

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 593  
Committee Substitute Favorable 4/15/03**

Short Title: Family Tax Cut/Protect AAA Rating.

(Public)

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Sponsors:

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Referred to:

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March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO  
PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE  
STATE'S TRIPLE-A BOND RATING.

The General Assembly of North Carolina enacts:

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**PART 1. REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 1.1.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

**SECTION 1.1.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 1.1.(c)** This section becomes effective July 1, 2003.

**PART 2. INSURANCE REGULATORY CHARGE**

1           **SECTION 2.1.(a)** The percentage rate to be used in calculating the  
2 insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for  
3 the 2003 calendar year.

4           **SECTION 2.1.(b)** This section is effective when it becomes law.

5 **PART 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES**

6           **SECTION 3.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

7           "(b) Licensure; inspections. –

8           (1) The Department of Health and Human Services shall inspect and  
9 license, under rules adopted by the Medical Care Commission, all  
10 adult care homes for persons who are aged or mentally or physically  
11 disabled except those exempt in subsection (c) of this section. Licenses  
12 issued under the authority of this section shall be valid for one year  
13 from the date of issuance unless revoked earlier by the Secretary for  
14 failure to comply with any part of this section or any rules adopted  
15 hereunder. Licenses shall be renewed annually upon filing and the  
16 Department's approval of the renewal application. The Department  
17 shall charge each adult care home with six or fewer beds a  
18 nonrefundable annual license fee in the amount of two hundred fifty  
19 dollars (\$250.00). The Department shall charge each adult care home  
20 with more than six beds a nonrefundable annual license fee in the  
21 amount of three hundred fifty dollars (\$350.00) plus a nonrefundable  
22 annual per-bed fee of twelve dollars and fifty cents (\$12.50). A license  
23 shall not be renewed if outstanding ~~fin~~~~es~~, ~~fe~~~~es~~, ~~fi~~~~nes~~, and penalties  
24 imposed by the State against the home have not been paid. Fines and  
25 penalties for which an appeal is pending are exempt from  
26 consideration. The renewal application shall contain all necessary and  
27 reasonable information that the Department may by rule require.  
28 Except as otherwise provided in this subdivision, the Department may  
29 amend a license by reducing it from a full license to a provisional  
30 license for a period of not more than 90 days whenever the Department  
31 finds that:

- 32           a. The licensee has substantially failed to comply with the  
33 provisions of Articles 1 and 3 of Chapter 131D of the General  
34 Statutes and the rules adopted pursuant to these Articles;  
35           b. There is a reasonable probability that the licensee can remedy  
36 the licensure deficiencies within a reasonable length of time;  
37           and  
38           c. There is a reasonable probability that the licensee will be able  
39 thereafter to remain in compliance with the licensure rules for  
40 the foreseeable future.

41           The Department may extend a provisional license for not more than  
42 one additional 90-day period upon finding that the licensee has made  
43 substantial progress toward remedying the licensure deficiencies that  
44 caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
  - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  - 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
  - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  - 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

**SECTION 3.1.(b)** This section becomes effective October 1, 2003.

**SECTION 3.2.(a)** G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>General Acute Hospitals:</u>	<u>1-49 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
	<u>50-99 beds</u>	<u>\$350.00</u>	<u>\$12.50</u>

1	<u>100-199 beds</u>	<u>\$450.00</u>	<u>\$12.50</u>
2	<u>200-399 beds</u>	<u>\$550.00</u>	<u>\$12.50</u>
3	<u>400-699 beds</u>	<u>\$750.00</u>	<u>\$12.50</u>
4	<u>700+ beds</u>	<u>\$950.00</u>	<u>\$12.50</u>
5	<u>Other Hospitals</u>	<u>\$500.00</u>	<u>\$12.50."</u>

6 **SECTION 3.2.(b)** This section becomes effective October 1, 2003.

7 **SECTION 3.3.(a)** G.S. 131E-102(b) reads as rewritten:

8 "(b) Applications shall be available from the Department, and each application  
9 filed with the Department shall contain all necessary and reasonable information that the  
10 Department may by rule require. A license shall be granted to the applicant upon a  
11 determination by the Department that the applicant has complied with the provisions of  
12 this Part and the rules promulgated under this Part. The Department shall charge the  
13 applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars  
14 (\$450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents  
15 (\$12.50)."

16 **SECTION 3.3.(b)** This section becomes effective October 1, 2003.

17 **SECTION 3.4.(a)** G.S. 131E-138(c) reads as rewritten:

18 "(c) An application for a license shall be available from the Department, and each  
19 application filed with the Department shall contain all information requested by the  
20 Department. A license shall be granted to the applicant upon a determination by the  
21 Department that the applicant has complied with the provisions of this Part and the rules  
22 promulgated by the Commission under this Part. The Department shall charge the  
23 applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars  
24 (\$350.00)."

25 **SECTION 3.4.(b)** This section becomes effective October 1, 2003.

26 **SECTION 3.5.(a)** G.S. 131E-147(b) reads as rewritten:

27 "(b) Applications shall be available from the Department, and each application  
28 filed with the Department shall contain all necessary and reasonable information that  
29 the Department may by rule require. A license shall be granted to the applicant upon a  
30 determination by the Department that the applicant has complied with the provisions of  
31 this Part and the rules promulgated by the Commission under this Part. The Department  
32 shall charge the applicant a nonrefundable annual base license fee in the amount of  
33 seven hundred dollars (\$700.00) plus a nonrefundable annual per-operating room fee in  
34 the amount of fifty dollars (\$50.00)."

35 **SECTION 3.5.(b)** This section becomes effective October 1, 2003.

36 **SECTION 3.6.(a)** G.S. 131E-167(a) reads as rewritten:

37 "(a) Applications for certification shall be available from the Department, and  
38 each application filed with the Department shall contain all necessary and reasonable  
39 information that the Department may by rule require. A certificate shall be granted to  
40 the applicant for a period not to exceed ~~two years~~one year upon a determination by the  
41 Department that the applicant has substantially complied with the provisions of this  
42 Article and the rules promulgated by the Department under this Article. The Department  
43 shall charge the applicant a nonrefundable annual certification fee in the amount of two  
44 hundred fifty dollars (\$250.00)."

1           **SECTION 3.6.(b)** This section becomes effective October 1, 2003.

2           **SECTION 3.7.(a)** Article 16 of Chapter 131E of the General Statutes is  
3 amended by adding the following new section to read:

4           "**§ 131E-269. Authorization to charge fee for certification of facilities suitable to**  
5           **perform abortions.**

6           The Department of Health and Human Services shall charge each hospital or clinic  
7 certified by the Department as a facility suitable for the performance of abortions, as  
8 authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of  
9 seven hundred dollars (\$700.00)."

