 be, and the cost of such reindexing shall be paid from the State
2 Land Fund.

3 j. To call upon the Attorney General for advice and assistance in
4 the performance of any of the foregoing duties.

5 k. None of the provisions of this subdivision apply to highway or
6 railroad rights-of-way or other interests or estates in land held
7 for the same or similar purposes, or to the acquisition or
8 disposition of such rights-of-way, interests, or estates in land.

9 l. To manage and control the vacant and unappropriated lands,
10 swamplands, lands acquired by the State by virtue of being sold
11 for taxes, and submerged lands of the State, pursuant to Chapter
12 146 of the General Statutes.

13 m. To contract for or approve all contracts for all appraisals and
14 surveys of real property for all State agencies; provided,
15 however, this provision shall not apply to appraisals and
16 surveys obtained in connection with the acquisition of highway
17 rights-of-way, borrow pits, or other interests or estates in land
18 acquired for the same or similar purposes, or to the disposition
19 thereof, by the Board of Transportation.

20 n. To petition for the annexation of state-owned lands into any
21 municipality."

22 Sec. 3. The title of Article 3B of Chapter 143 of the General Statutes reads as
23 rewritten:

24 "~~Energy Policy for State Agencies Concerning Major Construction or Renovation of~~
25 ~~Buildings-Conservation in State Facilities.~~"

26 Sec. 4. Existing Article 3B of Chapter 143 of the General Statutes is
27 designated as Part 1 of that Article, to be entitled "Energy Policy for State and State-
28 Assisted Facilities."

29 Sec. 5. Article 3B of Chapter 143 of the General Statutes is amended by
30 adding a new Part to read:

31 "**PART 2. STATE FACILITIES ENERGY CONSERVATION PROGRAM.**

32 "**§ 143-64.17. Definitions.**

33 As used in this Part:

34 (1) 'Alternative financing agreement' has the same meaning as set forth in
35 G.S. 142-62.

36 (2) 'Energy Division' means the Energy Division of the Department of
37 Commerce.

38 (3) 'Energy conservation project' has the same meaning as set forth in G.S.
39 142-62.

40 (4) 'Implementation cost' means cost as defined in G.S. 142-62(6) plus the
41 interest on special indebtedness incurred pursuant to Article 8 of
42 Chapter 142 of the General Statutes to finance the project.

43 (5) 'State facility' means a building owned by the State or a group of
44 buildings owned by the State which are served by a central energy

- 1 distribution system or by components of a central energy distribution
2 system.
3 (6) 'Technical analysis' means a specialized engineering study conducted
4 within a State facility to identify specific energy conservation projects,
5 the implementation costs of these projects, and the expected energy
6 and energy savings and energy cost savings after implementation.

7 **"§ 143-64.17A. State Facilities Energy Conservation Program.**

- 8 (a) The General Assembly finds that:
9 (1) State government should take a leadership role in aggressively
10 undertaking energy conservation in North Carolina.
11 (2) After the implementation cost of the energy conservation project is
12 paid, the State will save substantial sums of money in reduced utility
13 bills.
14 (3) The actual energy savings that result from an energy conservation
15 project should offset, in whole or in part, the implementation cost of
16 the energy conservation project.
17 (4) The State should undertake only those energy conservation projects
18 that are projected to require less than an aggregate of six years for the
19 recoupment of the implementation cost based on the projected energy
20 cost savings from implementing the energy conservation project, and
21 the term of the financing should not exceed the expected economic life
22 of the energy conservation project being financed.
23 (5) The State should give highest priority to those energy conservation
24 projects that are projected to require less than an aggregate of two
25 years for the recoupment of the implementation cost of the energy
26 conservation project based on the projected energy cost savings of the
27 improvement.
28 (6) It is in the best interest of the State to authorize financing of energy
29 conservation projects pursuant to Article 8 of Chapter 142 of the
30 General Statutes.
31 (b) The State Facilities Energy Conservation Program is established to more
32 efficiently use energy resources in State facilities and to reduce the utility costs of the
33 State. The Energy Division shall develop, administer, and coordinate the State
34 Facilities Energy Conservation Program.
35 (c) The State Facilities Energy Conservation Program shall assist State agencies
36 as follows:
37 (1) Serve as a source of technical support for energy conservation
38 management.
39 (2) Identify sources of moneys for conducting technical analyses pursuant
40 to G.S. 143-64.17C.
41 (d) The Energy Division shall:
42 (1) When necessary to carry out its duties under this Part, enter into
43 contracts with State agencies and other qualified contractors.
44 (2) Promulgate rules necessary to carry out the provisions of this Article.

- 1 (3) Provide criteria for the selection of State projects or facilities to
2 participate in this Program and develop a format that comports with
3 these criteria.
- 4 (4) Develop procedures for the technical analyses required under G.S.
5 143-64.17C and procedures for implementing energy conservation
6 projects.
- 7 (5) Select, in order of priority and in consultation with the Department of
8 Administration, State projects or facilities to participate in this
9 Program.
- 10 (6) Assess energy conservation program savings.
- 11 (7) Be responsible for considering the costs of the constituent fixtures or
12 improvements over their economic life during the selection of projects
13 or facilities to participate in this Program.

14 **"§ 143-64.17B. Energy Technical Analysis Loan Fund.**

15 (a) The Energy Technical Analysis Loan Fund is created. This Fund shall be a
16 nonreverting revolving loan fund to be administered by the Energy Division. This Fund
17 shall consist of moneys appropriated or allocated to it by the General Assembly and any
18 grants, fees, or other moneys paid to it. The interest accruing to the Fund shall be
19 credited to the Fund.

20 (b) The Energy Technical Analysis Loan Fund may be used for State
21 departments, institutions, or agencies for the cost of conducting a technical analysis
22 under G.S. 143-64.17C. The State department, institution, or agency for which the
23 technical analysis was conducted shall repay the Fund within 60 days of receiving
24 financing to implement an energy conservation project or within 180 days of
25 determining that no energy conservation project will be implemented under this Part.

26 **"§ 143-64.17C. Identification and implementation of energy conservation projects.**

27 (a) Each State project or facility that is selected shall undergo a technical analysis
28 conducted by an engineer qualified to conduct such analysis. When the Energy
29 Division enters into a contract with a State agency whereby the State agency is to select
30 and contract with an engineer to conduct the technical analysis of the agency's facilities,
31 the State agency shall select the engineer within 60 days of entering into the contract
32 with the Energy Division. The Energy Division, in consultation with the Department of
33 Administration, shall review all completed technical analyses. If the Energy Division
34 does not approve a technical analysis, the energy conservation project shall not be
35 implemented.

36 (b) Only those energy conservation projects identified by the technical analysis
37 that are economically practical and that are projected not to require more than an
38 aggregate of six years for the recoupment through energy cost savings of the estimated
39 implementation cost of the improvements may be implemented. Those energy
40 conservation projects identified by the technical analysis that are projected to not
41 require more than an aggregate of two years for the recoupment of the estimated
42 implementation cost of the improvements shall be given priority.

43 (c) Selected energy conservation projects shall be financed pursuant to Article 8
44 of Chapter 142 of the General Statutes.

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

4 (e) Selection of a designer for an energy conservation project shall occur within
5 60 days of the Office of State Budget and Management certifying the availability of
6 funds for the project.

7 **"§ 143-64.17D. Grants; appropriations.**

8 Moneys appropriated by the General Assembly and any grants, fees, or other
9 moneys provided for the purpose of funding the cost of an energy conservation project
10 shall be applied to pay the cost of implementing such project, including the technical
11 analysis conducted in accordance with G.S. 143-64.17C, in a manner consistent with the
12 provisions of Article 8 of Chapter 142 of the General Statutes.