10          **SECTION 3.7.(b)** This section becomes effective October 1, 2003.

11          **SECTION 3.8.(a)** G.S. 122C-23 is amended by adding the following new  
12 subsection to read:

13          "(h) The Department shall charge facilities licensed under this Chapter that have  
14 licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-  
15 bed fee as follows:

<u>Type of Facility</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>Facilities (non-ICF-MR):</u>	<u>6 or fewer beds</u>	<u>\$250.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
<u>ICF-MR Only:</u>	<u>6 or fewer beds</u>	<u>\$650.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$650.00</u>	<u>\$12.50."</u>

21          **SECTION 3.8.(b)** This section becomes effective October 1, 2003.

22          **SECTION 3.9.(a)** Part 3 of Article 6 of Chapter 131E of the General Statutes  
23 is amended by adding the following new section to read:

24          "**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in**  
25          **continuing care retirement communities.**

26          The Department shall charge continuing care retirement communities licensed under  
27 Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult  
28 care home beds licensed by the Department a nonrefundable annual base license fee in  
29 the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed  
30 fee in the amount of twelve dollars and fifty cents (\$12.50)."

31          **SECTION 3.9.(b)** This section becomes effective October 1, 2003.

32          **SECTION 3.10.(a)** Article 56 of Chapter 143 of the General Statutes is  
33 amended by adding the following new section to read:

34          "**§ 143-520 Fees.**

35          The Department of Health and Human Services shall charge a nonrefundable annual  
36 fee for emergency medical services provided under this Article, as follows:

<u>Type of Provider</u>	<u>Annual Fee</u>
<u>Credentialing of persons paid for providing EMS Services</u>	<u>\$90.00</u>
<u>Licensing of EMS Providers/Vehicle Inspections</u>	<u>\$50.00</u>
<u>Licensing of Emergency Dispatch Providers</u>	<u>\$185.00."</u>

41          **SECTION 3.10.(b)** This section becomes effective October 1, 2003.

42          **SECTION 3.11.(a)** Article 16 of Chapter 131E of the General Statutes is  
43 amended by adding the following new section to read:

**"§ 131E-267. Fees for departmental review of health care facility construction projects.**

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars (\$25,000) for any single project:

<b><u>Institutional Project</u></b>	<b><u>Project Fee</u></b>
<u>Hospitals</u>	<u>\$300.00 plus \$0.20/square foot of project space</u>
<u>Nursing Homes</u>	<u>\$250.00 plus \$0.15/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Psychiatric Hospital</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Adult Care Home more than 7 beds</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>

<b><u>Residential Project</u></b>	<b><u>Project Fee</u></b>
<u>Family Care Homes</u>	<u>\$175.00 flat fee</u>
<u>ICF/MR Group Homes</u>	<u>\$275.00 flat fee</u>
<u>Group Homes: 1-3 beds</u>	<u>\$100.00 flat fee</u>
<u>Group Homes: 4-6 beds</u>	<u>\$175.00 flat fee</u>
<u>Group Homes: 7-9 beds</u>	<u>\$225.00 flat fee</u>
<u>Other residential:</u>	
<u>More than 9 beds</u>	<u>\$225.00 plus \$0.075/square foot of facility space."</u>

**SECTION 3.11.(b)** This section becomes effective October 1, 2003.

**SECTION 3.12.(a)** G.S. 110-90 reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child care facilities.
- (1a) To establish a fee for the licensing of child care facilities. The amount of the fee may not exceed the amount listed in this subdivision. The fee does not apply to a religious sponsored child care center operated pursuant to a letter of compliance.

<b><u>Capacity of Facility</u></b>	<b><u>Maximum Fee</u></b>
<u>12 or fewer children</u>	<u>\$ 35.00</u>
<u>13-50 children</u>	<u>\$125.00</u>
<u>51-100 children</u>	<u>\$250.00</u>
<u>101 or more children</u>	<u>\$400.00</u>

- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.

- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or

1 reports are not available from existing State agencies and units of local  
2 government.

3 (4) To issue a rated license to any child care facility which meets the  
4 standards established by this Article. The rating shall be based on  
5 program standards, education levels of staff, and compliance history of  
6 the child care facility.

7 (5) To revoke the license of any child care facility that ceases to meet the  
8 standards established by this Article and rules on these standards  
9 adopted by the Commission, or that demonstrates a pattern of  
10 noncompliance with this Article or the rules, or to deny a license to  
11 any applicant that fails to meet the standards or the rules. These  
12 revocations and denials shall be done in accordance with the  
13 procedures set out in G.S. 150B and this Article and rules adopted by  
14 the Commission.

15 (6) To prosecute or defend on behalf of the State, through the office of the  
16 Attorney General, any legal actions arising out of the administration or  
17 enforcement of this Article.

18 (7) To promote and coordinate educational programs and materials for  
19 operators of child care facilities which are designed to improve the  
20 quality of child care available in the State, using the resources of other  
21 State and local agencies and educational institutions where  
22 appropriate.

23 (8) Repealed by Session Laws 1997-506, s. 5.

24 (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an  
25 administrative penalty pursuant to G.S. 110-102.2, or to order  
26 summary suspension of a license. These actions shall be done in  
27 accordance with the procedures set out in G.S. 150B and this Article  
28 and rules adopted by the Commission.

29 (10) To issue final agency decisions in all G.S. 150B contested cases  
30 proceedings filed as a result of actions taken under this Article  
31 including, but not limited to the denial, revocation, or suspension of a  
32 license or the levying of a civil or administrative penalty.

33 (11) To issue a license to any child care arrangement that does not meet the  
34 definition of child care facility in G.S. 110-86 whenever the operator  
35 of the arrangement chooses to comply with the requirements of this  
36 Article and the rules adopted by the Commission and voluntarily  
37 applies for a child care facility license. The Commission shall adopt  
38 rules for the issuance or removal of the licenses."

39 **SECTION 3.12.(b)** This section becomes effective October 1, 2003.

40 **SECTION 3.13.(a)** G.S. 130A-5 is amended by adding the following new  
41 subdivision to read:

42 "(15) To establish a fee to cover the cost of analyzing clinical Pap smear  
43 specimens sent to the State Laboratory by local health departments and

1 State-owned facilities and for reporting the results of the analysis. This  
2 fee shall be in addition to the charge for the Pap smear test kit."

3 **SECTION 3.13.(b)** This section becomes effective July 1, 2003.

4 **PART 4. DEPARTMENT OF ENVIRONMENT AND NATURAL**  
5 **RESOURCES FEES**

6 **SECTION 4.1.(a)** G.S. 113-34(c) reads as rewritten:

7 "(c) The Department, with the approval of the Governor and Council of State,  
8 may enter into leases of lands and waters for State parks, State lakes and recreational  
9 purposes; and the Department may construct, operate, and maintain on the lands and  
10 waters suitable public service facilities and conveniences and may charge and collect  
11 reasonable fees for each of the following:

- 12 (1) The erection, maintenance and use of docks, piers and other structures  
13 as may be permitted in or on the waters under its own rules.
- 14 (2) Fishing privileges in the waters, provided that the privileges shall be  
15 extended only to holders of bona fide North Carolina fishing licenses,  
16 and provided further that all State fishing laws and rules are complied  
17 with.
- 18 (3) Vehicle access to Fort Fisher State Recreation Area."

19 **SECTION 4.1.(b)** Notwithstanding G.S. 150B-21.1, the Department of  
20 Environment and Natural Resources may adopt temporary rules to establish fees under  
21 G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after  
22 the effective date of this section.

23 **SECTION 4.1.(c)** This section becomes effective July 1, 2003.

24 **PART 5. DEPARTMENT OF TRANSPORTATION FEES**

25 **SECTION 5.1.(a)** G.S. 138-82 reads as rewritten:

26 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

27 The Department of Transportation is vested with authority to provide for the  
28 establishment and maintenance of ferries connecting the parts of the State highway  
29 system, whenever in its discretion the public good may so ~~require, and to prescribe and~~  
30 ~~collect such tolls therefor as may, in the discretion of the Department of Transportation,~~  
31 ~~be expedient.~~ require. The Department of Transportation shall collect tolls on all ferries.  
32 The Department may establish various classes of ferry users.

33 To accomplish the purpose of this section said Department of Transportation is  
34 authorized to acquire, own, lease, charter or otherwise control all necessary vessels,  
35 boats, terminals or other facilities required for the proper operation of such ferries or to  
36 enter into contracts with persons, firms or corporations for the operation thereof and to  
37 pay therefor such reasonable sums as may in the opinion of said Department of  
38 Transportation represent the fair value of the public service rendered.

39 The Department of Transportation, notwithstanding any other provision of law, may  
40 operate, or contract for the operation of, concessions on the ferries and at ferry facilities  
41 to provide to passengers on the ferries food, drink, and other refreshments, personal  
42 comfort items, and souvenirs publicizing the ferry system."

43 **SECTION 5.1.(b)** This section becomes effective July 1, 2004.

44 **PART 6. ADJUST LOCAL GOVERNMENT HOLD HARMLESS**



1           **SECTION 6.1.** G.S. 105-521 reads as rewritten:

2   "**§ 105-521. Transitional local government hold harmless.**

3       (a)   Definitions. – The following definitions apply in this section:

4           (1)   Local government. – A county or municipality that received a  
5               distribution of local sales taxes in the most recent fiscal year for which  
6               a local sales tax share has been calculated.

7           (2)   Local sales tax share. – A local government's percentage share of the  
8               two-cent (2¢) sales taxes distributed during the most recent fiscal year  
9               for which data are available.

10          (3)   Repealed reimbursement amount. – The total amount a local  
11               government would have been entitled to receive during the 2002-2003  
12               fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,  
13               105-277.001, and 105-277.1A, if the Governor had not withheld any  
14               distributions under those sections.

15          (4)   Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax  
16               authorized in Article 39 of this Chapter and in Chapter 1096 of the  
17               1967 Session Laws, the first one-half cent (1/2¢) local sales and use  
18               tax authorized in Article 40 of this Chapter, and the second one-half  
19               cent (1/2¢) local sales and use tax authorized in Article 42 of this  
20               Chapter.

21       (b)   Distributions. – On or before ~~September~~August 15, 2003, and each  
22   ~~September~~August 15 thereafter, the Secretary must multiply each local government's  
23   local sales tax share by the estimated amount that all local governments would be  
24   expected to receive during the current fiscal year under G.S. 105-520 if every county  
25   levied the tax under this Article for the year. If the resulting amount is less than one  
26   hundred percent (100%) of the local government's repealed reimbursement amount, the  
27   Secretary must pay the local government the difference, but not less than one hundred  
28   dollars (\$100.00).

29       On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget  
30   and Management and the Fiscal Research Division of the General Assembly must each  
31   submit to the Secretary and to the General Assembly a final projection of the estimated  
32   amount that all local governments would be expected to receive during the upcoming  
33   fiscal year under G.S. 105-520 if every county levied the tax under this Article for the  
34   fiscal year. If the Secretary does not use the lower of the two final projections to make  
35   the calculation required by this subsection, the Secretary must report the reasons for this  
36   decision to the Joint Legislative Commission on Governmental Operations within 60  
37   days after receiving the projections.

38       (c)   Source of Funds. – The Secretary must draw the funds distributed under this  
39   section from sales and use tax collections under Article 5 of this Chapter.

40       (d)   Reports. – The Secretary must report to the Revenue Laws Study Committee  
41   by January 31, 2004, and each January 31 thereafter, the amount distributed under this  
42   section for the current fiscal year."

43           **SECTION 6.2.** Effective January 1, 2013, G.S. 105-521 is repealed.

44   **PART 7.     TEMPORARILY MAINTAIN STATE SALES TAX RATE**

1           **SECTION 7.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

2           **"SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies  
 3 to sales made on or after that date. This section is repealed effective for sales made on  
 4 or after July 1, ~~2005.~~ 2003. This section does not affect the rights or liabilities of the  
 5 State, a taxpayer, or another person arising under a statute amended or repealed by this  
 6 section before the effective date of its amendment or repeal; nor does it affect the right  
 7 to any refund or credit of a tax that accrued under the amended or repealed statute  
 8 before the effective date of its amendment or repeal."

9           **PART 8.       TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

10           **SECTION 8.1.** Effective for taxable years beginning on or after January 1,  
 11 2006, G.S. 105-134.2(a) reads as rewritten:

12           "(a) A tax is imposed upon the North Carolina taxable income of every individual.  
 13 The tax shall be levied, collected, and paid annually and shall be computed at the  
 14 following percentages of the taxpayer's North Carolina taxable income.

15           (1) For married individuals who file a joint return under G.S. 105-152 and  
 16 for surviving spouses, as defined in section 2(a) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>\$200,000</del> NA	7.75%
<del>\$200,000</del>	NA	<del>8.25%</del>

23           (2) For heads of households, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>\$160,000</del> NA	7.75%
<del>\$160,000</del>	NA	<del>8.25%</del>

30           (3) For unmarried individuals other than surviving spouses and heads of  
 31 households:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	<del>\$120,000</del> NA	7.75%
<del>\$120,000</del>	NA	<del>8.25%</del>

38           (4) For married individuals who do not file a joint return under G.S.  
 39 105-152:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	<del>\$100,000</del> NA	7.75%
<del>\$100,000</del>	NA	<del>8.25%</del> "



1 through financing methods in addition to direct appropriations and the  
2 issuance of general obligation bonds.