13 **"§ 143-64.17E. Additional reporting requirements.**

14 The Energy Division shall report on a quarterly basis to the Joint Legislative
15 Commission on Governmental Operations. This report shall include:

- 16 (1) The technical analyses conducted in the previous quarter, including the
17 location of the State facilities subject to the analyses and the results of
18 the analyses.
- 19 (2) The estimated implementation cost of each proposed project, the
20 projected energy savings, and the projected payback period for each
21 energy conservation project.
- 22 (3) The energy conservation projects that were initiated during the
23 previous quarter, the terms of the financing, and the progress to date.
- 24 (4) The energy conservation projects that were completed during the
25 previous quarter, including the actual cost of constructing each energy
26 conservation project.
- 27 (5) The financings that were fully paid during the previous quarter,
28 including the amount of time required for the implementation cost of
29 each energy conservation project to be recouped, based on the energy
30 savings of the project.
- 31 (6) Any other information requested by the Commission.

32 **"§ 143-64.17F. Scope of this Part.**

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

35 Sec. 6. Article 8 is added to Chapter 142 of the General Statutes to read as
36 follows:

37 **"ARTICLE 8.**

38 **"ENERGY CONSERVATION PROJECTS FINANCE ACT.**

39 **"§ 142-60. Short title.**

40 This Article may be cited as the State Energy Conservation Projects Finance Act.

41 **"§ 142-61. Findings and purpose.**

42 The General Assembly hereby finds as follows:

- 1 (1) Energy conservation projects that substantially reduce energy use
2 provide an opportunity to save large sums of money by reducing utility
3 bills.
- 4 (2) Energy conservation projects that substantially reduce energy use
5 benefit the environment by slowing the depletion of nonrenewable
6 energy sources, by lessening the need to construct more power plants,
7 and reducing harmful emissions and other negative side effects of
8 energy use that harm the environment and the health of the public.
- 9 (3) The State should take a leadership role in energy conservation.
- 10 (4) The positive impact on the State's budget and the positive impact on
11 the environment compel the State to implement energy conservation
12 projects in State facilities.

13 **"§ 142-62. Definitions.**

14 Unless a different meaning is required by the context, the following definitions shall
15 apply throughout this Article:

- 16 (1) 'Alternative financing agreement' means an agreement entered into
17 pursuant to the provisions of this Article to finance an energy
18 conservation project, including a lease-purchase agreement, an
19 installment-purchase agreement, or any other similar installment-
20 financing agreements, but does not include a contract:
 - 21 a. Constituting an operating lease under generally accepted
22 accounting principles;
 - 23 b. Providing for the payment thereunder over its full term,
24 including periods that may be added to the original term
25 through the exercise of options to renew or extend, of an
26 aggregate principal amount not in excess of five thousand
27 dollars (\$5,000) or such greater amount as may be established
28 by the Council of State, in the event that the Council of State
29 determines (i) the aggregate amount to be paid under such
30 contracts will not have a significant impact on the State
31 budgetary process or the economy of the State and (ii) such
32 change will lessen the administrative burden on the State; or
 - 33 c. That is executed and provides for the making of all payments
34 thereunder, including payment to be made during any period
35 that may be added to the original term through the exercise of
36 options to renew or extend, in the same fiscal year
37 that does not create a security interest in real property owned by the
38 State.
- 39 (2) 'Alternative financing agreement indebtedness' means indebtedness
40 incurred under an alternative financing agreement, including
41 certificates of participation indebtedness.
- 42 (3) 'Bonded indebtedness' means bonds and bond anticipation notes,
43 including refunding bonds and notes, authorized to be issued under this
44 Article.

- 1 (4) 'Certificates of participation' means certificates or other instruments
2 delivered by a special corporation evidencing the assignment of
3 proportionate undivided interests in rights to receive payments
4 pursuant to an alternative financing agreement.
- 5 (5) 'Certificates of participation indebtedness' means alternative financing
6 agreement indebtedness incurred by the State under a plan of finance
7 in which a special corporation obtains funds to pay the cost of an
8 energy conservation project to be financed through the delivery by
9 such special corporation of certificates of participation.
- 10 (6) 'Cost' includes, but is not limited to:
- 11 a. The cost of construction, modification, rehabilitation,
12 renovation, improvement, acquisition, or installation in
13 connection with an energy conservation project;
- 14 b. The cost of engineering, architectural, and other consulting
15 services as may be required, including the cost of performing
16 the technical analysis in accordance with G.S. 143-64.17C;
- 17 c. Finance charges, reserves for debt service, and interest prior to
18 and during construction, and, if deemed advisable by the State
19 Treasurer, for a period not exceeding two years after the
20 estimated date of completion of construction;
- 21 d. Administrative expenses and charges;
- 22 e. The cost of bond insurance, investment contracts, credit and
23 liquidity facilities, interest rate swap agreements, and other
24 derivative products, financial and legal consultants, and related
25 costs of the incurrence or issuance of special indebtedness, to
26 the extent and as determined by the State Treasurer;
- 27 f. The cost of reimbursing the State for payments made for any
28 costs described in this subdivision; and
- 29 g. Any other costs and expenses necessary or incidental to
30 implementing the purposes of this Article.
- 31 (7) 'Credit facility' means an agreement entered into by the State Treasurer
32 or a special corporation on behalf of the State with a bank, savings and
33 loan association, or other banking institution; an insurance company,
34 reinsurance company, surety company, or other insurance institution; a
35 corporation, investment banking firm, or other investment institution;
36 or any financial institution or other similar provider of a credit facility,
37 which provider may be located within or without the United States of
38 America; such agreement providing for prompt payment of all or any
39 part of the principal or purchase price (whether at maturity,
40 presentment or tender for purchase, redemption, or acceleration),
41 redemption premium, if any, and interest on any special indebtedness
42 payable on demand or tender by the owner in consideration of the
43 State agreeing to repay the provider of the credit facility in accordance
44 with the terms and provisions of such agreement.

- 1 (8) 'Department of Administration' means the North Carolina Department
2 of Administration, or should the Department be abolished or otherwise
3 divested of its functions under this Article, the public body succeeding
4 it in its principal functions, or upon which are conferred by law the
5 rights, powers, and duties given by this Article to the Department.
- 6 (9) 'Energy conservation project' includes:
7 a. Any modification, rehabilitation, renovation, or improvement of
8 existing State facilities;
9 b. Any acquisition and installation of fixtures or equipment in
10 existing State facilities; or
11 c. Any combination of the foregoing
12 that is intended to reduce energy costs or consumption or to allow the
13 use of an alternative energy source and that may include integral
14 control and measurement devices.
- 15 (10) 'Fiscal year' means the fiscal year of the State beginning on July 1 of
16 each calendar year and ending on June 30 of the next calendar year.
- 17 (11) 'Par formula' means any provision or formula adopted by the State to
18 provide for the adjustment, from time to time, of the interest rate or
19 rates borne or provided for by any special indebtedness, including:
20 a. A provision providing for such adjustment so that the special
21 indebtedness in the open market would be as close to par as
22 possible;
23 b. A provision providing for such adjustment based upon a
24 percentage or percentages of a prime rate or base rate, which
25 percentage or percentages may vary or be applied for different
26 periods of time; or
27 c. Such other provision as the State Treasurer may determine to be
28 consistent with this Article and will not materially and
29 adversely affect the financial position of the State and the
30 marketing of special indebtedness at a reasonable interest cost
31 to the State.
- 32 (12) 'Special corporation' means a nonprofit corporation created under
33 Chapter 55A of the General Statutes for the purpose of facilitating the
34 incurrence of certificates of participation indebtedness by the State
35 under this Article or any private corporation or other entity issuing
36 certificates of participation pursuant to this Article.
- 37 (13) 'Special indebtedness' means alternative financing agreement
38 indebtedness and bonded indebtedness.
- 39 (14) 'State' means the State of North Carolina.
- 40 (15) 'State agency' means every agency, institution, board, commission,
41 bureau, council, department, division, officer, and employee of the
42 State, but does not mean counties, municipal corporations, political
43 subdivisions, county and city boards of education, and other local
44 public bodies.