- 3 (4) The use of these alternative financing methods as authorized in this  
4 Article will provide financing flexibility to the State and permit the  
5 State to take advantage of changing financial and economic  
6 environments.

7 "**§ 142-82. Definitions.**

8 The following definitions apply in this Article:

- 9 (1) Bonded indebtedness. – Limited obligation bonds and bond  
10 anticipation notes, including refunding bonds and notes, authorized to  
11 be issued under this Article.
- 12 (2) Bonds or notes. – Limited obligation bonds and notes authorized to be  
13 issued under this Article.
- 14 (3) Capital facility. – Any one or more of the following:
- 15 a. Any one or more buildings, utilities, structures, or other  
16 facilities or property developments, including streets and  
17 landscaping, and the acquisition of equipment, machinery, and  
18 furnishings in connection with these items.
- 19 b. Additions, extensions, enlargements, renovations, and  
20 improvements to existing buildings, utilities, structures, or other  
21 facilities or property developments, including streets and  
22 landscaping.
- 23 c. Land or an interest in land.
- 24 d. Other infrastructure.
- 25 e. Furniture, fixtures, equipment, vehicles, machinery, and similar  
26 items.
- 27 (4) Certificates of participation. – Certificates or other instruments  
28 delivered by a special corporation evidencing the assignment of  
29 proportionate undivided interests in rights to receive payments  
30 pursuant to a financing contract.
- 31 (5) Certificates of participation indebtedness. – Financing contract  
32 indebtedness incurred by the State under a plan of finance in which a  
33 special corporation obtains funds to pay the cost of a capital facility to  
34 be financed through the delivery by the special corporation of  
35 certificates of participation.
- 36 (6) Cost. – Any of the following in financing the cost of capital facilities  
37 as authorized by this Article:
- 38 a. The cost of constructing, reconstructing, renovating, repairing,  
39 enlarging, acquiring, and improving capital facilities, including  
40 the acquisition of land, rights-of-way, easements, franchises,  
41 equipment, machinery, furnishings, and other interests in real or  
42 personal property acquired or used in connection with a capital  
43 facility.

- 1           b. The cost of engineering, architectural, and other consulting  
2           services.
- 3           c. The cost of providing personnel to ensure effective  
4           management of capital facilities.
- 5           d. Finance charges, reserves for debt service, and other types of  
6           reserves required pursuant to the terms of any special  
7           indebtedness or related documents, interest before and during  
8           construction or acquisition of a capital facility and, if  
9           considered advisable by the State Treasurer, for a period not  
10           exceeding two years after the estimated date of completion of  
11           construction or acquisition.
- 12           e. Administrative expenses and charges.
- 13           f. The cost of bond insurance, investment contracts, credit  
14           enhancement facilities and liquidity facilities, interest rate swap  
15           agreements or other derivative products, financial and legal  
16           consultants, and related costs of the incurrence or issuance of  
17           special indebtedness.
- 18           g. The cost of reimbursing the State, a State agency, or a special  
19           corporation for any payments made for any cost described in  
20           this subdivision.
- 21           h. Any other costs and expenses necessary or incidental to the  
22           purposes of this Article.
- 23       (7)   Credit facility. – An agreement that:
- 24           a. Is entered into by the State with a bank, savings and loan  
25           association, or other banking institution, an insurance company,  
26           reinsurance company, surety company, or other insurance  
27           institution, a corporation, investment banking firm, or other  
28           investment institution, or any financial institution or other  
29           similar provider of a credit facility, which provider may be  
30           located within or without the United States of America; and
- 31           b. Provides for prompt payment of all or any part of the principal  
32           or purchase price (whether at maturity, presentment or tender  
33           for purchase, redemption, or acceleration), redemption  
34           premium, if any, and interest with respect to any special  
35           indebtedness payable on demand or tender by the owner in  
36           consideration of the State's agreeing to repay the provider of the  
37           credit facility in accordance with the terms and provisions of  
38           the agreement.
- 39       (8)   Department of Administration. – The North Carolina Department of  
40           Administration, created by Article 36 of Chapter 143 of the General  
41           Statutes, or if the Department is abolished or otherwise divested of its  
42           functions under this Article, the public body succeeding it in its  
43           principal functions or upon which are conferred by law the rights,  
44           powers, and duties given by this Article to the Department.

- 1           (9) Financing contract. – A contract entered into pursuant to this Article to  
2 finance capital facilities and constituting a lease-purchase contract,  
3 installment purchase contract, or other similar type installment  
4 financing contract. The term does not include, however, a contract that  
5 meets any one of the following conditions:  
6           a. It constitutes an operating lease under generally accepted  
7 accounting principles.  
8           b. It provides for the payment under the contract over its full term,  
9 including periods that may be added to the original term  
10 through the exercise of options to renew or extend, of an  
11 aggregate principal amount of not in excess of five thousand  
12 dollars (\$5,000) or any greater amount that may be established  
13 by the Council of State if the Council of State determines (i) the  
14 aggregate amount to be paid under these contracts will not have  
15 a significant impact on the State budgetary process or the  
16 economy of the State and (ii) the change will lessen the  
17 administrative burden on the State.  
18           c. It is executed and provides for the making of all payments  
19 under the contract, including payment to be made during any  
20 period that may be added to the original term through the  
21 exercise of options to renew or extend, in the same fiscal year.  
22       (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a  
23 financing contract, including certificates of participation indebtedness.  
24       (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal  
25 biennium.  
26       (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one  
27 calendar year and ending on June 30 of the next calendar year.  
28       (13) Limited obligation bond. – A limited obligation bond issued pursuant  
29 to G.S. 142-88 and payable and secured as provided in G.S. 142-89.  
30       (14) Par formula. – A provision or formula adopted by the State to provide  
31 for the adjustment, from time to time, of the interest rate or rates borne  
32 or provided for by any special indebtedness, including any of the  
33 following:  
34           a. A provision providing for an adjustment so that the purchase  
35 price of special indebtedness in the open market would be as  
36 close to par as possible.  
37           b. A provision providing for an adjustment based upon a  
38 percentage or percentages of a prime rate or base rate, which  
39 percentages may vary or be applied for different periods of  
40 time.  
41           c. Any provision that the State Treasurer determines is consistent  
42 with this Article and will not materially and adversely affect the  
43 financial position of the State and the marketing of special  
44 indebtedness at a reasonable interest cost to the State.