1 (16) 'State facility' means State facility as defined in G.S. 143-64.17.

2 (17) 'State Treasurer' means the incumbent Treasurer, from time to time, of
3 the State.

4 **"§ 142-63. Authorization of special indebtedness.**

5 The State may enter into, incur, or issue special indebtedness subject to the terms
6 and conditions set forth in this Article for the purpose of financing the cost of energy
7 conservation projects in a principal amount not to exceed thirty million dollars
8 (\$30,000,000) at any one time.

9 **"§ 142-64. Procedure for incurrence or issuance of special indebtedness.**

10 (a) Whenever the State or any State agency intends to use special indebtedness to
11 finance capital facilities, the State or such State agency shall contact the Department of
12 Administration. If the Department of Administration intends to use special
13 indebtedness to finance such capital facilities, it shall provide written notice to the State
14 Treasurer advising the State Treasurer of its proposed intent. The State Treasurer may
15 require a preliminary conference with the Department of Administration to consider the
16 proposed financing.

17 After the filing of such notice and after such preliminary conference if one is
18 required, the State Treasurer shall consult with the Office of State Budget and
19 Management as to the revenues expected by said Office to be available to pay all sums
20 to come due on such special indebtedness during the term thereof. If, after consulting
21 with the Office of State Budget and Management, the State Treasurer determines by
22 written certificate that it may be desirable to use special indebtedness to finance such
23 capital facilities, the Department of Administration shall request the Council of State to
24 give its preliminary approval of the use of special indebtedness to finance such capital
25 facilities. Copies of the notice and certificate required by this subsection (a) of
26 this section shall be filed promptly with the Council of State.

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

31 (c) Council of State approval.

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

34 a. The providing of a particular energy conservation project or, in
35 general terms, the types or classifications of energy
36 conservation projects to be provided, and

37 b. The aggregate principal amount of such special indebtedness or
38 maximum principal amount thereof, the maturity or maximum
39 maturity thereof and the interest rate or rates (or the equivalent
40 thereof) or maximum rate thereof of the special indebtedness to
41 be incurred or issued therefor.

42 Such resolution shall include such other matters as the Council of State
43 may determine including, without limitation, the adoption or approval
44 of documentation providing for the incurrence or issuance and sale of

1 special indebtedness and the making of such determinations or the
2 granting of such consents or approvals as may be authorized in G.S.
3 142-51 and G.S. 142-52.

4 (2) If the Council of State authorizes in general terms the types or
5 classifications of energy conservation projects to be financed, then the
6 particular energy conservation projects and the principal amount of
7 special indebtedness to be incurred or issued for each particular energy
8 conservation project shall be determined by the Department of
9 Administration after considering such factors as the Department shall
10 deem relevant in order to determine that the particular energy
11 conservation project to be provided is desirable for the efficient
12 operation of the State and its agencies and is in the best interest of the
13 State.

14 (3) In the discretion of the Council of State, the resolution required by
15 subsection (b) of this section and the resolution required by
16 subdivision (1) of this subsection may be adopted at the same time as
17 one resolution.

18 (d) No special indebtedness shall be incurred or issued without the prior written
19 approval of the State Treasurer. In determining whether such proposed financing shall
20 be approved, the State Treasurer may consider such factors as the State Treasurer shall
21 deem relevant in order to find and determine that:

22 (1) The amounts to become due under the special indebtedness, including
23 the interest component, are not excessive for the purpose proposed;

24 (2) The increase, if any, in State revenues, including taxes, necessary to
25 pay the sums to become due under the special indebtedness are not
26 excessive; and

27 (3) The special indebtedness can be incurred or issued on terms desirable
28 to the State.