- 1           (15) Person. – An individual, a firm, a partnership, an association, a  
2           corporation, a limited liability company, or any other organization or  
3           group acting as a unit.
- 4           (15b) Repair and renovation. – Any project of the type that may be funded  
5           from the Repairs and Renovations Reserve Account created in G.S.  
6           143-15.3A.
- 7           (16) Special corporation. – Either of the following:  
8           a.     A nonprofit corporation created under Chapter 55A of the  
9           General Statutes for the purpose of facilitating the incurrence of  
10           certificates of participation indebtedness by the State under this  
11           Article.
- 12           b.     A private corporation or other entity issuing certificates of  
13           participation pursuant to this Article.
- 14           (17) Special indebtedness. – Financing contract indebtedness and bonded  
15           indebtedness issued or incurred pursuant to this Article.
- 16           (18) State. – The State of North Carolina, including any State agency.
- 17           (19) State agency. – Any agency, institution, board, commission, bureau,  
18           council, department, division, officer, or employee of the State. The  
19           term does not include counties, municipal corporations, political  
20           subdivisions, local boards of education, or other local public bodies.
- 21           (20) State Treasurer. – The incumbent Treasurer, from time to time, of the  
22           State.

23    **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

24           The State may incur or issue special indebtedness subject to the terms and conditions  
25           provided in this Article for the purpose of financing the cost of capital facilities that  
26           meet one of the following conditions:

- 27           (1)     The General Assembly has enacted legislation describing the capital  
28           facility and authorizing its financing by the incurrence or issuance of  
29           special indebtedness up to a specific maximum amount.
- 30           (2)     The General Assembly has enacted legislation authorizing the  
31           incurrence or issuance of special indebtedness up to a specific  
32           maximum amount for a specific category of capital facilities, and the  
33           capital facility meets all of the conditions set in that legislation.

34    **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

35           (a)     Notice and Certificate. – Whenever the State or a State agency determines  
36           that special indebtedness is appropriate to finance capital facilities, it shall notify the  
37           Department of Administration. If the Department of Administration concurs, it shall  
38           provide written notice to the State Treasurer advising the State Treasurer of this  
39           determination.

40           After the filing of the notice and after any preliminary conference, the State  
41           Treasurer shall consult with the Office of State Budget and Management as to the  
42           revenues expected by that Office to be available to pay all sums to come due on the  
43           special indebtedness during its term. If, after consulting with the Office of State Budget  
44           and Management, the State Treasurer determines by written certificate that it may be

1 desirable to use special indebtedness to finance the capital facilities, the Department of  
2 Administration shall request the Council of State to give its preliminary approval of the  
3 use of special indebtedness to finance the capital facilities. The Department of  
4 Administration must promptly file copies of the notice and certificate required by this  
5 subsection with the Governor and the Council of State.

6 (b) Preliminary Approval. – The Council of State, upon receipt of the notice and  
7 certificate required by subsection (a) of this section, shall adopt a resolution granting or  
8 denying preliminary approval of the financing. A resolution granting preliminary  
9 approval may include any other terms, conditions, and restrictions the Council of State  
10 considers appropriate and not inconsistent with the provisions of this Article.

11 (c) Final Approval. – Before any special indebtedness may be incurred or issued  
12 pursuant to this Article, the Council of State must authorize the indebtedness by  
13 resolution, either as part of or separate from the resolution required by subsection (b) of  
14 this section. The resolution must do all of the following:

- 15 (1) Authorize the providing of a particular capital facility or, in general  
16 terms, the types or classifications of capital facilities to be provided.
- 17 (2) Set the aggregate principal amount or maximum principal amount of  
18 the special indebtedness authorized.
- 19 (3) Set the maturity or maximum maturity of the special indebtedness  
20 authorized.
- 21 (4) Set the rate, rates, or maximum rate of interest, which may be fixed or  
22 vary over a period of time, of the special indebtedness authorized.
- 23 (5) Include any other conditions or matters not inconsistent with the  
24 provisions of this Article in the discretion of the Council of State,  
25 which may include the adoption or approvals as may be authorized in  
26 G.S. 142-88 and G.S. 142-89.

27 (d) Financing Terms. – No special indebtedness shall be incurred or issued  
28 without the prior written approval of the State Treasurer as provided in this subsection,  
29 which is in addition to the certificate given by the State Treasurer pursuant to subsection  
30 (a) of this section. In determining whether to approve the proposed financing, the State  
31 Treasurer may consider any factors the State Treasurer considers relevant in order to  
32 find and determine all of the following:

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

41 (e) Designation of Facilities. – If the Council of State authorized in general terms  
42 the types or classifications of capital facilities to be financed, then the particular capital  
43 facilities and the principal amount of special indebtedness to be incurred or issued for  
44 each particular capital facility shall be determined by the Department of Administration



1 after considering any factors it considers relevant in order to determine that the  
2 particular capital facility to be provided is desirable for the efficient operation of the  
3 State and its agencies and is in the best interests of the State.

4 (f) Type of Debt and Security. – In the absence of a determination by the  
5 Council of State, the State Treasurer, after consultation with the Department of  
6 Administration, shall determine the specific security offered and whether the special  
7 indebtedness to be issued or incurred shall be financing contract indebtedness,  
8 certificates of participation indebtedness, bonded indebtedness, or some combination of  
9 these.

10 (g) Administration. – The State Treasurer, after consultation with the Department  
11 of Administration, shall develop appropriate documents for use under this Article. The  
12 State Treasurer shall employ and designate the financial consultants, fiduciaries and  
13 other agents, underwriters, and bond attorneys to be associated with the incurrence or  
14 issuance of special indebtedness pursuant to this Article.

15 (h) Oversight by Joint Legislative Commission. – After all the requirements for  
16 approval and oversight provided in this section have been met, and at least five days  
17 before the issuance or incurrence of the special indebtedness, the State Treasurer must  
18 report to the Joint Legislative Commission on Governmental Operations. This report  
19 must include the details of the proposed special indebtedness, including the capital  
20 facilities to be financed by the indebtedness, the amount of the proposed indebtedness,  
21 the type of indebtedness to be issued or incurred, and any other information required by  
22 the Commission.

23 **"§ 142-85. Security; other requirements.**

24 (a) Security. – In order to secure (i) lease or installment payments to be made to  
25 the lessor, seller, or other person advancing moneys or providing financing under a  
26 financing contract, (ii) payment of the principal of and interest on bonded indebtedness,  
27 or (iii) payment obligations of the State to the provider of bond insurance, a credit  
28 facility, a liquidity facility, or a derivative agreement, special indebtedness may create  
29 any combination of the following:

30 (1) A lien on or security interest in one or more, all, or any part of the  
31 capital facilities to be financed by the special indebtedness.

32 (2) If the special indebtedness is to finance construction of improvements  
33 on real property, a lien on or security interest in all or any part of the  
34 land on which the improvements are to be located.

35 (3) If the special indebtedness is to finance renovations or improvements  
36 to existing facilities or the installation of fixtures in existing facilities,  
37 a lien on or security interest in one or more, all, or any part of the  
38 facilities.

39 (b) Value of Security; Multiple Liens. – The estimated value of the property  
40 subject to the lien or security interest need not bear any particular relationship to the  
41 principal amount of the special indebtedness or other obligation it secures. This Article  
42 does not limit the right of the State to grant multiple liens or security interests in a  
43 capital facility or other property to the extent not otherwise limited by the terms of any  
44 special indebtedness.

1       (c) Governor's Budget. – Documentation relating to any special indebtedness  
2 may include provisions requesting the Governor to submit in the Governor's budget  
3 proposal or any amendments or supplements to the budget proposed appropriations  
4 necessary to make the payments required by the special indebtedness.

5       (d) Source of Repayment. – The payment of amounts payable by the State under  
6 special indebtedness or any related documents during any fiscal period shall be limited  
7 to funds appropriated for that purpose by the General Assembly in its discretion.

8       (e) No Deficiency Judgment or Pledge. – No deficiency judgment may be  
9 rendered against the State in any action for breach of any obligation under special  
10 indebtedness or any related documents. The taxing power of the State is not and may  
11 not be pledged directly or indirectly to secure any moneys due under special  
12 indebtedness or any related documents. In the event that the General Assembly does not  
13 appropriate sums sufficient to make payments required under any special indebtedness  
14 or any related documents, the net proceeds received from the sale or other disposition of  
15 the property subject to the lien or security interest shall be applied to satisfy these  
16 payment obligations in accordance with the deed of trust, security agreement, or other  
17 documentation relating to the lien or security interest. These net proceeds are  
18 appropriated for the purpose of making these payments. Any net proceeds in excess of  
19 the amount required to satisfy the obligations of the State under any special  
20 indebtedness or any related documents shall be paid to the State Treasurer for deposit to  
21 the General Fund.

22       (f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness,  
23 or other related document shall not contain a nonsubstitution clause that restricts the  
24 right of the State to (i) continue to provide a service or conduct an activity or (ii) replace  
25 or provide a substitute for any capital facility.

26       (g) Protection of Lender. – Special indebtedness may contain any provisions for  
27 protecting and enforcing the rights and remedies of the person advancing moneys or  
28 providing financing under a financing contract, the owners of bonded indebtedness, or  
29 others to whom the State is obligated under special indebtedness or any related  
30 documents as may be reasonable and proper and not in violation of law. These  
31 provisions may include covenants setting forth the duties of the State in respect of any  
32 of the following:

33           (1) The purposes to which the proceeds of special indebtedness may be  
34 applied.

35           (2) The disposition and application of the revenues of the State, including  
36 taxes.

37           (3) Insuring, maintaining, and other duties with respect to the capital  
38 facilities financed.

39           (4) The disposition of any charges and collection of any revenues and  
40 administrative charges.

41           (5) The terms and conditions of the issuance of additional special  
42 indebtedness.

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

1        (h) State Property Law Exception. – Chapter 146 of the General Statutes does not  
2 apply to any transfer of the State's interest in property authorized by this Article,  
3 whether to a deed of trust trustee or other secured party as security for special  
4 indebtedness, or to a purchaser of property in connection with a foreclosure or similar  
5 conveyance of property to realize upon the security for special indebtedness following  
6 the State's default on its obligations under the special indebtedness.

7 **"§ 142-86. Financing contract indebtedness.**

8        (a) Documentation. – Financing contract indebtedness shall not be incurred until  
9 all documentation providing for its incurrence has been approved by the State Treasurer,  
10 after the State Treasurer has consulted with the Department of Administration.

11        (b) Interest Component. – A financing contract may provide for payments under  
12 the contract to represent principal and interest components of the cost of the capital  
13 facility to be financed, as determined by the State Treasurer.

14        (c) Bidding. – Financing contracts may be entered into pursuant to any applicable  
15 public or competitive bidding process or any private or negotiated process, to the extent  
16 required by applicable law, and if not so required, as may be determined by the  
17 Department of Administration after consulting with the State Treasurer.

18        (d) Party. – All financing contracts shall be executed on behalf of the State by the  
19 State Treasurer or, upon delegation by the State Treasurer after having approved the  
20 financing contract, by the Department of Administration.

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

27        (f) Terms and Conditions. – All other conditions set forth elsewhere in this  
28 Article with respect to financing contract indebtedness shall also be satisfied prior to  
29 incurring any financing contract indebtedness. To the extent applicable as conclusively  
30 determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91  
31 apply to financing contract indebtedness.

32 **"§ 142-87. Additional requirements for certificates of participation indebtedness.**

33        (a) Documentation. – A financing contract shall not be used in connection with  
34 the delivery of certificates of participation by a special corporation until all  
35 documentation providing for its use has been approved by the State Treasurer, after the  
36 State Treasurer has consulted with the Department of Administration. All  
37 documentation providing for the delivery and sale of certificates of participation must  
38 be approved by the State Treasurer.

39        (b) Procedure. – The special corporation, if used, shall request the approval of the  
40 State Treasurer in writing and shall furnish any information and documentation relating  
41 to the delivery and sale of the certificates of participation requested by the State  
42 Treasurer. In determining whether to approve the financing in the documentation, the  
43 State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

1 effect of the proposed financing upon any scheduled or proposed sale of debt  
2 obligations by the State or a unit of local government in the State.

3 (c) Terms; Interest. – Certificates of participation may be sold by the State  
4 Treasurer in the manner, either at public or private sale, and for any price or prices that  
5 the State Treasurer determines to be in the best interest of the State and to effect the  
6 purposes of this Article, except that the terms of the sale must also be approved by the  
7 special corporation. Interest payable with respect to certificates of participation shall  
8 accrue at the rate or rates determined by the State Treasurer with the approval of the  
9 special corporation.

10 (d) Trust Agreement. – Certificates of participation may be delivered pursuant to  
11 a trust agreement or similar instrument with a corporate trustee approved by the State  
12 Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar  
13 instrument to the extent applicable.

14 (e) Other Conditions. – All other conditions set forth elsewhere in this Article  
15 with respect to certificates of participation indebtedness, including the conditions set  
16 forth in G.S. 142-86, must be satisfied before any certificates of participation  
17 indebtedness is incurred.

18 **"§ 142-88. Bonded indebtedness.**

19 The State Treasurer is authorized, by and with the consent of the Council of State as  
20 provided in this Article, to issue and sell at one time or from time to time bonds of the  
21 State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_"  
22 or notes of the State as provided in this Article, for the purpose of providing funds, with  
23 any other available funds, for the uses authorized in this Article.