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

31 (e) In the absence of a determination by the Council of State, the State Treasurer,
32 after consultation with the Department of Administration, shall determine whether the
33 financing shall be effected by alternative financing agreement indebtedness, certificates
34 of participation indebtedness, bonded indebtedness, or some combination thereof.

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

39 **"§ 142-65. Security; other requirements.**

40 (a) Special indebtedness shall create a security interest in all or any part of the
41 energy conservation projects financed by such special indebtedness, and in the case of
42 the modification, rehabilitation, renovation, or improvement of existing facilities, in all
43 or some portion of such facilities, to secure:

1 (1) Lease or installment payments to be made to the lessor, seller, or other
2 individual or entity advancing moneys or providing financing under an
3 alternative financing agreement; or

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

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

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

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

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

41 (1) Continue to provide a service or activity; or

42 (2) Replace or provide a substitute for any energy conservation project
43 financed or purchased thereby.

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

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

9 (h) Special indebtedness may contain such provisions for protecting and
10 enforcing the rights and remedies of the lessor, seller, or other individual or entity
11 advancing moneys or providing financing under an alternative financing agreement or
12 the owners of bonded indebtedness as may be reasonable and proper and not in violation
13 of law, including covenants setting forth the duties of the State in respect of the
14 purposes to which the proceeds of special indebtedness may be applied, the disposition
15 and application of the revenues of the State, including taxes, the duties of the State with
16 respect to the capital facilities financed, including, without limitation, the payment of
17 the costs of insurance and maintenance of the capital facilities, the disposition of any
18 charges and collection of any revenues and administrative charges, the terms and
19 conditions of the issuance of additional special indebtedness, and the custody,
20 safeguarding, investment, and application of all moneys.

21 **"§ 142-66. Alternative financing agreement indebtedness.**

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

25 (b) Any alternative financing agreement may provide for payments thereunder to
26 represent principal and interest components of the cost of the energy conservation
27 project to be leased or acquired, such determination to be made by the State Treasurer.

28 (c) Alternative financing agreements may be entered into pursuant to any
29 applicable public or competitive bidding process or any private or negotiated process, to
30 the extent required by applicable law, and if not so required, as may be determined by
31 the Department of Administration after consulting with the State Treasurer.

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

34 (e) If the State Treasurer determines that it is in the best interest of the State, the
35 State Treasurer may arrange for the delivery of a credit facility to secure payment under
36 any alternative financing agreement. The State Treasurer may also provide that
37 payments by the State representing the interest component of the payments to be made
38 under an alternative financing agreement may be calculated based upon a variable
39 interest rate.

40 (f) All other conditions set forth elsewhere in this Article with respect to
41 alternative financing agreement indebtedness shall also be satisfied prior to incurring
42 any alternative financing agreement indebtedness.

1 (g) To the extent applicable as may be conclusively determined by the State
2 Treasurer, the provisions of G.S. 142-69, 142-70, and 142-71 shall apply to alternative
3 financing agreement indebtedness.

4 **"§ 142-67. Additional requirements for certificates of participation indebtedness.**

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

8 (b) The documentation providing for the delivery and sale of certificates of
9 participation shall be approved by the State Treasurer. The special corporation, if used,
10 shall request the approval of the State Treasurer in writing and shall furnish such
11 information and documentation relating to the delivery and sale of the certificates of
12 participation as the State Treasurer may request. In determining whether such approval
13 shall be granted, the State Treasurer shall consider the factors provided for in G.S. 142-
14 64(d), as well as the effect of the proposed financing upon any scheduled or proposed
15 sale of debt obligations by the State or any State agency or by any unit of local
16 government in the State.

17 (c) Upon the filing with the State Treasurer of a written request of a special
18 corporation to sell the certificates of participation, the certificates of participation may
19 be sold by the State Treasurer in such manner, either at public or private sale, and for
20 such price or prices as the State Treasurer shall determine to be in the best interest of the
21 State and to effect the purposes of this Article, provided that the sale shall be approved
22 by the special corporation. The certificates of participation shall bear interest at such
23 rate or rates as may be determined by the State Treasurer with the approval of the
24 special corporation.