24 **"§ 142-89. Issuance of limited obligation bonds and notes.**

25 (a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or  
26 term bonds or notes, or any combination of these, may mature in any amounts and at  
27 any times, not exceeding 40 years from their dates, may be payable at any places, either  
28 within or without the United States, in any coin or currency of the United States that at  
29 the time of payment is legal tender for payment of public and private debts, may bear  
30 interest at any rates, which may vary from time to time, and may be made redeemable  
31 before maturity, at the option of the State or otherwise as may be provided by the State,  
32 at any prices, including a price greater than the face amount of the bonds or notes, and  
33 under any terms and conditions, all as may be determined by the State Treasurer, by and  
34 with the consent of the Council of State.

35 (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be  
36 issued in certificated or uncertificated form. If issued in certificated form, bonds or  
37 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's  
38 facsimile signature, shall be signed by the State Treasurer or shall bear the State  
39 Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of  
40 the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures  
41 of the Governor and the State Treasurer, the bonds or notes shall also bear a manual  
42 signature which may be that of a bond registrar, trustee, paying agent, or designated  
43 assistant of the State Treasurer. If any officer whose signature or facsimile signature  
44 appears on bonds or notes issued under this Article ceases to be that officer before the

1 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless  
2 have the same validity for all purposes as if the officer had remained in office until  
3 delivery of the bonds or notes. Bonds or notes issued under this Article may bear the  
4 facsimile signatures of persons, who at the actual time of the execution of the bonds or  
5 notes, were the proper officers to sign any bond or note although at the date of the bond  
6 or note those persons may not have been officers.

7 The form and denomination of bonds or notes, including the provisions with respect  
8 to registration of the bonds or notes and any system for their registration, shall be as  
9 prescribed by the State Treasurer in conformity with this Article.

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

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

25 Any additional moneys that may be received by means of a grant or grants from the  
26 United States or any agency or department thereof or from any other source to aid in  
27 financing the cost of a capital facility may be disbursed, to the extent permitted by the  
28 terms of the grant or grants, without regard to any limitations imposed by this Article.

29 (e) Notes; Repayment. – By and with the consent of the Council of State, the  
30 State Treasurer is authorized to borrow money and to execute and issue notes of the  
31 State for the same, but only in any of the following circumstances and under the  
32 following conditions:

33 (1) For anticipating the sale of bonds, the issuance of which the Council of  
34 State has approved, if the State Treasurer considers it advisable to  
35 postpone the issuance of the bonds.

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

40 (3) For the renewal of any loan evidenced by notes authorized in this  
41 Article.

42 (4) For the purposes authorized in this Article.

43 (5) For refunding bonds or notes or financing contract indebtedness as  
44 authorized in this Article.

1        Funds derived from the sale of limited obligation bonds or notes may be used in the  
2 payment of any bond anticipation notes issued under this Article. Funds provided by the  
3 General Assembly for the payment of interest on or principal of bonds shall be used in  
4 paying the interest on or principal of any notes and any renewals thereof, the proceeds  
5 of which have been used in paying interest on or principal of the bonds.

6        (f) Refunding Bonds and Notes. – By and with the consent of the Council of  
7 State, the State Treasurer is authorized to issue and sell refunding bonds and notes for  
8 the purpose of refunding special indebtedness and to pay the cost of issuance of the  
9 refunding bonds or notes. The refunding bonds and notes may be combined with any  
10 other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or  
11 notes may be issued at any time prior to the final maturity of the debt or obligation to be  
12 refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to  
13 the immediate payment and retirement of the obligations being refunded or, if not  
14 required for the immediate payment of the obligations being refunded, the proceeds  
15 shall be deposited in trust to provide for the payment and retirement of the obligations  
16 being refunded and to pay any expenses incurred in connection with the refunding.  
17 Money in a trust fund may be invested in (i) direct obligations of the United States  
18 government, (ii) obligations the principal of and interest on which are guaranteed by the  
19 United States government, (iii) to the extent then permitted by law, obligations of any  
20 agency or instrumentality of the United States government, or (iv) certificates of deposit  
21 issued by a bank or trust company located in the State if the certificates are secured by a  
22 pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate  
23 market value, exclusive of accrued interest, equal at least to the principal amount of the  
24 certificates so secured. This section does not limit the duration of any deposit in trust for  
25 the retirement of obligations being refunded but that have not matured and are not  
26 presently redeemable, or if presently redeemable, have not been called for redemption.

27        (g) Security. – Payment of the principal of and the interest on bonds and notes  
28 shall be secured as provided in G.S. 142-85.

29        (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and  
30 notes issued under this Article may be secured by a trust agreement or similar  
31 instrument between the State and a corporate trustee or by a resolution of the Council of  
32 State providing for the appointment of a corporate trustee. The corporate trustee may be,  
33 in either case, any trust company or bank that has the powers of a trust company within  
34 or without the State. The trust agreement or similar instrument or resolution, hereinafter  
35 referred to as "the trust", may provide for security and pledges and assignments that are  
36 permitted under this Article and may provide for the granting of a lien or security  
37 interest as authorized by G.S. 142-85. The trust may contain any provisions for  
38 protecting and enforcing the rights and remedies of the owners of any bonds or notes  
39 issued under the trust that are reasonable and not in violation of law, including  
40 covenants setting forth the duties of the State with respect to the purposes for which  
41 bond or note proceeds may be applied, the disposition and application of the revenues or  
42 assets of the State, the duties of the State with respect to the capital facilities financed,  
43 the disposition of any charges and collection of any revenues and administrative  
44 charges, the terms and conditions of the issuance of additional bonds and notes, and the

1 custody, safeguarding, investment, and application of all moneys. All bonds and notes  
2 issued under this Article pursuant to the same trust shall be equally and ratably secured  
3 as provided in the trust, without priority by reasons of number, dates of bonds or notes,  
4 execution, or delivery, in accordance with the provisions of this Article and of the trust.  
5 The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to  
6 the extent and in the manner prescribed in the trust, be subordinated and junior in  
7 standing, with respect to the payment of principal and interest and to the security of the  
8 payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any  
9 bank or trust company that may act as depository of the proceeds of bonds or notes,  
10 revenues, or any other money under this Article to furnish any indemnifying bonds or to  
11 pledge any securities that may be required by the State Treasurer. The trust may set out  
12 the rights and remedies of the owners of any bonds or notes and of any trustee, and may  
13 restrict the individual rights of action by the owners. In addition to the foregoing, the  
14 trust may contain any other provisions the State Treasurer considers appropriate for the  
15 security of the owners of any bonds or notes. Expenses incurred in carrying out the  
16 provisions of the trust may be treated as a part of the cost of any capital facility or as an  
17 administrative charge and may be paid from the proceeds of the bonds or notes or from  
18 any other available funds.