25 (d) Certificates of participation may be delivered pursuant to a trust agreement
26 with a corporate trustee approved by the State Treasurer, and the provisions of G.S.
27 142-69(h) shall apply to such trust agreement to the extent applicable.

28 (e) All other conditions set forth elsewhere in this Article with respect to
29 certificates of participation indebtedness, including the conditions set forth in G.S. 142-
30 66, shall also be satisfied prior to incurring any certificates of participation
31 indebtedness.

32 **"§ 142-68. Bonded indebtedness.**

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

38 **"§ 142-69. Issuance of bonds and notes.**

39 (a) Terms and Conditions. – Bonds or notes may bear the date or dates, may be
40 serial or term bonds or notes, or any combination thereof, may mature in the amounts
41 and at the time or times, not exceeding 40 years from their date or dates, may be
42 payable at the place or places, either within or without the United States of America, in
43 the coin or currency of the United States of America as at the time of payment is legal
44 tender for payment of public and private debts, may bear interest at the rate or rates,

1 which may vary from time to time, and may be made redeemable before maturity, at the
2 option of the State or otherwise as may be provided by the State, at the price or prices,
3 including a price greater than the face amount of the bonds or notes, and under the terms
4 and conditions, all as may be determined by the State Treasurer, by and with the consent
5 of the Council of State.

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

28 (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State
29 as to the manner in which bonds or notes shall be offered for sale, whether at public or
30 private sale, whether within or without the United States of America, and whether by
31 publishing notices in certain newspapers and financial journals, mailing notices, inviting
32 bids by correspondence, negotiating contracts of purchase or otherwise, the State
33 Treasurer may sell bonds or notes at one time or from time to time at such rate or rates
34 of interest, which may vary from time to time, and at the price or prices, including a
35 price less than the face amount of the bonds or notes, as the State Treasurer determines.
36 All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be
37 paid by the State Treasurer from the proceeds of bonds or notes or other available
38 moneys.

39 (d) Application of Proceeds. – The proceeds of any bonds or notes shall be used
40 solely for the purposes for which the bonds or notes were issued and shall be disbursed
41 in the manner and under such restrictions, if any, as the Council of State may provide in
42 the resolution authorizing the issuance of, or in any trust agreement securing, the bonds
43 or notes.

1 Any additional moneys which may be received by means of a grant or grants from
2 the United States of America or any agency or department thereof or from any other
3 source to aid in financing the cost of an energy conservation project may be disbursed,
4 to the extent permitted by the terms of such grant or grants, without regard to any
5 limitations imposed by this Article.

6 (e) Notes; Repayment. – By and with the consent of the Council of State, the
7 State Treasurer may borrow money, and execute and issue notes of the State for the
8 borrowed money, but only in the following circumstances and under the following
9 conditions:

- 10 (1) For anticipating the sale of bonds the issuance of which the Council of
11 State shall have approved, if the State Treasurer shall deem it
12 advisable to postpone the issuance of the bonds;
- 13 (2) For the payment of interest on or any installment of principal of any
14 bonds then outstanding, if there shall not be sufficient funds in the
15 State treasury with which to pay the interest or installment or principal
16 as they respectively become due;
- 17 (3) For the renewal of any loan evidenced by notes herein authorized;
- 18 (4) For the purposes authorized in this Article; and
- 19 (5) For refunding bonds or notes or alternative financing agreement
20 indebtedness as authorized by this Article.

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

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

- 34 (1) To the immediate payment and retirement of the obligations being
35 refunded; or
- 36 (2) If not required for the immediate payment of the obligations being
37 refunded, the proceeds shall be deposited in trust to provide for the
38 payment and retirement of the obligations being refunded and to pay
39 any expenses incurred in connection with the refunding.

40 Money in any trust fund may be invested in:

- 41 (1) Direct obligations of the United States government;
- 42 (2) Obligations the principal of and interest on which are guaranteed by
43 the United States government;

- 1 (3) To the extent then permitted by law, in obligations of any agency or
2 instrumentality of the United States government; or
3 (4) Certificates of deposit issued by a bank or trust company located in the
4 State, if such certificates shall be secured by a pledge of any of said
5 obligations described in subdivision (1), (2), or (3) of subsection (e) of
6 this section having any aggregate market value, exclusive of accrued
7 interest, equal at least to the principal amount of the certificates so
8 secured.

9 Nothing in this section shall be construed as a limitation on the duration of any deposit
10 in trust for the retirement of obligations being refunded but which shall not have
11 matured and which shall not be presently redeemable, or if presently redeemable, shall
12 not have been called for redemption.

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

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

1 rights of action by the owners. In addition, any trust agreement or resolution may
2 contain any other provisions as the State Treasurer may deem reasonable and proper for
3 the security of the owners of any bonds or notes. Expenses incurred in carrying out the
4 provisions of any trust agreement or resolution may be treated as a part of the cost of
5 any energy conservation project or as an administrative charge and may be paid from
6 the proceeds of the bonds or notes or from any other available funds.

7 **"§ 142-70. Variable rate demand bonds and notes.**

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

- 10 (1) Be made payable from time to time on demand or tender for purchase
11 by the owner of the bonds or notes provided a credit facility supports
12 the bonds or notes, unless the State Treasurer specifically determines
13 that a credit facility is not required upon a finding and determination
14 by the State Treasurer that the absence of a credit facility will not
15 materially and adversely affect the financial position of the State and
16 the marketing of the bonds or notes at a reasonable interest cost to the
17 State;
- 18 (2) Be additionally supported by a credit facility;
- 19 (3) Be made subject to redemption or a mandatory tender for purchase
20 prior to maturity;
- 21 (4) Bear interest at a rate or rates that may vary from such period or
22 periods of time, all as may be provided in the proceedings providing
23 for the issuance of the bonds or notes, including, but not limited to,
24 such variations as may be permitted pursuant to a par formula; and
- 25 (5) Be made the subject of a remarketing agreement whereby an attempt is
26 made to remarket bonds or notes to new purchasers prior to their
27 presentment for payment to the provider of the credit facility or to the
28 State.

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

37 **"§ 142-71. Other agreements.**

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

43 **"§ 142-72. Tax exemption.**

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

8 **"§ 142-73. Investment eligibility.**

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

21 **"§ 142-74. Procurement of energy conservation projects.**

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

26 Sec. 7. Interpretation of act. (a) Additional method. The foregoing sections of
27 this act shall be deemed to provide an additional and alternative method for the doing of
28 the things authorized thereby and shall be regarded as supplemental and additional to
29 powers conferred by other laws, and shall not be regarded as in derogation of any
30 powers now existing.

31 (b) Liberal construction. This act, being necessary for the health and welfare of
32 the people of the State, shall be liberally construed to effect the purposes thereof.

33 (c) Inconsistent provisions. Insofar as the provisions of this act are inconsistent
34 with the provisions of any general laws, or parts thereof, the provisions of this act shall
35 be controlling.

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

40 Sec. 8. The one million one hundred nineteen thousand six hundred fifty-two
41 dollars (\$1,119,652) that was received from the United States Department of Energy's
42 Stripper Well Litigation (MDL378), appropriated from the Special Reserve for Oil
43 Overcharge Funds to the Department of Economic and Community Development for
44 the 1992-93 fiscal year, and allocated for energy conservation programs for hospitals

1 and schools shall be reallocated to the Department of Commerce for the 1993-94 fiscal
2 year for energy conservation programs for hospitals and schools and for energy
3 conservation projects for State facilities pursuant to Part 2 of Article 3B of Chapter 143
4 of the General Statutes, as enacted by Section 5 of this act.

5 Sec. 9. This act becomes effective July 1, 1993.