19 **"§ 142-90. Variable rate demand bonds and notes and financing contract**  
20 **indebtedness.**

21 (a) In fixing the details of special indebtedness, the State Treasurer may make the  
22 special indebtedness subject to any of the following conditions:

23 (1) It is payable from time to time on demand or tender for purchase by  
24 the owner thereof, if a credit facility supports the special indebtedness,  
25 unless the State Treasurer specifically determines that a credit facility  
26 is not required upon a determination by the State Treasurer that the  
27 absence of a credit facility will not materially and adversely affect the  
28 financial position of the State or the marketing of the bonds or notes or  
29 financing contract indebtedness at a reasonable interest cost to the  
30 State.

31 (2) It is additionally supported by a credit facility.

32 (3) It is subject to redemption or mandatory tender for purchase prior to  
33 maturity.

34 (4) It bears interest at a rate or rates that may be fixed or may vary over  
35 any period of time, as may be provided in the proceedings providing  
36 for the issuance or incurrence of the special indebtedness, including  
37 any variations that may be permitted pursuant to a par formula.

38 (5) It is the subject of a remarketing agreement under which an attempt is  
39 made to remarket special indebtedness to new purchasers before its  
40 presentment for payment to the provider of the credit facility or to the  
41 State.

42 (b) If the aggregate principal amount payable by the State under a credit facility  
43 is in excess of the aggregate principal amount of special indebtedness secured by the  
44 credit facility, whether as a result of the inclusion in the credit facility of a provision for

1 the payment of interest for a limited period of time or the payment of a redemption  
2 premium or for any other reason, then the amount of authorized but unissued bonds or  
3 notes and financing contract indebtedness during the term of the credit facility shall not  
4 be less than the amount of the excess, unless the payment of the excess is otherwise  
5 provided for by agreement of the State executed by the State Treasurer.

6 **"§ 142-91. Other agreements.**

7 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond  
8 insurance, investment contracts, credit and liquidity facilities, credit enhancement  
9 facilities, interest rate swap agreements and other derivative products, and any other  
10 related instruments and matters the State Treasurer determines are desirable in  
11 connection with the issuance of special indebtedness. The State Treasurer is authorized  
12 to employ and designate any financial consultants, underwriters, fiduciaries, and bond  
13 attorneys to be associated with any incurrence or issuance of special indebtedness under  
14 this Article as the State Treasurer considers appropriate.

15 **"§ 142-92. Tax exemption.**

16 Special indebtedness shall at all times be free from taxation by the State or any  
17 political subdivision or any of their agencies, excepting estate, inheritance, and gift  
18 taxes; income taxes on the gain from the transfer of the indebtedness; and franchise  
19 taxes. The interest component of any payments made by the State under special  
20 indebtedness, including the interest component of any certificates of participation, is not  
21 subject to taxation as to income.

22 **"§ 142-93. Investment eligibility.**

23 Special indebtedness are securities or obligations in which all of the following may  
24 invest, including capital in their control or belonging to them: public officers, agencies,  
25 and public bodies of the State and its political subdivisions; insurance companies, trust  
26 companies, investment companies, banks, savings banks, savings and loan associations,  
27 credit unions, pension or retirement funds, and other financial institutions engaged in  
28 business in the State; and executors, administrators, trustees, and other fiduciaries.  
29 Special indebtedness are securities or obligations that may properly and legally be  
30 deposited with and received by any officer or agency of the State or political  
31 subdivision of the State for any purpose for which the deposit of bonds, notes, or  
32 obligations of the State or any political subdivision is now or may later be authorized by  
33 law.

34 **"§ 142-94. Procurement of capital facilities.**

35 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General  
36 Statutes and any other laws or rules of the State that relate to the acquisition and  
37 construction of State property apply to the financing of capital facilities through the use  
38 of special indebtedness pursuant to this Article. This section does not apply to the  
39 construction and lease-purchase, including leases with an option to purchase at the end  
40 of the lease term for a nominal sum, of State office buildings pursuant to proposals  
41 submitted before the effective date of this Article in response to requests for proposals,  
42 to the extent any of those proposals, as they may be supplemented or amended, are  
43 approved by the Department of Administration and any of these leases or lease-purchase



1 agreements are approved by the Council of State in accordance with G.S.  
2 143-341(4)d2."

3 **SECTION 9.3.** G.S. 143-341(4) is amended by adding a new  
4 sub-subdivision to read:

5 "d2. To purchase or finance the purchase of buildings, utilities,  
6 structures, or other facilities or property developments,  
7 including streets and landscaping, the acquisition of land,  
8 equipment, machinery, and furnishings in connection therewith;  
9 additions, extensions, enlargements, renovations, and  
10 improvements to existing buildings, utilities, structures, or other  
11 facilities or property developments, including streets and  
12 landscaping; land or any interest in land; other infrastructure;  
13 furniture, fixtures, equipment, vehicles, machinery, and similar  
14 items; or any combination of the foregoing, through installment  
15 purchase, lease-purchase, or other similar type installment  
16 financing agreements in the manner and to the extent provided  
17 in Article 9 of Chapter 142 of the General Statutes. Any  
18 contract entered into or any proceeding instituted contrary to the  
19 provisions of this paragraph is voidable in the discretion of the  
20 Council of State."

21 **SECTION 9.4.** Interpretation of Act. (a) Additional Method. – This act  
22 provides an additional and alternative method for the doing of the things authorized by  
23 this act and shall be regarded as supplemental and additional to powers conferred by  
24 other laws. Except where expressly provided, this act shall not be regarded as in  
25 derogation of any powers now existing. The authority granted in this act is in addition to  
26 other laws now or hereinafter enacted authorizing the State to issue or incur  
27 indebtedness.

28 **SECTION 9.4.(b)** Statutory References. – References in this act to specific  
29 sections or Chapters of the General Statutes are intended to be references to those  
30 sections or Chapters as they may be amended from time to time by the General  
31 Assembly.

32 **SECTION 9.4.(c)** Liberal Construction. – This act, being necessary for the  
33 health and welfare of the people of the State, shall be liberally construed to effect its  
34 purposes.

35 **SECTION 9.4.(d)** Severability. – If any provision of this act or its  
36 application to any person or circumstance is held invalid, that invalidity does not affect  
37 other provisions or applications of the act that can be given effect without the invalid  
38 provision or application, and to this end the provisions of this act are severable.

## 39 **PART 10. GENERAL PROVISIONS**

40 **SECTION 10.1.** This act does not affect the rights or liabilities of the State,  
41 a taxpayer, or another person arising under a statute amended or repealed by this act  
42 before the effective date of its amendment or repeal; nor does it affect the right to any  
43 refund or credit of a tax that accrued under the amended or repealed statute before the  
44 effective date of its amendment or repeal.

1                   **SECTION 10.2.** Except as otherwise provided in this act, this act is effective  
2 when it becomes law.